



COMMONWEALTH of VIRGINIA

Office of the Governor

Robert F. McDonnell
Governor

March 29, 2011

TO THE HOUSE OF DELEGATES

HOUSE BILL 1500

I approve the general purpose of this bill, but I am returning it without my signature with the request that 86 amendments be adopted. I am grateful to all members of the House of Delegates and the Senate for the excellent work you did during the session through your amendments to House Bill 1500. Specifically, the House and Senate are to be commended for placing a priority on the long-term fiscal balance of the Commonwealth by avoiding spending actions that could inhibit our ability to sustain the budget over the long-term.

From the outset, I have been clear in setting budgetary objectives for this short session. My objectives called for investments in: transportation, higher education, new tools and resources to help create jobs, and actions to promote government reforms, including the Virginia Retirement System. Throughout the 2011 Session of the General Assembly, you collectively helped me address these challenges, usually without regard to political party or parochial interests. Due to your cooperation, we have made significant progress – for which I and the citizens of Virginia are most appreciative.

Although the enrolled bill achieves most of the major objectives I requested of you, I am returning it to you with amendments to address three overarching themes. These are continued reforms (both funding and structural) of the Virginia Retirement System, greater efforts for economic development and job creation, and additional steps to help law enforcement and public safety. These spending amendments total \$43.8 million. They are offset by amendments that will result in \$49.9 million in savings or additional revenue over the biennium.

I think you will find a number of my amendments are either language clarifications or technical adjustments. They clarify actions approved in HB 1500 or to address issues that have occurred since you adjourned in February. Some of the amendments were made at the request of Members or Committee staff to address various issues.

I also want you to know that I appreciate the work that led to a broad consensus on major items in the conference report including additional funding for K-12 education, restoration of selected Medicaid provider rates, elimination of the accelerated sales tax program for almost 80

percent of Virginia's retailers, and another down payment for the future deposit to the Rainy Day Fund. As a result, of your good work, I recommend no amendments to these items, which were the essence of your compromise. Moreover, in keeping with my previously stated position, I have proposed no new taxes or fees. I tried to add value to the final budget, not re-write it.

Addressing the Virginia Retirement System's Unfunded Liabilities

As I stated to you in December, JLARC reported last fall that the Virginia Retirement System (VRS) currently faces an unfunded liability of \$17.6 billion. VRS projects that the funding status for both teacher and state employee plans will continue to decline for the near future. As I noted at the time, ignoring liabilities of this magnitude could impair the future viability of the plans and potentially require significant amounts of additional funding or benefit modifications in the future. The actions I proposed at that time would have required a small shared contribution from employees and provided \$311 million a year, or \$4.2 billion over 10 years, in new funding for the retirement system, as well as an optional defined contribution (DC) plan for employees to join at their discretion.

The enrolled bill, however, includes a state employee contribution entirely offset by a five percent pay raise and a modest increase in the employer share of the retirement contribution for just the fourth quarter of FY 2012. There is no provision to allow employees the option to join a defined contribution retirement plan. Taken together, these actions will provide the retirement system with only \$108 million per year in additional annual funding, far from what is required to strengthen the viability of the system and moderate future state and local funding contributions. Funding pension obligations is largely based on a simple rule: pay now or pay more later. Paying more later is not an acceptable option for employees, beneficiaries, nor taxpayers.

Therefore, I am proposing the following amendments to strengthen the long-term solvency of the retirement accounts that hundreds of thousands of Virginians are counting on in the future:

- Increase employer retirement contributions to the Chapter 874 agency funded rates for all plans. This amendment also ends the deferral of employer retirement contribution payments one quarter early. It will increase funding going to VRS by \$27.8 million in FY 2012, by adding a general fund payment of \$23 million.
- Provide for the use of a portion of the June 30, 2011, general fund balance for nonrecurring expenditures to supplement the employer retirement contribution rate increase provided in the enrolled budget bill in the fourth quarter of FY 2012.
- Transfer employer contributions to VRS more frequently. As a result of a budget reduction strategy approved by the 2002 session of the General Assembly, contributions

paid by state agencies are transferred to VRS on a quarterly basis. My amendment will return the transfer to a monthly basis. This change will allow VRS to invest funds sooner and will increase its investment earnings by approximately \$1.7 million annually.

- Authorize an optional defined contribution plan for state employees. From a budget and employer perspective, a defined contribution plan provides predictable and stable employer contributions, never creates an unfunded liability, and provides a benefit similar to that provided by many large, private sector employers. From an employee perspective, it provides flexibility and enhanced portability.
- Provide local government the option to require employees to contribute to the cost of their VRS retirement. The employee contribution cannot exceed five percent. This will provide localities that elect this option the ability to better address the long-term funding needs of their VRS retirement program. Localities will have the option to decide if they want to offset the increased employee contribution with equivalent pay increases.

Enhancing Economic Development and Job Creation Efforts

I continue to make economic development and job creation in the private sector my Administration's number one priority. The enrolled budget bill includes substantial investments in funding for the Virginia Small Business Financing Authority to help small businesses, critical tourism marketing efforts, and the Enterprise Zone Program to help stimulate investment. Thank you for your steadfast support of these initiatives. I applaud your efforts and all Virginians appreciate the diligence with which the resources in House Bill 1500 were identified and appropriated for these purposes. In addition, you adopted three tax credits (Virginia Port Tax Incentive, Virginia Winery and Vineyard Development Tax Credit, and the Refundable Research and Development Tax Credit) to help stimulate and attract business.

