

# VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

## CHAPTER 676

*An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 53.1, consisting of sections numbered 15.2-5368 through 15.2-5386, relating to the Southwest Virginia Health Facilities Authority.*

[H 2882]

Approved March 20, 2007

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

**1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 53.1, consisting of sections numbered 15.2-5368 through 15.2-5386, as follows:**

### *CHAPTER 53.1.*

#### *SOUTHWEST VIRGINIA HEALTH FACILITIES AUTHORITY.*

*§ 15.2-5368. Southwest Virginia Health Facilities Authority established.*

*There is hereby established a Health Facilities Authority for the LENOWISCO and Cumberland Plateau Planning District Commissions.*

*§ 15.2-5369. Definitions.*

*As used in this chapter, unless the context requires a different meaning:*

*"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.*

*"Bond" includes any interest bearing obligation, including promissory notes.*

*"Hospital or health center" means any and all dental and medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing hospital and medical care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self care facilities, wellness and health maintenance centers, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.*

*"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions with respect to which an authority may be organized and in which it is contemplated that the Authority will function.*

*§ 15.2-5370. Directors; qualifications; terms; vacancies.*

*The Authority shall be governed by a board of directors in which all powers of the Authority shall be vested. The Authority shall consist of members as follows:*

*The Executive Director for the Coalfield Economic Development Authority, or his designee;*

*The Chief Executive Officer of the Norton Community Hospital located in the City of Norton, Virginia, or his designee;*

*One representative from the Lonesome Pine Hospital;*

*One representative from the community health center system;*

*The District Health Director for the Cumberland Health District, or his designee;*

*The District Health Director for the LENOWISCO Health District, or his designee;*

*The Dean of the University of Virginia School of Medicine, or his designee;*

*The Dean of the School of Dentistry at the Medical College of Virginia of Virginia Commonwealth University, or his designee;*

*The Chancellor of the University of Virginia's College at Wise, or his designee;*

*Two members of the Senate to be appointed by the Senate Committee on Rules;*

*Two members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of*

*Delegates; and*

*One member for each participating locality; provided that each such member shall be appointed initially as follows: the representatives of Buchanan and Dickenson Counties being appointed for one-year terms; the representatives of Lee County and the City of Norton being appointed for two-year terms; the representatives of Russell and Scott Counties being appointed for three-year terms; and the representatives of Tazewell and Wise Counties being appointed for four-year terms. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the Authority, and thereafter in accordance with the provisions of the preceding sentence. If, at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.*

*The directors shall elect from their membership a chairman and a vice-chairman and from their membership or not, as they desire, a secretary and a treasurer or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected.*

*§ 15.2-5371. Decisions of Authority.*

*A majority of the Authority, which majority shall include at least a majority of the representatives of the counties and cities embraced by the Authority, shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Actions of the Authority shall receive the affirmative vote of a majority of the quorum to be effective. No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all the duties of the Authority. The Authority shall determine the times and places of its regular meetings. Special meetings of the Authority shall be held when requested by two or more members of the Authority. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all the members of the Authority are present.*

*§ 15.2-5372. Payment to members of Authority.*

*The members of the Authority may be paid for their services compensation in either (i) the amount provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.*

*§ 15.2-5373. Executive director; staff.*

*The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. No such person shall contemporaneously serve as a member of the Authority. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.*

*§ 15.2-5374. Powers of Authority.*

*The Authority shall have all powers necessary or convenient to carry out the general purposes of this chapter, including the power to:*

