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HOUSE BILL NO. 1386

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 3, 2004)

(Patron Prior to Substitute—Delegate Watts)

A BILL to amend and reenact §§ 1, 3, 4, 5, 15 and 17 of Chapter 946 of the Acts of Assembly of 1993 as amended by Chapter 731 of the Acts of Assembly of 2000, relating to the Virginia Biotechnology Research Partnership Authority, currently the Virginia Biotechnology Research Park Authority.

Be it enacted by the General Assembly of Virginia:

1. That §§ 1, 3, 4, 5, 15 and 17 of Chapter 946 of the Acts of Assembly of 1993 as amended by Chapter 731 of the Acts of Assembly of 2000 are amended and reenacted as follows:

§ 1. Short title.

This act shall be known and may be cited as the "Virginia Biotechnology Research ~~Park~~ Partnership Authority Act."

§ 3. Declaration of public purpose; Authority created.

A. The General Assembly has determined that there exists in the Commonwealth a need to (i) disseminate knowledge pertaining to scientific and technological research and development among public and private entities, including but not limited to knowledge in the area of biotechnology; ~~and~~ (ii) promote ~~the~~ industrial and economic development of the Commonwealth by attracting and retaining biotechnology and related high technology jobs and businesses in Virginia; (iii) facilitate support for biotechnology industries to commercialize new products and processes, including organizing assistance for small business and supporting select industry sectors and regional biotechnology efforts; (iv) support the enhancement and expansion of biotechnological research and development capabilities of the institutions of higher education in the Commonwealth and coordinate such capabilities with the biotechnological research and development activities and requirements of the public and private sectors, including transferring technological advances to the private sector; (v) assist in attracting research and development (R&D) facilities and contracts from the federal government and private sector, including coordinating efforts to identify and compete for large federal and private sector R&D facilities, tracking federal biotechnology initiatives and recommending state actions, and developing a statewide strategy to compete for large R&D contracts; (vi) facilitate and coordinate the marketing, organization, utilization and development of scientific and biotechnological research and development in the Commonwealth; and (vii) administer the Virginia Biotechnology Macro Partnership Program or other statewide programs that may from time-to-time be created by the Commonwealth related to building and enhancing the Commonwealth's competitiveness in building a biotechnology and life sciences industry.

~~In order to facilitate and coordinate scientific and technological research and development and to promote the industrial and economic development of the Commonwealth,~~ B. To achieve the objectives of subsection A, which purposes are declared to be public purposes, there is created a political subdivision of the Commonwealth to be known as the "Virginia Biotechnology Research ~~Park~~ Partnership Authority." The Authority's exercise of powers and duties conferred by this Act shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

§ 4. Board of directors; members and officers; Executive Director.

A. The Authority shall be governed by a board of directors consisting of *not less than nine nor more than 15* members, three of whom shall be the President of Virginia Commonwealth University, the Mayor ~~for~~ of the City of Richmond, and the Secretary of Commerce and Trade for the Commonwealth, who shall serve as directors during their terms ~~in offices of office~~. Any of the aforesaid ex officio members of the board ~~of directors~~ may, from time to time and by written notice to the chairman of the board ~~of directors~~ of the Authority, appoint a designee, under such terms as the designator may provide, to act on behalf of such designator. Such designee, for the term of ~~such~~ the designation, shall be treated in all respects as a director and shall have all powers of a director, including, without limitation, the powers to (i) attend and be heard at meetings of the board ~~of directors~~, thereby counting toward the number of the directors present for the purpose of determining whether a quorum exists; (ii) vote as a member of the board ~~of directors~~; and (iii) function as the holder of any office held by the designator or as a member of any committee of which the designator is a member. ~~The remaining six~~ Six members of the board ~~of directors~~ shall be appointed by the Governor from a list of nominations submitted by the ~~Board~~ board of ~~Directors~~ directors of the Virginia Biotechnology Research Park, a not-for-profit non-stock Virginia corporation. Two of ~~such~~ the directors appointed by the Governor shall be appointed for terms of one year, two for terms of two years, and two for terms of three years, from the effective date of their appointment; and thereafter, the members of the board shall be appointed for terms of three

60 years.

61 *B. Upon implementation of any statewide program, referred to as the Virginia Biotechnology Macro*
62 *Partnership, which results in funds being distributed to partnerships or collaborations of government,*
63 *nonprofit enterprises or not-for-profit enterprises, for purposes of building and enhancing the*
64 *Commonwealth's competitiveness, the Governor may appoint a representative of that partnership to*
65 *serve on the board of the Authority for a term of three years, or such lesser time as the eligible*
66 *partnership or consortium may be receiving funds and assistance from the Authority under the program.*
67 *In the event the funding and assistance continues beyond three years, the Governor may reappoint for a*
68 *second three-year term the same representative or another representative of that entity. One*
69 *representative from each partnership or consortium receiving funding under the Virginia Biotechnology*
70 *Macro Partnership program will be eligible to serve on the board of the Authority during the period*
71 *such entity is receiving funding and assistance under the program so long as the total number of*
72 *additional directors does not exceed six directors who may be appointed in the same manner and for the*
73 *same length of time.*

