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HOUSE BILL NO. 219

Offered January 14, 2004

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A BILL to amend and reenact §§ 15.2-5802, 15.2-5805 and 15.2-5806, as they are currently effective and as they may become effective, 15.2-5807 and 15.2-5814, as it is currently effective, of the Code of Virginia, relating to the Virginia Baseball Stadium Authority.

Patron—Brink

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-5802, 15.2-5805 and 15.2-5806, as they are currently effective and as they may become effective, 15.2-5807 and 15.2-5814, as it is currently effective, of the Code of Virginia are amended and reenacted as follows:

§ 15.2-5802. Members of Authority; chairman; terms.

A. The Authority shall consist of nine members who shall be appointed by the Governor, and the Governor shall designate one of the members as chairman. The members of the Authority annually shall elect a vice-chairman from their membership who shall perform the duties of the chairman in his absence. In making appointments to the Authority, the Governor shall ensure that the geographic areas of the Commonwealth are represented; however, in the event a major league baseball stadium is proposed, at least four members of the Authority shall be residents of the county or city in which the facility is proposed to be located. *Such members shall be selected from a list of at least 10 residents, submitted to the Governor by the mayor or board chairman of the locality in which the facility is proposed to be located.* The appointments of the members by the Governor shall be confirmed in accordance with § 2.2-107.

B. The term of a member of the Authority is four years. However, upon the initial appointment of the members of the Authority, the terms of the members shall be staggered as follows: The initial term of three of the members shall be four years; the initial term of three members shall be three years; and the initial term of the remaining three members shall be two years. The Governor shall designate the term to be served by each appointee at the time of appointment.

At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. Upon the end of the term of a member, or upon the resignation or removal of a member, the Governor shall appoint a member to the Authority. The Governor may remove a member for cause in accordance with § 2.2-108. The members of the Authority shall receive no compensation for their services, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of the duties of that office.

§ 15.2-5805. (Contingent expiration date /- See note) Powers.

In addition to the powers set forth elsewhere in this chapter, the Authority may:

1. Adopt and alter an official seal;
2. Sue and be sued in its own name;
3. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;
4. Maintain an office at such place as the Authority may designate;
5. Employ, either as regular employees or independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers and other professional personnel, personnel, and agents as may be necessary in the judgment of the Authority, and fix their compensation;
6. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to accomplish the purposes of the Authority;
7. Acquire, *other than by condemnation*, hold, lease, use, encumber, transfer, or dispose of real and personal property, including a lease of its property or any interest therein whatever the condition thereof, whether or not constructed or acquired, to the Commonwealth or any political subdivision of the Commonwealth. The Commonwealth and any such political subdivision are authorized to acquire or lease such property or any interest therein; however, the Commonwealth shall not enter into any such lease or purchase agreement unless such lease or purchase agreement has first been approved pursuant to subsection E of § 15.2-5806;
8. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect

59 to its carrying out the powers in this chapter to accomplish the purposes of the Authority;

60 9. Operate, enter into contracts for the operation of, and regulate the use and operation of facilities
61 developed under the provisions of the chapter;

62 10. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the
63 use of facilities or for services rendered in connection with the facilities;

64 11. Borrow money from any source for any valid purpose, including working capital for its
65 operations, reserve funds, or interest, and to mortgage, pledge, or otherwise encumber the property or
66 funds of the Authority and to contract with or engage the services of any person in connection with any
67 financing, including financial institutions, issuers of letters of credit, or insurers;

68 12. Issue bonds under this chapter;

69 13. Receive and accept from any source, private or public, contributions, gifts, or grants of money or
70 property; and

71 14. Do all things necessary or convenient to carry out the powers granted by this chapter.

72 § 15.2-5805. (Contingent effective date /- See note) Powers.