- 1. Sue and be sued; adopt a seal and alter the same at pleasure; have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.*
- 2. Employ such technical experts and such other officers, agents, and employees as it may require, to fix their qualifications, duties, and compensation, and to remove such employees at pleasure.*
- 3. Acquire within the territorial limits of the participating localities embraced by it, by purchase, lease, gift, or otherwise, whatever lands, buildings, and structures as may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining, and operating one or more hospitals or health centers.*
- 4. Sell, lease, exchange, transfer, or assign any of its real or personal property or any portion thereof or interest therein to any person, firm, or corporation whenever the Authority finds such action to be in furtherance of the purposes for which the Authority was created.*
- 5. Acquire, establish, construct, enlarge, improve, maintain, equip, and operate any hospital or health center and any other facility and service for the care and treatment of sick persons.*
- 6. Make and enforce rules and regulations for the management and conduct of its business and affairs and for the use, maintenance and operation of its facilities and properties.*
- 7. Accept gifts and grants, including real or personal property, from the Commonwealth or any political subdivision thereof and from the United States and any of its agencies; and accept donations of money, personal property, or real estate and take title thereto from any person.*
- 8. Make rules and regulations governing the admission, care, and treatment of patients in such hospital or health center, classify patients as to charges to be paid by them, if any, and determine the*

*nature and extent of the service to be rendered patients.*

9. *Comply with the provisions of the laws of the United States and the Commonwealth and any rules and regulations made thereunder for the expenditures of federal or state money in connection with hospitals or health centers and to accept, receive, and receipt for federal and state money granted the Authority or granted any of the participating localities embraced by it for hospital or health center purposes.*

10. *Borrow money upon its bonds, notes, debentures, or other evidences of indebtedness issued for the purpose only of acquiring, constructing, improving, furnishing, or equipping buildings or structures for use as a hospital or health center, and to secure the same by pledges of its revenues and property as hereafter provided. This power shall include the power to refinance all or any portion of such debt, to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date.*

11. *Execute all instruments necessary or convenient in connection with the borrowing of money and issuing bonds as herein authorized.*

12. *Enter into leases and agreements with persons for the construction or operation or both of a hospital or health center by such persons on land of the Authority.*

13. *Contract for the management and operation of any hospital or health center subject to the control of the Authority; however, the Authority may charge such rates for service as will enable it to make reasonable compensation for such management and operation.*

14. *Assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations or other entities and to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of shares of or other interests in or obligations of any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations, joint ventures, or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation, or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by the Authority that is an "institution," as such term is defined in § 55-268.1, as amended, shall be governed by the Uniform Management of Institutional Funds Act (§ 55-268.1 et seq.) of the Code of Virginia.*

15. *Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this chapter.*

16. *Provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this chapter.*

17. *Make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures, or other entities.*

18. *Transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures, or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this chapter.*

19. *Procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled.*

20. *Exercise all other powers granted to nonstock corporations pursuant to § 13.1-826. § 15.2-5375. Appropriations to Authority.*

*Any participating locality is authorized to make appropriations to the Authority from available funds or from funds provided for the purpose by bond issues for the acquisition of land or improvements to land or the construction, improvement, maintenance, and operation of any hospital or health center operated or controlled or proposed to be operated or controlled by the Authority. The participating locality may also transfer to the Authority, with or without consideration, real or personal property for any or all of such purposes.*

*§ 15.2-5376. Issuance of bonds by participating localities and validation thereof.*

*Any participating locality may issue its general obligation bonds in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) in furtherance of the establishment, construction, or enlargement of a hospital or health center.*

*§ 15.2-5377. Issuance and sale of bonds.*

*Any bonds issued by the Authority may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, as the Authority by resolution may prescribe. Such bonds may be sold at public or private sale for such price or prices as the Authority determines.*

*§ 15.2-5378. Provisions to secure payment of bonds.*

*Any Authority resolution authorizing the issuance of any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, (i) pledging any or all revenues of the hospital or health center to secure the payment of the interest on such bonds and to create a sinking fund to retire the principal thereof at maturity; (ii) providing for the granting of a lien on or the creation of a security interest in any property, real or personal, of the Authority as security for the payment of the principal of, and interest on, such bonds and the due and punctual performance of any agreements made in connection therewith; (iii) providing for such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service until such bonds are retired; and (iv) prescribing the rights, obligations, powers, and duties of the Authority, the trustee under any trust indenture under which the bonds are issued, and the bondholders, in connection with or pertaining to such bonds.*

