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HOUSE BILL NO. 743

Offered January 21, 2000

A BILL to amend and reenact §§ 2.1-234.11 and 2.1-234.13 of the Code of Virginia, relating to the Virginia Public Building Authority; powers.

Patrons—Hargrove, Bloxom, Cantor, Cox, Drake, Hall and Tata

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-234.11 and 2.1-234.13 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-234.11. Definitions.

The following terms, whenever used or referred to in this article, shall have the following meanings, except in those instances where the context clearly indicates otherwise:

1. The term "Authority" shall mean *means* the body politic and corporate created by this article.

2. The term "project" shall mean *"Project" means* any structure, facility, personal property or undertaking which the Authority is authorized to finance, refinance, construct, improve, furnish, equip, maintain, acquire, or operate under the provisions of this article.

3. The term "board" shall mean *"Board" means* the governing body of the Authority.

4. The term "person" shall mean *"Person" means* and ~~include~~ *includes* natural persons, firms, associations, corporations, business trusts, partnerships, and public bodies.

5. The term "federal agency" shall mean *"Federal agency" means* and ~~include~~ *includes* the United States of America, the President of the United States of America, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States of America.

6. The term "bonds" shall mean *"Bonds" means* and ~~include~~ *includes* the notes, bonds, and other evidences of indebtedness or obligations which the Authority is authorized to issue pursuant to this article.

7. The term "construction" shall mean *"Construction" means* and ~~include~~ *includes* acquisition and construction, and the term "to construct" shall mean *means* and ~~include~~ *includes* to acquire and to construct all in such manner as may be deemed desirable.

8. The term "improvement" shall mean *"Improvement" means* and ~~include~~ *includes* extension, enlargement, improvement, and renovation and the term "to improve" shall mean and include to extend, to enlarge, to improve, and to renovate all in such manner as may be deemed desirable.

9. The terms "fixtures" and "furnishings" shall mean *"Fixtures" and "furnishings" mean* and include any fixtures, leasehold improvements, equipment, office furniture and furnishings whatsoever as may be deemed necessary or desirable for the use and occupancy of such project, and the terms "to furnish" and "furnishing" shall mean and include the *acquisition and* installation of such fixtures, equipment and furnishings.

10. The term "cost" *"Cost" means*, as applied to a project financed under the provisions of this article shall mean, the sum total of all costs as are reasonable and necessary for carrying out all works and undertakings necessary or incident to accomplish a project, including, without limitation because of enumeration, the cost of all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the vendor of such land, buildings or improvements, site preparation and development including demolition or removal of existing structures, construction, and reconstruction, *furnishing of a project*, the reasonable cost of financing incurred in the course of the development of a project, carrying charges during construction to the occupancy date, interest on bonds issued to finance a project to a date subsequent to the estimated date of completion of a project, necessary expenses incurred in connection with the initial occupancy of a project, the funding of such funds and accounts as the Authority determines to be reasonable and necessary and the cost of such other items as the Authority determines to be reasonable and necessary.

11. The terms "Commonwealth" or "state" shall mean *means* the Commonwealth of Virginia and any agency or department thereof.

12. The term "personal" *"Personal property" shall mean means* and ~~include~~ *includes* all items of equipment, fixtures, and furnishings, including items affixed to real property.

§ 2.1-234.13. Purposes and general powers and duties of Authority.

INTRODUCED

HB743

60 The Authority is created for the purpose of constructing, improving, furnishing, maintaining,
61 acquiring, financing, refinancing, and operating public buildings for the use of the Commonwealth
62 (heretofore or hereafter constructed), state arsenals, armories, and military reserves, state institutions of
63 every kind and character (heretofore and hereafter constructed), additions and improvements to land
64 grant colleges, state colleges, universities and medical colleges, and the purchase of lands for
65 rehabilitation purposes in connection with state institutions and for use of state colleges, and museum
66 facilities for a trust instrumentality of the United States, and the purchase of lands for the development
67 of public buildings which may be authorized by the General Assembly in the future, the acquisition of
68 items of personal property for the use of the Commonwealth, and the financing or refinancing of
69 reimbursements to localities or regional jail authorities of all or any portion of the Commonwealth's
70 share of the costs for jail projects made pursuant to §§ 53.1-80, 53.1-81, 53.1-82, or § 53.1-95.19, and
71 the refinancing of (i) bonds issued by other state and local authorities or political subdivisions of the
72 Commonwealth where such bonds are secured by a lease or other payment agreement with the
73 Commonwealth or (ii) the Commonwealth's obligations under such leases *or payment agreements* (any
74 and all of the foregoing being herein called "projects"), the purpose and intent of this article being to
75 benefit the people of the Commonwealth by, among other things, increasing their commerce and
76 prosperity. The Authority shall not undertake or finance or refinance any project or projects which are
77 not specifically included in a bill or resolution passed by a majority of those elected to each house of
78 the General Assembly, authorizing such project or projects or the reimbursement of all or any portion of
79 the Commonwealth's share of the costs of such project or projects and, as to any project relating to a
80 state institution of higher education, not specifically designated by the board of visitors of that institution
81 as a project to be undertaken by the Authority. The Authority is hereby granted and shall have and may
82 exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including, but
83 without limiting the generality of the foregoing, the following rights and powers:

84 1. To have perpetual existence as a corporation.

