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SENATE BILL NO. 124

Offered January 9, 2002

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A BILL to amend and reenact § 23-77.4 of the Code of Virginia, relating to University of Virginia Medical Center; credit for imputed interest.

Patron—Wampler

Referred to Committee on Education and Health

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 are not subject to the requirements of law applicable to agencies of the Commonwealth, 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:

*B. Capital projects; leases of property; procurement of goods, services and construction.***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

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SB124

pursuant to § 2.2-1513. Notwithstanding the foregoing, the terms and structure of any financing of any capital project to which this subdivision applies shall be approved pursuant to § 2.2-2416.

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

2. Leases of property.

a. The University shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations and guidelines of the Division of Engineering and Buildings in relation to leases of real property which it enters into on behalf of the Medical Center and, pursuant to policies and procedures adopted by the Board of Visitors, may enter into such leases subject to the following conditions: (i) the lease must be an operating lease and not a capital lease as defined in guidelines established by the Secretary of Finance and Generally Accepted Accounting Principles (GAAP); (ii) the University's decision to enter into such a lease shall be based upon cost, demonstrated need, and compliance with guidelines adopted by the Board of Visitors which direct that competition be sought to the maximum practical degree, that all costs of occupancy be considered, and that the use of the space to be leased actually is necessary and is efficiently planned; (iii) the form of the lease is approved by the Special Assistant Attorney General representing the University; (iv) the lease otherwise meets all requirements of law; (v) the leased property is certified for occupancy by the building official of the political subdivision in which the leased property is located; and (vi) upon entering such leases and upon any subsequent amendment of such leases, the University shall provide copies of all lease documents and any attachments thereto to the Department of General Services.

b. Notwithstanding the provisions of §§ 2.2-1155 and 23-4.1, but subject to policies and procedures adopted by the Board of Visitors, the University may lease, for a purpose consistent with the mission of the Medical Center and for a term not to exceed fifty years, property in the possession or control of the Medical Center.

c. Notwithstanding the foregoing, the terms and structure of any financing arrangements secured by capital leases or other similar lease financing agreements shall be approved pursuant to § 2.2-2416.

3. Procurement of goods, services and construction.

Contracts awarded by the University in compliance with this section, on behalf of the Medical Center, for the procurement of goods, services, including professional services, and construction, shall be exempt from (i) the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except as provided below; (ii) Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2; and (iii) Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2 regarding the review and approval of contracts for the construction of Medical Center capital projects; however, the provisions of this paragraph may not be implemented by the University until such time as the Board of Visitors has adopted guidelines generally applicable to the procurement of goods, services and construction by the Medical Center or by the University on behalf of the Medical Center. Such guidelines shall be based upon competitive principles and shall in each instance seek competition to the maximum practical degree. The guidelines shall implement a system of competitive negotiation for professional services; shall prohibit discrimination because of race, religion, color, sex, or national origin of the bidder or offeror in the solicitation or award of contracts; may take into account in all cases the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; may implement a prequalification procedure for contractors or products; may include provisions for cooperative procurement arrangements with private health or educational institutions, or with public agencies or institutions of the several states, territories of the United States or the District of Columbia; shall incorporate the prompt payment principles of §§ 11-62.10 and 11-62.11; and may implement provisions of law. The following sections of the Virginia Public Procurement Act shall continue to apply to procurements by the Medical Center or by the University on behalf of the Medical Center: §§ 11-49, 11-51, 11-52 (which section shall not be construed to require compliance with the prequalification application procedures of subsection B of § 11-46), 11-54, 11-56 through 11-61, and 11-72 through 11-80.

C. The State Comptroller shall credit on a monthly basis to the nongeneral fund operating cash balances of the University of Virginia Medical Center and the imputed interest earned by the investment of such nongeneral fund operating cash balances, including but not limited to those balances derived from patient care revenues on deposit with the State Treasurer.