*§ 15.2-5379. Bonds made legal investments.*

*Any bonds issued pursuant to the authority of this chapter are hereby made securities in which all public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance companies and associations, and all savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds in their control.*

*§ 15.2-5380. Bonds payable from revenues of hospital or health centers.*

*Any bonds issued under this chapter shall be payable only from the revenues and receipts of the hospital or health center for the acquisition, establishment, or construction of which the bonds were issued and from any property the Authority has made subject to a lien to secure such bonds. The bonds and other obligations of the Authority shall not be a debt of any locality or of the Commonwealth, and neither the Authority members nor any person executing the bonds or other obligations shall be liable personally thereon by reason of the issuance thereof.*

*§ 15.2-5381. Property of Authority exempt from foreclosure or execution sale and judgment lien.*

*No interest of the Authority in any property, real or personal, shall be subject to sale by foreclosure of a mortgage, trust indenture, or any other instrument, either through judicial proceedings or the exercise of a power of sale contained in the instrument. All Authority property shall be exempt from levy and sale by virtue of an execution, and no execution or judicial process shall issue against the Authority. No judgment against the Authority shall be a charge or lien upon its property, real or personal.*

*Nothing contained in this section shall prohibit the owner of a leasehold interest granted by the Authority from granting a lien or other security interest in his leasehold that would be subject to sale or foreclosure as provided in any instrument creating the lien or other security interest. Nothing contained in this section shall prohibit the Authority from granting a lien on or creating a security interest in Authority property, real or personal, to secure any bonds issued under this chapter, any of which property will be subject to sale or foreclosure as provided in the instrument granting such lien or creating such security interest.*

*§ 15.2-5382. Receiver.*

*The Authority may, by its trust indenture given to secure bond issues or other obligations, provide for the appointment of a receiver of the hospital or health center or that part thereof acquired or constructed from funds received from a sale of bonds secured by the pledge of its revenues. If a receiver is appointed, he may enter, take possession of, operate, and maintain such hospital or health center or part thereof; collect and receive all fees, rents, revenues, or other charges arising therefrom in the same manner as the Authority might do; keep such moneys in a separate account or accounts; and apply the moneys in accordance with the obligations of the Authority as the court directs.*

*§ 15.2-5383. Eminent domain.*

*The Authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, that it deems necessary to carry out the purposes of this chapter after it adopts a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The Authority may exercise the power of eminent domain pursuant to the provisions of any applicable statutory provision now in force or hereafter enacted for the exercise of the power of eminent domain by any locality.*

*Property already devoted to a public use may be acquired; however, no property belonging to any locality, government, religious corporation, unincorporated church, or charitable corporation may be acquired without its consent.*

*§ 15.2-5384. Records and reports.*

*The Authority shall keep and preserve complete records of its operations and transactions, which records shall be open to inspection by the participating subdivisions at all times. It shall make reports to such subdivisions annually and at such other times as they may require.*

*§ 15.2-5385. Chapter supplemental; application of other laws; consent of local governing bodies or other agencies not required.*

*The provisions of this chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized herein and shall be regarded as supplemental and additional to powers conferred by other laws; the issuance of revenue bonds and revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds. Except as otherwise expressly provided in this chapter, none of the powers granted to the Authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any locality or any authority, board, bureau, or agency of any of the foregoing.*

*§ 15.2-5386. Limitations of the Authority.*

*A. No provision related to the establishment, powers, or authorities of the Southwest Virginia Health Facilities Authority, its subsidiaries, or successors, shall apply to the facilities, equipment, or appropriations of any state agency including, but not limited to, the Virginia Department of Health and the Department of Mental Health, Mental Retardation, and Substances Abuse Services.*

*B. The Authority, its subsidiaries or successors, shall not be exempt from the Certificate of Public Need law and regulations or licensure standards of the Virginia Department of Health.*

*C. No provision of this chapter related to the establishment, power or authority of the Authority or participating localities shall apply to or affect any hospital as defined in § 32.1-123.*