73 In addition to the powers set forth elsewhere in this chapter, the Authority may:

74 1. Adopt and alter an official seal;

75 2. Sue and be sued in its own name;

76 3. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;

77 4. Maintain an office at such place as the Authority may designate;

78 5. Employ, either as regular employees or independent contractors, consultants, engineers, architects,
79 accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers
80 and other professional personnel, personnel, and agents as may be necessary in the judgment of the
81 Authority, and fix their compensation;

82 6. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add
83 to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to
84 accomplish the purposes of the Authority;

85 7. Acquire, *other than by condemnation*, hold, lease, use, encumber, transfer, or dispose of real and
86 personal property, including a lease of its property or any interest therein whatever the condition thereof,
87 whether or not constructed or acquired, to the Commonwealth or any political subdivision of the
88 Commonwealth. The Commonwealth and any such political subdivision are authorized to acquire or
89 lease such property or any interest therein; however, the Commonwealth shall not enter into any such
90 lease or purchase agreement unless such lease or purchase agreement has first been approved pursuant to
91 subsections E and F of § 15.2-5806;

92 8. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect
93 to its carrying out the powers in this chapter to accomplish the purposes of the Authority;

94 9. Operate, enter into contracts for the operation of, and regulate the use and operation of facilities
95 developed under the provisions of the chapter;

96 10. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the
97 use of facilities or for services rendered in connection with the facilities;

98 11. Borrow money from any source for any valid purpose, including working capital for its
99 operations, reserve funds, or interest, and to mortgage, pledge, or otherwise encumber the property or
100 funds of the Authority and to contract with or engage the services of any person in connection with any
101 financing, including financial institutions, issuers of letters of credit, or insurers;

102 12. Issue bonds under this chapter;

103 13. Receive and accept from any source, private or public, contributions, gifts, or grants of money or
104 property; and

105 14. Do all things necessary or convenient to carry out the powers granted by this chapter.

106 § 15.2-5806. (Contingent expiration date /- See note) Public hearings; notice; reports; approvals.

107 A. At least ~~sixty~~60 days prior to selecting a site for a major league baseball stadium, the Authority
108 shall hold a public hearing within ~~thirty~~30 miles of the site proposed to be acquired for the purpose of
109 soliciting public comment.

110 B. Except as otherwise provided herein, at least ~~sixty~~60 days prior to the public hearing required by
111 this section, the Authority shall notify the local governing body in which the major league baseball
112 stadium is proposed to be located and advertise the notice in a newspaper of general circulation in that
113 locality. The notice shall include: (i) a description of the site proposed to be acquired, (ii) the intended
114 use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice
115 required by this section, the local governing body in which a major league baseball stadium is proposed
116 to be located may require that this period be extended for up to ~~sixty~~60 additional days or for such
117 other time period as agreed upon by the local governing body and the Authority.

118 C. At least ~~thirty~~30 days before acquiring or entering into a lease involving a major league baseball
119 stadium and before entering into a construction contract involving a major league baseball stadium or
120 stadium site, the Authority shall submit a detailed written report and the findings of the Authority that

justify the proposed acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic benefits of the proposed acquisition, lease, or contract. *The mayor or board chairman of the governing body of the locality in which the major league baseball stadium is proposed to be located shall be provided a copy of the report and findings.*

D. Not more than 90 days after receipt of the report and findings by the mayor or board chairman as required by subsection C, the governing body of the locality shall make a determination of whether the proposed major league baseball stadium, and the proposed funding thereof, would enhance the economic development, resources, and advantages of the locality, and the general welfare of the residents of the locality, and shall report such determination to the Authority. In the event the determination concludes that the proposed major league baseball stadium is not in the locality's interest, then the Authority shall not, directly or indirectly, exercise any of its powers to establish a major league baseball stadium in the locality.

DE. The time periods in subsections A, B, and C of this section may not run concurrently.

EF. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been submitted to the State Treasurer sufficiently prior to the execution of such agreement or arrangement to allow the State Treasurer to undertake a review for the purposes of determining whether the agreement or arrangement may constitute tax-supported debt of the Commonwealth. In the event that in the opinion of the State Treasurer, with the concurrence of the Debt Capacity Advisory Committee, such agreement or arrangement will be considered tax-supported debt of the Commonwealth or have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, such agreement or arrangement must be authorized by the General Assembly.

