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SENATE BILL NO. 1392

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 24, 2007)

(Patron Prior to Substitute—Senator Williams)

A BILL to permit the conveyance of Fort Monroe to the Fort Monroe Federal Area Development Authority, to amend and reenact § 15.2-6304 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 15.2-6304.1, relating to Fort Monroe and appointment of Fort Monroe Federal Area Development Authority board of commissioners.

Be it enacted by the General Assembly of Virginia:

1. § 1. Notwithstanding the provisions of § 1-406 of the Code of Virginia or any other provision of law to the contrary, the Governor, on behalf of the Commonwealth and at such time as the Governor deems appropriate, may convey all right, title, and interest of the Commonwealth in and to certain real property located within the City of Hampton commonly referred to as "Fort Monroe," including any right of the Commonwealth to receive such property in the event of a reversion or the triggering of a possibility of a reverter, to the Fort Monroe Federal Area Development Authority created pursuant to § 15.2-6302 of the Code of Virginia.

2. That § 15.2-6304 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section number 15.2-6304.1 as follows:

§ 15.2-6304. Board of commissioners; appointment of director, agents and employees.

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon an authority created hereunder shall be exercised by a board of commissioners of that authority, hereinafter referred to as board or board of commissioners.

B. In the case of authorities created by proclamation of the Governor pursuant to § 15.2-6302, the board shall consist of seven members to be appointed by the Governor, of whom at least five shall be residents of the locality or localities in which the authority is located. The members shall serve for terms of six years each, the initial appointment to be two members for terms of six years, two members for terms of five years, two members for terms of four years and one member for a term of three years, and subsequent appointments to be made for terms of six years, except appointments to fill vacancies which shall be made for the unexpired term.

C. In the case of authorities created by the City of Hampton pursuant to § 15.2-6302, *other than the Fort Monroe Federal Area Development Authority pursuant to § 15.2-6304.1*, the board shall consist of up to seven members appointed by the locality in which the authority is located, all of whom shall be residents of such locality. The members shall serve for terms of not more than four years each. If a member resigns, dies, or is otherwise removed from his position on the board, the locality may appoint a new member to fill the vacancy for the remainder of the unexpired term.

D. Members shall receive from the authority their necessary travel and business expenses while on business of the board. Each commissioner shall before entering on his duties take and subscribe the oath prescribed by § 49-1.

E. The board shall appoint the chief executive officer of the authority, who shall not be a member thereof, to be known as the director of that authority, hereinafter referred to as director, and whose compensation shall be paid by the authority in the amount determined by the board. The board shall employ or retain such other agents or employees subordinate to the director as may be necessary, including persons with special qualifications, and shall determine which such agents or employees shall be bonded and the amount of such bonds. The director and other agents and employees so appointed shall serve at the pleasure of the board, which shall fix their compensation and prescribe their duties.

The board shall elect from its membership a chairman, vice-chairman, a secretary and a treasurer, or secretary-treasurer, and shall prescribe their powers and duties. ~~Four~~ Except as provided in § 15.2-6304.1, four members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and for all other purposes. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection. It shall keep suitable records of all of its financial transactions and shall arrange to have the same audited annually.

§ 15.2-6304.1. Board of commissioners; Fort Monroe Federal Area Development Authority.

A. In the case of the Fort Monroe Federal Area Development Authority (the Authority) created by the City of Hampton pursuant to § 15.2-6302, the board shall consist of 18 members as follows: seven nonlegislative members appointed by the locality in which the Authority is located, all of whom shall be residents of such locality; two members of the House of Delegates appointed by the Speaker of the House of Delegates, one of whom shall be the member in whose district Fort Monroe is located; two members of the Senate of Virginia appointed by the Senate Committee on Rules, one of whom shall be

60 the member in whose district Fort Monroe is located; two nonlegislative members appointed by the
61 Governor, one of whom shall have recent and significant professional experience in the field of historic
62 preservation, and one of whom shall have recent and significant professional experience in the field of
63 heritage tourism; and the Secretary of Administration, the Secretary of Commerce and Trade, the
64 Assistant to the Governor for Commonwealth Preparedness, the Secretary of Finance, and the Secretary
65 of Natural Resources, all of whom shall serve ex officio with full voting privileges. Members of the
66 board appointed by the locality or the Governor shall serve for terms of not more than four years each.
67 Legislative members and the ex officio members shall serve terms coincident with their terms of office.
68 Vacancies on the board shall be filled in the same manner as the original appointments.

69 B. The Authority shall adopt and make public bylaws that shall include governance provisions
70 describing the processes by which the Authority shall be operated and the powers and duties of the
71 board. The governance provisions shall include provisions regarding the disposition of funds and
72 property owned by the Authority in the event of the dissolution of the Authority, and these provisions
73 shall control such distribution in lieu of the provisions of § 15.2-6319. For matters pertaining to Fort
74 Monroe, the bylaws shall provide that 12 members shall constitute a quorum of the board for the
75 purpose of conducting its business and exercising its powers and for all other purposes pertaining to
76 Fort Monroe. The affirmative vote of 75 percent of all members of the board shall be required to adopt
77 any final reuse plan or amendment thereto pertaining to Fort Monroe, and for other matters as
78 provided in the bylaws. The board shall keep detailed minutes of its proceedings, which shall be open to
79 public inspection. It shall keep suitable records of all of its financial transactions and shall arrange to
80 have the same audited annually.

81 C. In formulating a reuse plan for Fort Monroe, the Authority shall give due regard to (i) the site's
82 400 years of public ownership, (ii) its status as a National Historic Landmark, and (iii) its unique
83 natural resources and outdoor recreational opportunities located at the confluence of Hampton Roads
84 and the Chesapeake Bay. The Authority shall request the U.S. Congressional Representative in whose
85 district Fort Monroe is located to seek a reconnaissance survey from the U.S. Department of Interior to
86 help the Authority evaluate whether Fort Monroe should become affiliated with the National Park
87 System to help manage and preserve the historic and natural resources at Old Point Comfort.

88 D. As to real property or interests therein owned or held in whole or in part by the Authority,
89 whether acquired by reverter of title, purchase, gift, condemnation, or otherwise, no such real property
90 or ownership interests in the former federal area known as Fort Monroe shall be subject to any land
91 use, zoning, or subdivision ordinance of any city so long as such real property or interests therein are
92 owned or held by the Authority. However, the conveyance of any interest in the real property from the
93 Authority to a private party shall be consistent with Fort Monroe's reuse plan and contingent upon the
94 private party's obtaining all necessary approvals under applicable land use law or ordinance.

95 E. The provisions of § 15.2-6304 shall apply mutatis mutandis to the Authority.

96 3. That it is the intent of the General Assembly of Virginia that any Fort Monroe Federal Area
97 Development Authority created by the City of Hampton pursuant to this act shall not be deemed
98 an agency of the Commonwealth.

99 4. That an emergency exists and this act is in force from its passage.