74 *C. All members of the board appointed by the Governor shall be confirmed by each house of the*
75 *General Assembly. Vacancies in the membership of the board shall be filled by appointment for the*
76 *unexpired portion of the term. Immediately after appointment, the directors shall enter upon the*
77 *performance of their duties.*

78 *D. Members of the board shall be subject to removal from office in like manner as are state, county,*
79 *town and district officers under the provisions of §§ 24.2-230 through 24.2-238 of the Code of Virginia.*
80 *The Circuit Court of the City of Richmond shall have exclusive jurisdiction over all proceedings for*
81 *such removal. Immediately after such appointment, the directors shall enter upon the performance of*
82 *their duties.*

83 *E. The board shall annually elect one of its members as from its membership a chairman and another*
84 *as vice-chairman, vice chairman, and shall also elect a secretary, and a treasurer, who need may or may*
85 *not be a member members of the board. The board, and may also elect other subordinate officers, who*
86 *may or may need not be members of the board, as it deems proper. The chairman, or in his absence, the*
87 *vice-chairman vice chairman, shall preside at all meetings of the board. In the absence of both the*
88 *chairman and vice-chairman vice chairman, the board shall appoint a chairman pro tempore, who shall*
89 *preside at such meetings.*

90 *Five directors F. A majority of the board shall constitute a quorum for the transaction of the*
91 *Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise*
92 *all the rights and perform all the duties of the Authority.*

93 *G. The members of the board shall be entitled to reimbursement for their reasonable travel, meal and*
94 *lodging expenses incurred in attending the meetings of the board or while otherwise engaged in the*
95 *discharge of their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers*
96 *signed by the chairman of the board or by such other person or persons as may be designated by the*
97 *board for this purpose.*

98 *H. The board may employ an Executive Director of the Authority, who shall serve at the pleasure of*
99 *the board, to direct the day-to-day operations and activities of the Authority and carry out the powers*
100 *and duties conferred upon him as may be delegated to him by the board.*

101 *I. The Executive Director and employees of the Authority shall be compensated in the manner*
102 *provided by the board and shall not be subject to the provisions of Chapter 10 (§ 2.1-110 et seq.) of*
103 *Title 2.1 of the Code of Virginia the Virginia Personnel Act (§ 2.2-2900 et seq.).*

104 *§ 5. Powers of the Authority.*

105 *The Authority is hereby granted and shall have and may exercise all powers necessary or convenient*
106 *for the carrying out of its statutory purposes, including, but without limiting the generality of the*
107 *foregoing, the power not limited to, the rights and powers to:*

108 1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

109 2. Adopt, use, and alter at will a corporate seal;

110 3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest
111 therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or
112 dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein,
113 at any time acquired or held by the Authority on such terms and conditions as may be determined by
114 the board of the Authority;

115 4. Plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain
116 and operate projects;

117 5. Make Adopt bylaws for the management and regulation of its affairs;

118 6. Fix, alter, charge and collect rates, rentals, fees, and other charges for the use of projects of, the
119 sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose
120 of providing for the payment of the expenses of the Authority; the planning, development, construction,
121 improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties;

the payment of the costs of accomplishing its purposes as set forth in § 3; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project or projects and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations;

7. Borrow money, make and issue bonds including bonds as the Authority may, ~~from time to time,~~ determine to issue for the purpose of accomplishing the purposes set forth in § 3 or for refunding bonds previously issued by the Authority, whether or not such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority ~~shall deem~~ *deems* advisable; and in general to provide for the security for said bonds and the rights of holders thereof;

8. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes and the execution of its powers under this Act, including agreements with any person or federal agency;

9. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

10. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

11. Render advice and assistance, and to provide services, to institutions of higher education ~~including, but not limited to, Virginia Commonwealth University,~~ and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

12. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights, ~~and~~ trademarks *and other intellectual property protection* thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

13. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; ~~and~~

14. *Establish and maintain satellite offices within the Commonwealth; and*

~~14.15.~~ Do all acts and things necessary or convenient to carry out the powers granted to it by ~~this Act or any other acts law.~~

§ 15. Exemption of Authority from personnel and procurement procedures.

The provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 ~~the Virginia Personnel Act~~ (§ 2.2-2900 et seq.) and Chapter 7 (§ 11-35 et seq.) of Title 11 ~~of the Code of Virginia~~ *the Virginia Public Procurement Act* (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this Act.

§ 17. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived, shall be in such form as the Auditor of Public Accounts ~~prescribes~~ *shall prescribe*.

B. The Auditor of Public Accounts ~~of the Commonwealth,~~ and his legally authorized representatives, shall annually examine the accounts and books of the Authority. Such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises.

C. The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of § ~~2.1-467~~ *2.2-1127*.

183 2. That this act shall not be construed to affect existing appointments for which the terms have
184 not expired. However, any new appointments made after the effective date of this act shall be
185 made in accordance with the provisions of this act.