In reviewing House Bill 1500, as enrolled, I identified certain economic development and job creation categories requiring additional or alternative funding sources to meet our mutual objective – jobs for our citizens. These include: funding in the Governor's Motion Picture Opportunity Fund, further expansion of the Tourism Marketing Partnership Grant Program, a stable funding source for the industrial site revitalization and Virginia Main Street programs. My amendments address these critical needs.

As one of the largest employers in the Commonwealth, the U.S. military makes its home in Virginia. To help ensure the long-term federal military contribution to Virginia's economy, I recommend an amendment that will allow up to \$7.5 million of the available June 30, 2011 general fund balance to be designated by the State Comptroller to be used to meet the Commonwealth's commitments resulting from the recommendations of the 2005 Base Realignment and Closure Commission (BRAC) regarding the encroachment of incompatible land uses at the United States Navy Master Jet Base at Oceana. It is the same amount that has

been provided for the past six years to continue to work on preserving Oceana and is matched locally. This funding, along with your proposal of using proceeds from the sale of property previously purchased through the program, will continue to demonstrate to the Department of Defense that Virginia remains committed to the BRAC recommendations and the retention of other military activities in the Commonwealth, such as the remainder of the U.S. Joint Forces Command (JFCOM), and the expansion of Fort Lee and Quantico.

Strengthening Public Safety Functions

Maintaining public safety for our citizens is a primary responsibility of government. I applaud your financial support for law enforcement and my initiative to make productive citizens of individuals leaving our prisons. Through these actions we continue to improve the public's safety in Virginia.

In my executive amendments in January, I proposed closing 50 percent of the gap in funding two public safety initiatives: overtime for state police and support for sheriffs' offices. You overwhelmingly supported both recommendations. Consistent with this effort, I am including an amendment for the remaining \$3.0 million to fully fund state police overtime. Through this funding, more troopers can be placed back on the road as they can work for pay instead of taking time off for the compensatory leave they now earn for overtime. I also am proposing an amendment that will allow up to \$7.4 million of the available June 30, 2011 general fund balance as designated by the State Comptroller to be used to supplement current funding for local sheriffs' offices. If available, this will close the balance of this gap. As many deputies are the first line of defense at the local level, their continued presence on the streets and, staffing jails is critical.

Finally, I am submitting amendments addressing the Sexually Violent Predator Treatment Program (SVP). The explosive growth in this program has led to a facility that is nearly filled to capacity. Legislative amendments to the introduced budget direct that we forego the proposed option of renovating an existing state facility for use as a second SVP site. They further require the Department of Behavioral Health and Developmental Services to adapt the existing facility for double-bunking these patients. Unfortunately, the amendments in the enrolled budget bill would also deny the agency the ability to undertake any capital improvements at the facility in order to implement this approach and there are insufficient operating funds to meet the increased caseload.

After directing my Chief of Staff to visit SVP facilities in Florida and Virginia and after consulting with the Attorney General, I am proposing amendments that will provide flexibility for the manner in which clients are housed and therapeutically treated. They allow for the use of existing capital appropriations as needed to carry out required renovations and to facilitate double bunking. They also provide \$2.5 million or one more month in additional operating

funds in FY 2012. I expect that we will need to revisit this item in next year's legislative session.

Recommended Resources

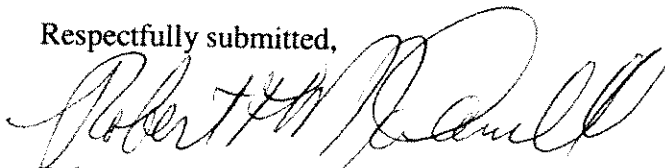
Given that some of my amendments increase spending, I am also offering amendments to HB 1500 to provide the necessary resources to finance these proposals. The majority of resources come from increased revenue. Collections from recordation taxes are consistently running well ahead of forecast in FY 2011, and current refund activity from high-income extension returns have continued to decline. I am, therefore, recommending the addition of \$12 million to the revenue track. In addition, I am confident that based on a tax assessment by Brunswick County, the projected revenue from the sale of Brunswick Prison will be at least \$20 million. Therefore, my proposed amendment will restore the selling price to the current Appropriation Act (Chapter 874 of the 2010 Session of the General Assembly). I also propose increasing resources by capturing some unexpended and unobligated operating and capital balances, and by making a few selected spending reductions in public broadcasting and the CSA.

The budget you presented me left \$6.2 million unallocated. I am returning amendments to you, which if enacted, will leave a total uncommitted, unappropriated balance of approximately \$12.3 million. This is double the unappropriated balance in the enrolled budget bill, and it will leave some resources for unforeseen circumstances (such as a natural disaster).

Attached to this letter are the details of my proposed amendments. In your review of these proposals, I think you will find they are consistent with the objectives that we both have strived to accomplish since January 12. More importantly, I hope that you agree they improve what was already a very good budget enacted by the General Assembly.

I respectfully request your adoption of these amendments so that they may be incorporated into the Appropriation Act for the 2010-2012 biennium.

Respectfully submitted,



Robert F. McDonnell

Attachments