EG. The State Treasurer shall be provided with copies of all documents relating to the proposed issuance of any bonds pursuant to § 15.2-5808 sufficiently in advance of such bond issue to conduct such reviews as the State Treasurer deems necessary. In the event that the Commonwealth is an obligated person determined to be material to an evaluation of the offering for which financial information will be included or referenced in the offering document in accordance with the Securities and Exchange Commission Rule 15c-12 under the federal Securities Exchange Act of 1934, or in the event that in the opinion of the State Treasurer, with the concurrence of the Debt Capacity Advisory Committee, such bond issue will be considered tax-supported debt of the Commonwealth or have a material adverse impact on the debt capacity or the credit ratings of the Commonwealth, such bond issue must be authorized by the General Assembly.

§ 15.2-5806. (Contingent effective date /- See note) Public hearings; notice; reports.

A. At least ~~sixty~~60 days prior to selecting a site for a major league or minor league baseball stadium, the Authority shall hold a public hearing within ~~thirty~~30 miles of the site proposed to be acquired for the purpose of soliciting public comment.

B. Except as otherwise provided herein, at least ~~sixty~~60 days prior to the public hearing required by this section, the Authority shall notify the local governing body in which the major league or minor league baseball stadium is proposed to be located and advertise the notice in a newspaper of general circulation in that locality. The notice shall include: (i) a description of the site proposed to be acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice required by this section, the local governing body in which a major league or minor league baseball stadium is proposed to be located may require that this period be extended for up to ~~sixty~~60 additional days or for such other time period as agreed upon by the local governing body and the Authority.

C. At least ~~thirty~~30 days before acquiring or entering into a lease involving a major league or minor league baseball stadium and before entering into a construction contract involving a major league or minor league baseball stadium or stadium site, the Authority shall submit a detailed written report and the findings of the Authority that justify the proposed acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic necessity of the proposed acquisition, lease, or contract. *The mayor or board chairman of the governing body of the locality in which the major league baseball stadium is proposed to be located shall be provided a copy of the report and findings.*

D. Not more than 90 days after receipt of the report and findings by the mayor or board chairman as required by subsection C, the governing body of the locality shall make a determination of whether the proposed major league baseball stadium, and the proposed funding thereof, would enhance the economic development, resources, and advantages of the locality, and the general welfare of the residents of the locality, and shall report such determination to the Authority. In the event the determination concludes that the proposed major league baseball stadium is not in the locality's interest,

182 *then the Authority shall not, directly or indirectly, exercise any of its powers to establish a major league*
183 *baseball stadium in the locality.*

184 DE. The time periods in subsections A, B, and C of this section may not run concurrently.

185 EF. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase
186 agreement, master lease agreement or any other contractual arrangement that creates a direct or
187 contingent financial obligation of the Commonwealth unless such agreement or arrangement has first
188 been submitted to the State Treasurer sufficiently prior to the execution of such agreement or
189 arrangement to allow the State Treasurer to undertake a review for the purposes of determining (i)
190 whether the agreement or arrangement may constitute tax-supported debt of the Commonwealth and (ii)
191 the potential impact of the agreement or arrangement on the debt capacity and credit ratings of the
192 Commonwealth. If after such review the State Treasurer determines that the agreement or arrangement
193 may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt
194 capacity or the credit ratings of the Commonwealth, the agreement or arrangement and any associated
195 financing shall be submitted to the Treasury Board for review and approval of terms and structures in a
196 manner consistent with § 2.2-2416.

197 FG. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase
198 agreement, master lease agreement or any other contractual arrangement that creates a direct or
199 contingent financial obligation of the Commonwealth unless such agreement or arrangement has first
200 been reviewed and approved as required by subsection E and subsequently approved in writing by the
201 Governor.

202 § 15.2-5807. Acquisition of property.

203 A. The Authority may acquire in its own name, by gift or purchase, any real or personal property, or
204 interests in property, necessary or convenient to construct or operate any facility. *The Authority shall not*
205 *have the power of acquiring any interest in property by eminent domain.*

206 B. In any jurisdiction where planning, zoning, and development regulations may apply, the Authority
207 shall comply with and is subject to those regulations to the same extent as a private commercial or
208 industrial enterprise.

209 C. This section does not affect the right of the Authority to acquire an option for acquisition of the
210 property, prior to 2000, once the approval required by this section is obtained.