85 2. To sue and be sued, implead and be impleaded, complain and defend in all courts.

86 3. To adopt, use, and alter at will a corporate seal.

87 4. To acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or
88 any interest therein necessary or desirable for carrying out the purposes of the Authority; without
89 limitation of the foregoing, to lease as lessee, with the approval of the Governor, any property, real,
90 personal or mixed, or any interest therein for a term not exceeding ninety-nine years at a nominal rental
91 or at such annual rental as may be determined; with the approval of the Governor, to lease as lessor to
92 the Commonwealth of Virginia and any city, county, town or other political subdivision, or any agency,
93 department, or public body of the Commonwealth, or land grant college, any project at any time
94 constructed by the Authority and any property, real, personal or mixed, tangible or intangible, or any
95 interest therein, at any time acquired by the Authority, whether wholly or partially completed; with the
96 approval of the Governor, to sell, transfer and convey to the Commonwealth of Virginia, any project at
97 any time constructed by the Authority; and, with the approval of the Governor, to sell, transfer and
98 convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
99 acquired by the Authority.

100 5. To acquire by purchase, lease, or otherwise, and to construct, improve, furnish, maintain, repair,
101 and operate projects.

102 6. To make bylaws for the management and regulation of its affairs.

103 7. To fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or
104 for the services rendered by, the Authority, or projects thereof, at reasonable rates to be determined by it
105 for the purpose of providing for the payment of the expenses of the Authority, the construction,
106 improvement, repair, furnishing, maintenance, and operation of its facilities and properties, the payment
107 of the principal of and interest on its obligations, and to fulfill the terms and provisions of any
108 agreements made with the purchasers or holders of any such obligations.

109 8. To borrow money; make and issue negotiable notes, bonds, and other evidences of indebtedness or
110 obligations (herein called "bonds") of the Authority and such bonds as the Authority may, from time to
111 time, determine to issue for the purpose of refunding bonds previously issued by the Authority; to
112 secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its
113 revenues, rentals, and receipts; to make such agreements with the purchasers or holders of such bonds or
114 with others in connection with any such bonds, whether issued or to be issued, as the Authority shall
115 deem advisable; and in general, to provide for the security for said bonds and the rights of holders
116 thereof; ~~provided that the total principal amount of such bonds outstanding excluding bonds issued to~~
117 ~~refinance bonds previously issued by the Authority and bonds issued to refinance (i) bonds issued by~~
118 ~~other state and local authorities or political subdivisions where such bonds are secured by a lease or~~
119 ~~other payment agreement with the Commonwealth or (ii) the Commonwealth's obligations under such~~
120 ~~leases or other payment agreements at any time shall not exceed \$1,140 million.~~

121 The Authority shall submit an annual report to the Governor and General Assembly on or before

122 November 1 of each year containing, at a minimum, the annual financial statements of the Authority for
123 the year ending the preceding June 30. The annual report shall be distributed in accordance with the
124 provisions of § 2.1-467.

125 9. To make contracts of every name and nature, and to execute all instruments necessary or
126 convenient for the carrying on of its business.

127 10. Without limitation of the foregoing, to borrow money and accept grants from, and to enter into
128 contracts, leases or other transactions with, any federal agency.

129 11. To have the power of eminent domain.

130 12. To pledge or otherwise encumber all or any of the revenues or receipts of the Authority as
131 security for all or any of the obligations of the Authority.

132 13. To do all acts and things necessary or convenient to carry out the powers granted to it by this
133 article or any other acts.

134 14. To acquire, by assignment from the Commonwealth or the Virginia Retirement System, all
135 contracts, including those which are not completed, which involve constructing, improving, furnishing,
136 maintaining, and operating the structures, facilities, or undertakings similar to those designated herein as
137 projects.

138 15. To enter into contractual agreements with localities or regional jail authorities undertaking a jail
139 project for which the financing or refinancing of reimbursements of all or any portion of the
140 Commonwealth's share of the costs of such project will be made pursuant to subsection A 3 of
141 § 53.1-82.2.

142 Except as otherwise provided by law, when projects are to be constructed, improved, furnished,
143 maintained, repaired or operated for the use of any department of the Commonwealth, as hereinbefore
144 listed in this section, no plans or specifications therefor shall be presented for quotations or bids until
145 such plans and specifications shall have been submitted to and approved by the Department of General
146 Services and any other department of the Commonwealth having any jurisdiction over the projects, so
147 that the project will conform to standards established by such departments.