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**HOUSE BILL NO. 2870**

House Amendments in [ ] — February 5, 2001

*A BILL to amend and reenact § 23-77.4 of the Code of Virginia, relating to the University of Virginia Medical Center.*

Patron Prior to Engrossment—Delegate Harris

Unanimous consent to introduce

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:****1. That § 23-77.4 of the Code of Virginia is amended and reenacted as follows:**

§ 23-77.4. Medical center management.

A. The General Assembly recognizes and finds that the economic viability of the University of Virginia Medical Center, hereafter referred to as the Medical Center, together with the requirement for its specialized management and operation, and the need of the Medical Center to participate in cooperative arrangements reflective of changes in health care delivery, as set forth in § 23-77.3, are dependent upon the ability of the management of the Medical Center to make and implement promptly decisions necessary to conduct the affairs of the Medical Center in an efficient, competitive manner. The General Assembly also recognizes and finds that it is critical to, and in the best interests of, the Commonwealth that the University continue to fulfill its mission of providing quality medical and health sciences education and related research and, through the presence of its Medical Center, continue to provide for the care, treatment, health-related services, and education activities associated with Virginia patients, including indigent and medically indigent patients. ~~Because~~ The General Assembly finds that the ability of the University to fulfill this mission is highly dependent upon revenues derived from providing health care through its Medical Center, and ~~because the General Assembly also finds that the~~ ability of the Medical Center to continue to be a reliable source of such revenues is heavily dependent upon its ability to compete with other providers of health care ~~which that~~ are not subject to the requirements of law applicable to agencies of the Commonwealth. *Therefore*, the University is hereby authorized to implement the following modifications to the management and operation of the affairs of the Medical Center in order to enhance its economic viability.

1. ~~Capital projects.~~ a. For any Medical Center capital project entirely funded by a nongeneral fund appropriation made by the General Assembly, all post-appropriation review, approval, administrative, and policy and procedure functions performed by the Department of General Services, the Division of Engineering and Buildings, the Department of Planning and Budget and any other agency that supports the functions performed by these departments are hereby delegated to the University, subject to the following stipulations and conditions: (i) the Board of Visitors shall develop and implement an appropriate system of policies, procedures, reviews and approvals for Medical Center capital projects to which this subdivision applies; (ii) the system so adopted shall provide for the review and approval of any Medical Center capital project to which this subdivision applies in order to ensure that, except as provided in clause (iii), the cost of any such capital project does not exceed the sum appropriated therefor and that the project otherwise complies with all requirements of the Code of Virginia regarding capital projects, excluding only the post-appropriation review, approval, administrative, and policy and procedure functions performed by the Department of General Services, the Division of Engineering and Buildings, the Department of Planning and Budget and any other agency that supports the functions performed by these departments; (iii) the Board of Visitors may, during any fiscal year, approve a transfer of up to a total of fifteen percent of the total nongeneral fund appropriation for the Medical Center in order to supplement funds appropriated for a capital project or capital projects of the Medical Center, provided that the Board of Visitors finds that the transfer is necessary to effectuate the original intention of the General Assembly in making the appropriation for the capital project or projects in question; (iv) the University shall report to the Department of General Services on the status of any such capital project prior to commencement of construction of, and at the time of acceptance of, any such capital project; and (v) the University shall ensure that Building Officials and Code Administrators (BOCA) Code and fire safety inspections of any such project are conducted and that such projects are inspected by the State Fire Marshal or his designee prior to certification for building occupancy by the University's assistant state building official to whom such inspection responsibility has been delegated pursuant to § 36-98.1. Nothing in this section shall be deemed to relieve the University of any reporting requirement pursuant to §§ 2.1-403 and 2.1-404. Notwithstanding the foregoing, the terms and structure

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59 of any financing of any capital project to which this subdivision applies shall be approved pursuant to  
60 § 2.1-179.

61 ~~b.~~ No capital project to which this subdivision applies shall be materially increased in size or  
62 materially changed in scope beyond the plans and justifications which were the basis for the project's  
63 appropriation unless: ~~(i)~~ (a) the Governor determines that such increase in size or change in scope is  
64 necessary due to an emergency or ~~(ii)~~ (b) the General Assembly approves the increase or change in a  
65 subsequent appropriation for the project. After construction of any such capital project has commenced,  
66 no such increase or change may be made during construction unless the conditions in ~~(i)~~ (a) or ~~(ii)~~ (b)  
67 have been satisfied.