211 D. Any locality shall have the power to acquire by eminent domain, in the manner and in accordance
212 with the procedure provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, any real property, including
213 fixtures and improvements, and personal property, including any interest, right, easement, or estate
214 therein, located within such locality for public purposes. For purposes of this section, public purpose
215 means the construction and operation of any facility, as defined in § 15.2-5800, when determined by the
216 governing body of such locality that the construction and operation of such a facility would enhance the
217 economic development, resources, or advantages of the locality. In furtherance of this public purpose,
218 the locality may convey any such real property, including fixtures and improvements, and personal
219 property acquired pursuant to this section to the Authority, by sale, gift or lease, upon terms mutually
220 agreed upon by the Authority and the locality. The Authority and locality may enter into agreements
221 regarding the initiation and prosecution of such condemnation proceedings, including payment and
222 reimbursement of any costs, fees, expenses, or awards resulting from the proceedings. Upon the written
223 request of the Authority, the locality in which the stadium site is proposed may, by majority vote,
224 exercise its power of eminent domain as provided herein.

225 § 15.2-5814. (Contingent expiration date /- See note) Entitlement to sales tax revenues derived from a
226 major league baseball stadium.

227 A. The Authority shall be entitled, subject to appropriation, to all sales tax revenues as defined in
228 this chapter. Sales tax revenues may be applied for any purposes of the Authority. The State
229 Comptroller shall remit such sales tax revenues to the Authority on a quarterly basis, subject to such
230 reasonable processing delays as may be required by the Department of Taxation. The State Comptroller
231 shall make such remittances to the Authority, as provided herein, notwithstanding any provisions to the
232 contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

233 B. The local governing body of the locality in which the stadium is located may direct, by ordinance
234 or resolution, that all local sales and use tax revenues generated by transactions taking place upon the
235 premises of the major league stadium from taxes levied pursuant to §§ 58.1-605 and 58.1-606 shall be
236 remitted by the Treasurer of such locality to the Authority for any purposes of the Authority. Such
237 remittances shall be for the same period and under the same conditions as remittances to the Authority
238 paid in accordance with subsection A, mutatis mutandis.

239 C. The local governing body of the locality in which the stadium is located may direct, by ordinance
240 or resolution, that all admissions tax revenues of such locality generated by admissions to the major
241 league stadium from taxes levied pursuant to §§ 58.1-3818 and 58.1-3840 shall be remitted to the
242 Authority for any purposes of the Authority. In addition to such admissions tax, the local governing
243 body of the locality in which the stadium is located may levy, by ordinance or resolution, an admissions

244 surcharge, not to exceed two percent of the amount charged for admission, on the sale of all tickets sold
245 at the major league baseball stadium to be paid to the Authority and shall direct that the Authority and
246 the major league baseball franchise shall reimburse the locality for actual day-of-event expenses incurred
247 by the locality in connection with the operations of the major league baseball stadium. The difference
248 between the surcharge and expenses attributable to the Authority, if any, shall be retained by the
249 Authority for any of its purposes as the Authority deems appropriate for the major league baseball
250 stadium.

251 D. The Authority shall be entitled, subject to appropriation, to all personal income tax revenues,
252 corporate income tax revenues and pass-through entity tax revenues as defined in this chapter. The
253 Authority shall also be entitled to all business, professional and occupational license taxes *remitted to*
254 *the Authority by the locality, under the provisions of this section, in which the major league baseball*
255 *stadium is located*, that are generated by the development, construction or operation of a major league
256 baseball stadium and those business, professional and occupational license taxes remitted to the
257 Authority by the locality, under the provisions of this section, in which the major league baseball
258 stadium is located, on transactions, salaries and personal income and team operations, including without
259 limitation, the wages, salaries and personal income generated in connection with the construction of the
260 major league baseball stadium. The revenue derived from the provisions of this subsection shall be
261 applied for any purposes which the Authority deems appropriate for the major league baseball stadium.
262 The State Comptroller shall remit all such state tax revenues to the Authority on a quarterly basis,
263 subject to such reasonable processing delays as may be required by the Department of Taxation. The
264 locality in which the major league baseball stadium is located may direct, by ordinance or resolution,
265 that all business, professional and occupational licensing revenues, *or a portion thereof*, generated *by the*
266 *development, construction or operation of a major league baseball stadium*, and on the premises of the
267 major league baseball stadium may be remitted to the Authority for any purposes which the Authority
268 deems appropriate for the major league baseball stadium.