



**COMMONWEALTH of VIRGINIA**  
*Office of the Governor*

Timothy M. Kaine  
Governor

March 30, 2009

TO THE VIRGINIA HOUSE OF DELEGATES:

HOUSE BILL 1600

I have signed House Bill 1600, the appropriation bill amending the 2008-2010 biennial budget, including three item vetoes.

Without question, the challenge of putting together a viable budget that accounts for the tough economic circumstances facing the nation and the Commonwealth—and the consequent, substantial revenue reductions—was no small task. The budget bill presented by the General Assembly was well-deliberated and broadly sensitive to the state of our economy and the critical needs of our citizens. For that reason, I sign the bill without any amendments and only propose three modest item vetoes. I commend you for the work you've done to protect the core needs and services of Virginia, and I look forward to continuing to collaborate with you on our state and national recovery plan moving forward.

I have exercised the authority given to the Governor under the Constitution of Virginia to veto specific provisions in the enrolled appropriation bill. As this letter details, my three vetoes are modest adjustments to the overall budget. Two vetoes—a restoration of funding to fire services and a partial restoration to public television and public radio—are intended to achieve equity in the treatment of the affected public programs. The remaining veto of the privatization of the Commonwealth's weights and measures program is intended to ensure Virginia does not create unintended

consequences to farmers and retailers by changing a program without ensuring adequate research and due deliberation on transition issues. I agree that an examination of the administration of this program is warranted and will convene a work group for this task.

The full rationale for each veto is elaborated below:

*Item 67*

My introduced budget bill reduced grants to public broadcasting and educational telecommunications by \$636,139 in FY 2010—a reduction of approximately 10 percent (Item 68.05 of the enrolled appropriation bill). On top of that reduction, the enrolled appropriation bill decreases grants to public television and public radio by an additional \$1 million in FY 2010. The combined impact of these two actions would reduce funding to public television and public radio by nearly 40 percent in FY 2010—a reduction that far exceeds those implemented for most programs in the overall budget.

Fairness and equity considerations demand that we treat public broadcasting in a manner more similar to other programs. We must also weigh the broad community benefits associated with the program. As a vital source of information and a cultural resource for the citizens of the Commonwealth, public broadcasting should be recognized and preserved.

Taking into account these facts, I leave intact the \$636,139 cut in Item 68.05 but I veto Item 67 in the second year, which includes the additional reduction of \$1.0 million. Consistent with the decisions in *Gilmore v. Landside*, the effect of this action will be to return Item 67 to the form in which it was enacted in Chapter 879, 2008 Acts of Assembly.

*Item 98*

The enrolled appropriation bill removes \$1.3 million from the amounts appropriated in FY 2010 for the regulation of weights and measures and the inspection of motor fuels. In place of these programs, run by the Department of Agriculture, the enrolled appropriation bill seeks either to privatize these functions or to rely on self-reporting by January 1, 2010.

While I agree that some changes in this regulatory program may be warranted, the privatization of the testing and inspection program by January 1, 2010 leaves little time for the Commonwealth—or the businesses that use weights and measures—to properly prepare for such a transition. Furthermore, since it appears that no other state has chosen to use a fully-privatized model for this program, I am concerned we have failed to perform sufficient research to determine the appropriate functions to privatize and to avoid creating unintended consequences for the public or for the retailers that depend upon the Department of Agriculture's services.

Taking into account the similar concerns of the retail and agricultural communities, I believe the Commonwealth needs additional time to examine the soundness of this particular approach and to understand the required steps to ensure a successful transition to a privatization model. These actions must ensure private inspections and certifications are available for small businesses, rural businesses, and state programs that rely on properly calibrated measuring equipment.

Given these considerations, I will direct the Commissioner of Agriculture and Consumer Services to examine the issue, with guidance from the Secretary of Agriculture and Forestry and input from representatives of local government, private sector organizations, and the public. I anticipate the results of this study will be ready before my December budget recommendation to the General Assembly.

Therefore, I veto this item in the second year. Consistent with the decisions in *Gilmore v. Landside*, the effect of this action will be to restore \$1.3 million to the program by returning Item 98 to the form in which it was enacted in Chapter 879, 2008 Acts of Assembly.

*§ 3-1.01.FF.1*

The enrolled appropriation bill includes the transfer of \$1.1 million from the Fire Programs Fund to the general fund in FY 2010. This transfer was included in HB 1600 as introduced and is equivalent to a five percent reduction in the funding dedicated to the aid and training of local fire services.

When HB 1600 was introduced, this reduction to fire services was consistent with the reductions made to other first responders, including sheriffs' deputies and local police departments. Although any cut to first responders was difficult given their importance to public safety, such action was necessary to help balance our budget.

The additional funding provided through the federal recovery package allowed the General Assembly to restore the proposed reductions to sheriffs and local police departments. Restoring these funds without restoring funding for firefighters creates an issue of fairness and equity. Furthermore, such an action sends an

inconsistent message to first responders and citizens of the Commonwealth more broadly. Firefighters and local law enforcement typically work hand-in-hand, whether faced with a fire, a hazardous waste spill, a natural or man-made disaster, a serious car accident, or other crises.

Therefore, to ensure equal treatment between these first responders, I veto this transfer from the Fire Programs Fund.

It is clear from my consultations with various members of the General Assembly that one of your highest budgetary priorities was the preservation of the \$160 million unappropriated balance in the enrolled appropriation bill. I am aware that my veto actions—while modest—would reduce this unappropriated balance. To prevent any deterioration in the unappropriated balance, my staff are identifying resources needed to support the costs associated with these vetoes, such as the savings from debt refinancing that has already occurred.

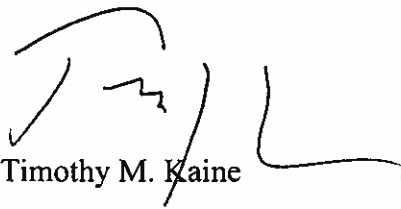
Before concluding, I call your attention to § 4-6.01b. of the enrolled appropriation bill. At the end of the 2008 legislative session, I vetoed a provision in that section because it contained a specific restriction on my appointment powers. That veto was ruled invalid by the Keeper of the Rolls and was not included in the printed 2008-2010 Appropriation Act. The enrolled appropriation bill now before me which amends that act also does not include that veto.

Although not printed, I view my earlier veto as valid and I have affirmed this position in writing to the Keeper of the Rolls. The provision in question contained within § 4-6.01b. constitutes a matter of general law, not a condition or restriction on a particular appropriation item. As such, my action last year to strike that provision is within the veto power given to me by the Constitution of Virginia. Accordingly, I will act in a manner

consistent with my veto should any future event arise which is applicable to the language in dispute.

In the face of significant fiscal challenges and in the midst of the worst economic downturn in decades, I must express once more how pleased I am with work we have done together on the budget bill. I look forward to our continued dialogue on the Commonwealth's plan for recovery in the coming months.

Sincerely,



Timothy M. Kaine