

Also, the new language in subsection (d)(2)(i) and (ii) of this section reflects that former Art. 15A, § 8(f) permitted a budget amendment "to effectuate salary changes" authorized by the Board under Art. 64A, § 27 of the Code, and, since the referenced § 27 provides that the change "shall have the force of law", subsection (d)(2)(ii) of this section imposes on the Governor a duty to approve the budget amendment. However, the second sentence of former Art. 15A, § 20(d) stated that the salary set in the State budget for a nonclassified position may not be exceeded "except in strict documented compliance with the acute emergency provisions of § 8 ... and with the express approval of the Governor". Since former Art. 15A, § 8(f) seemed to contemplate a budget amendment -- in addition to the amendment to the pay plan -- and former § 20(d) required "express approval of the Governor", subsection (d)(2)(i) of this section permits, rather than requires, the Governor to approve a budget amendment for a nonclassified position.

The Commission notes, however, that the Director of the Department of Fiscal Services has indicated that, in practice, a 2-step process is not used. The Board approves or disapproves the salary change, and the Governor takes no further action.

Similarly, the substituted language in subsection (d)(2)(iii) of this section reflects that the current law does not state a procedure by which the General Assembly would disapprove an increase. The substituted language also is consistent with Art. 64A, § 27(e), which provides that, if the General Assembly reduces the compensation, the Secretary of Personnel's action is "refuted, and the compensation shall be fixed at the reduced and amended rate as of the first day of the next following fiscal year".

As to subsection (f)(2) of this section, the Director of the Department of Fiscal Services advises that the report required under this paragraph has not been made for several years and indicates that the General Assembly may wish to consider deletion of this provision. Copies of the amended schedules are provided to the Department of Fiscal Services.

The Commission notes that, if the General Assembly wishes to retain this provision, the General Assembly may wish to clarify whether the report is made during a special session or only during a regular session.

7-210. GENERAL RESTRICTION ON BUDGET AMENDMENTS.

(A) SUBSTANTIVE PROVISIONS.