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## SENATE BILL NO. 581

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on March 2, 2000)

(Patron Prior to Substitute—Senator Hawkins)

A *BILL to amend and reenact §§ 9-382, 32.1-357 and 32.1-358 of the Code of Virginia, relating to the Virginia Tobacco Settlement Foundation and the Tobacco Indemnification and Community Revitalization Commission.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9-382, 32.1-357 and 32.1-358 of the Code of Virginia are amended and reenacted as follows:**

§ 9-382. Membership; terms; vacancies; chairman.

A. The Commission shall be composed of thirty-one members as follows:

1. Six members shall be appointed by the Speaker of the House of Delegates from the membership thereof in accordance with the principles of Rule 16 of the House of Delegates adopted at the 1998 Regular Session of the General Assembly;

2. Four members shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate;

3. The Secretary of Commerce and Trade or his designee;

4. The Secretary of Finance or his designee;

5. The Commissioner of Agriculture and Consumer Affairs or his designee;

6. Three members shall be active flue-cured tobacco producers appointed by the Governor. Of the active flue-cured tobacco producers, two shall be appointed by the Governor from a list of six persons provided by the members of the General Assembly appointed to the Commission;

7. Three members shall be active burley tobacco producers appointed by the Governor. Of the active burley tobacco producers, one member shall be appointed by the Governor from a list of three persons provided by the members of the General Assembly appointed to the Commission;

8. One member shall be a representative of the Virginia Farm Bureau Federation appointed by the Governor from a list of at least three persons provided by Virginia Farm Bureau Federation; and

9. Eleven members shall be citizens appointed by the Governor. Of the eleven citizen members, three shall be appointed by the Governor from a list of nine provided by the members of the General Assembly appointed to the Commission.

With the exception of the Secretary of Commerce and Trade or his designee, the Secretary of Finance or his designee and the Commissioner of Agriculture and Consumer Affairs or his designee, all members of the Commission shall reside in the Southside and Southwest regions of the Commonwealth and shall be subject to confirmation by the General Assembly. To the extent feasible, appointments representing the Southside and Southwest regions shall be proportional to the tobacco quota production of each region.

Except as otherwise provided herein, all appointments shall be for terms of four years each. Vacancies shall be filled for the unexpired terms. No member shall be eligible to serve more than two successive four-year terms; however, after expiration of a term of three years or less, or after the expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Whenever any legislative member fails to retain his membership in the house from which he was appointed, he shall relinquish his membership on the Commission and the appointing authority who appointed such member shall make an appointment from his respective house to complete the term. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The initial appointments of the active flue-cured tobacco producers, the active burley tobacco producers, and the citizen members shall be as follows: one active flue-cured tobacco producer, one active burley tobacco producer and four citizen members shall be appointed for terms of two years; one active flue-cured tobacco producer, one active burley tobacco producer and four citizen members shall be appointed for terms of three years; and one active flue-cured tobacco producer, one active burley tobacco producer and three citizen members shall be appointed for terms of four years. Thereafter all appointments shall be for terms of four years.

B. The Commission shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Commission. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Commission. A majority of members of the Commission serving at any one time shall constitute a quorum for the transaction of business.

C. Members of the Commission shall receive *compensation for their services at the rate provided in the appropriations act* and reimbursement for actual expenses incurred in the performance of their duties

HOUSE SUBSTITUTE

SB581H1

60 on behalf of the Commission. Such *compensation and* expenses shall be paid from the Fund.

61 *D. Members of the Board and employees of the Commission shall be subject to the standards of*  
62 *conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq.) and*  
63 *may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct*  
64 *in the manner set forth therein.*

65 § 32.1-357. Board of Trustees; appointment; officers.