68 2. ~~Leases of property.~~ The University shall be exempt from the provisions of § 2.1-504.2 and from  
69 any rules, regulations and guidelines of the Division of Engineering and Buildings in relation to leases  
70 of real property which it enters into on behalf of the Medical Center and, pursuant to policies and  
71 procedures adopted by the Board of Visitors, may enter into such leases subject to the following  
72 conditions: (i) the lease must be an operating lease and not a capital lease as defined in guidelines  
73 established by the Secretary of Finance and Generally Accepted Accounting Principles (GAAP); (ii) the  
74 University's decision to enter into such a lease shall be based upon cost, demonstrated need, and  
75 compliance with guidelines adopted by the Board of Visitors which direct that competition be sought to  
76 the maximum practical degree, that all costs of occupancy be considered, and that the use of the space  
77 to be leased actually is necessary and is efficiently planned; (iii) the form of the lease is approved by  
78 the Special Assistant Attorney General representing the University; (iv) the lease otherwise meets all  
79 requirements of law; (v) the leased property is certified for occupancy by the building official of the  
80 political subdivision in which the leased property is located; and (vi) upon entering such leases and upon  
81 any subsequent amendment of such leases, the University shall provide copies of all lease documents  
82 and any attachments thereto to the Department of General Services.

83 ~~b.~~ Notwithstanding the provisions of §§ 2.1-511 and 23-4.1, but subject to policies and procedures  
84 adopted by the Board of Visitors, the University may lease, for a purpose consistent with the mission of  
85 the Medical Center and for a term not to exceed fifty years, property in the possession or control of the  
86 Medical Center.

87 ~~e.~~ Notwithstanding the foregoing, the terms and structure of any financing arrangements secured by  
88 capital leases or other similar lease financing agreements shall be approved pursuant to § 2.1-179.

89 3. ~~Procurement of goods, services and construction.~~ Contracts awarded by the University in  
90 compliance with this section, on behalf of the Medical Center, for the procurement of goods, services,  
91 including professional services, and construction, shall be exempt from (i) the Virginia Public  
92 Procurement Act (§ 11-35 et seq.), except as provided below; (ii) Article 3 (§ 2.1-435 et seq.) of Chapter  
93 32 of Title 2.1; and (iii) Article 5 (§ 2.1-480 et seq.) of Chapter 32 of Title 2.1 regarding the review  
94 and approval of contracts for the construction of Medical Center capital projects; however, the  
95 provisions of this paragraph may not be implemented by the University until such time as the Board of  
96 Visitors has adopted guidelines generally applicable to the procurement of goods, services and  
97 construction by the Medical Center or by the University on behalf of the Medical Center. Such  
98 guidelines shall be based upon competitive principles and shall in each instance seek competition to the  
99 maximum practical degree. The guidelines shall implement a system of competitive negotiation for  
100 professional services; shall prohibit discrimination because of race, religion, color, sex, or national origin  
101 of the bidder or offeror in the solicitation or award of contracts; may take into account in all cases the  
102 dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of  
103 competition; may implement a prequalification procedure for contractors or products; may include  
104 provisions for cooperative procurement arrangements with private health or educational institutions, or  
105 with public agencies or institutions of the several states, territories of the United States or the District of  
106 Columbia; shall incorporate the prompt payment principles of §§ 11-62.10 and 11-62.11; and may  
107 implement provisions of law. The following sections of the Virginia Public Procurement Act shall  
108 continue to apply to procurements by the Medical Center or by the University on behalf of the Medical  
109 Center: §§ 11-49, 11-51, 11-52 (which section shall not be construed to require compliance with the  
110 prequalification application procedures of subsection B of § 11-46), 11-54, 11-56 through 11-61, and  
111 11-72 through 11-80.

112 *B. Imputed interest earned on the investment of moneys derived from nongeneral operating cash*  
113 *balances, including but not limited to, balances derived from patient care revenues, shall be credited*  
114 *each month to the University of Virginia Medical Center account within the Department of the Treasury*  
115 *by the Comptroller.*

116 **[ 2. That to phase in the cost to the Commonwealth of crediting imputed interest earned on the**  
117 **investment of moneys derived from nongeneral operating cash balances, including patient care**  
118 **revenues, by the University of Virginia Medical Center, pursuant to subsection B of § 23-77.4, the**  
119 **University of Virginia Medical Center shall make the following deposits into the general fund from**  
120 **interest income earned on such nongeneral operating cash balances, as follows: \$4,400,000 on or**

121 **before June 30, 2002; \$2,200,000 on or before June 30, 2003; and \$1,100,000 on or before June 30,**  
122 **2004.**

123 *C. The University of Virginia Medical Center may use the imputed interest earned on the investment*  
124 *of moneys derived from nongeneral operating cash balances, including but not limited to balances*  
125 *derived from patient care revenues, to match federal Medicaid payments for indigent or low-income*  
126 *patients. ]*

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