66 A. The Foundation shall be governed and administered by a Board of Trustees consisting of  
67 twenty-three members. Two members shall be appointed by the Speaker of the House of Delegates from  
68 among the membership of the House of Delegates, one representing rural interests and one representing  
69 urban interests, for terms concurrent with the term for which they have been elected to office; two  
70 members shall be appointed by the Senate Committee on Privileges and Elections, one representing rural  
71 interests and one representing urban interests, from among the membership of the Senate for terms  
72 concurrent with the term for which they have been elected to office; two members shall be the  
73 Commissioner of the Department of Health or his designee and the Chairman of the Alcoholic Beverage  
74 Control Board or his designee; and seventeen members shall be appointed by the Governor, subject to  
75 confirmation by the General Assembly, as follows: (i) five designated representatives of public health  
76 organizations, such as the American Cancer Society, American Heart Association, American Lung  
77 Association of Virginia, Medical Society of Virginia, *Virginia Association of School Nurses, Virginia*  
78 *Nurses Association*, and the Virginia Thoracic Society; (ii) four health professionals in the fields of  
79 oncology, cardiology, pulmonary medicine, and pediatrics; and (iii) eight citizens, including two youths.  
80 *Of the eight citizen members, three adults shall be appointed by the Governor from a list of six provided*  
81 *by members of the General Assembly appointed to the Foundation and one member who is under the*  
82 *age of eighteen years shall be appointed by the Governor from a list of three provided by the members*  
83 *of the General Assembly appointed to the Foundation.*

84 Except as otherwise provided herein, appointments shall be for four years. Vacancies in the  
85 membership of the Board shall be filled by appointment of the entity initially making the appointment  
86 for the unexpired portion of the term. No member shall be eligible to serve for more than two  
87 successive four-year terms; however, after the expiration of a term of three years or less, or after the  
88 expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms  
89 may be served by such member if appointed thereto. Immediately after such appointment, the members  
90 shall enter upon the performance of their duties.

91 The initial appointments of the representatives of the public health organizations, the health  
92 professionals, and the citizen members shall be as follows: one representative of a public health  
93 organization, two health professionals and three citizen members shall be appointed for terms of two  
94 years; two representatives of public health organizations, one health professional and three citizen  
95 members shall be appointed for terms of three years; and two representatives of public health  
96 organizations, one health professional and two citizen members shall be appointed for terms of four  
97 years. Thereafter all appointments shall be for terms of four years.

98 B. The ~~Governor~~ *Foundation* shall appoint from the membership of the Board a chairman and  
99 vice-chairman, both of whom shall serve in such capacities at the pleasure of the ~~Governor~~ *Foundation*.  
100 The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. A  
101 majority of the members of the Board serving at any one time shall constitute a quorum for the  
102 transaction of business. The Board shall meet annually or more frequently at the call of the chairman.

103 C. Members of the Board shall receive *compensation for their services at the rate provided in the*  
104 *appropriations act and* reimbursement for actual expenses incurred in the performance of their duties on  
105 behalf of the Board. Such *compensation and* expenses shall be paid from the Fund.

106 D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth  
107 shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance  
108 of membership on the Board or his service to the Foundation.

109 *E. Members of the Board and employees of the Foundation shall be subject to the standards of*  
110 *conduct set forth in the State and Local Government Conflict of Interests Act ( § 2.1-639.1 et seq.) and*  
111 *may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct*  
112 *in the manner set forth therein.*

113 § 32.1-358. Appointment of director; counsel to the Board and Foundation.

114 A. *Subject to confirmation by the General Assembly,* ~~The~~ the Governor shall appoint a director,  
115 whose compensation shall be determined by the Board, subject to approval by the Governor, and who  
116 shall also be the secretary of the Board. The director shall administer, manage and direct the affairs and  
117 business of the Foundation in accordance with the provisions of this chapter, subject to the policies,  
118 control and direction of the Board. The Board may employ technical experts and such other officers,  
119 agents and employees, permanent and temporary, as it may require, and shall determine their  
120 qualifications, duties and compensation. The Board may delegate to one or more of its agents or  
121 employees such administrative duties as it may deem proper. The actual expenses incurred in the

**122** performance of such duties shall be paid from the Fund.

**123** B. The Office of the Attorney General shall provide counsel to the Board and the Foundation.