

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-2260, 2.2-2261, 2.2-2263, 2.2-3705.6, 62.1-198, and 62.1-199 of the Code of Virginia and to amend the Code of Virginia by adding in Title 30 a chapter numbered 47, consisting of sections numbered 30-309 through 30-312, relating to economic development; incentive and site development for major employment and investment projects.

[S 1119]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2260, 2.2-2261, 2.2-2263, 2.2-3705.6, 62.1-198, and 62.1-199 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 47, consisting of sections numbered 30-309 through 30-312, as follows:

§ 2.2-2260. Short title; definition.

A. This article may be cited as Virginia Public Building Authority Act of 1981.

B. As used in this article, unless the context requires a different meaning:

"Construction" or "to construct" means acquisition and construction, all in such manner as may be deemed desirable.

"Cost" means as applied to a project financed under the provisions of this article, the sum total of all costs reasonable and necessary for carrying out all works and undertakings necessary or incident to accomplish a project, including, but not limited to the cost of all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the vendor of such land, buildings or improvements, site preparation and development including demolition or removal of existing structures, construction, and reconstruction, furnishing of a project, the reasonable cost of financing incurred in the course of the development of a project, carrying charges during construction to the occupancy date, interest on bonds issued to finance a project to a date subsequent to the estimated date of completion of a project, necessary expenses incurred in connection with the initial occupancy of a project, the cost of reimbursing the Central Capital Planning Fund, established under § 2.2-1520, for payments made for pre-planning or detailed planning of all projects that have been approved for construction by the General Assembly, the funding of such funds and accounts as the Authority determines to be reasonable and necessary and the cost of such other items as the Authority determines to be reasonable and necessary.

"Fixtures" and "furnishings" means any fixtures, leasehold improvements, equipment, office furniture and furnishings whatsoever necessary or desirable for the use and occupancy of such project, and the terms "to furnish" and "furnishing" means the acquisition and installation of such fixtures, equipment and furnishings.

"Improvement" or "to improve" means extension, enlargement, improvement, and renovation, all in such manner as may be deemed desirable.

"Major Employment and Investment project" or "MEI project" means a high-impact regional economic development project in which a private entity is expected to make a capital investment in real and tangible personal property exceeding \$250 million and create more than 400 new full-time jobs, and is expected to have a substantial direct and indirect economic impact on surrounding communities.

"Personal property" means all items of equipment, fixtures, and furnishings, including items affixed to real property.

"Project" means any structure, facility, personal property or undertaking that the Authority is authorized to finance, refinance, construct, improve, furnish, equip, maintain, acquire, or operate under the provisions of this article.

§ 2.2-2261. Virginia Public Building Authority created; purpose; membership; terms; expenses; staff.

There is created a political subdivision of the Commonwealth to be known as the "Virginia Public Building Authority." The Authority is created for the purpose of constructing, improving, furnishing, maintaining, acquiring, financing, refinancing, and operating public buildings for the use of the Commonwealth (heretofore or hereafter constructed), state arsenals, armories, and military reserves, state institutions of every kind and character (heretofore and hereafter constructed), additions and improvements to land grant colleges, state colleges, universities and medical colleges, and the purchase of lands for rehabilitation purposes in connection with state institutions and for use of state colleges, and museum facilities for a trust instrumentality of the United States, and the purchase of lands for the development of public buildings that may be authorized by the General Assembly in the future, the

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57 acquisition of items of personal property for the use of the Commonwealth, the constructing, improving,
 58 maintaining, acquiring, financing, and refinancing of major information technology projects as defined in
 59 § 2.2-2006, the financing or refinancing of capital projects that benefit the Commonwealth and any of its
 60 agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities,
 61 *the provision of financing on behalf of any of the Commonwealth's agencies, authorities, boards,*
 62 *departments, instrumentalities, institutions, or regional or local authorities or governments of land*
 63 *buildings, infrastructure, and improvements for the benefit of an MEI project incentive package*
 64 *endorsed by the MEI Project Approval Commission created pursuant to § 30-309, and the financing or*
 65 refinancing of reimbursements to localities or governmental entities of all or any portion of the
 66 Commonwealth's share of the costs for capital projects made pursuant to other applicable provisions of
 67 Virginia law, and the refinancing of (i) obligations issued by other state and local authorities or political
 68 subdivisions of the Commonwealth where such obligations are secured by a lease or other payment
 69 agreement with the Commonwealth or (ii) the Commonwealth's obligations under such leases or
 70 payment agreements, the purpose and intent of this article being to benefit the people of the
 71 Commonwealth by, among other things, increasing their commerce and prosperity.

72 The Authority shall be comprised of the State Treasurer or his designee, the State Comptroller, and
 73 five additional members appointed by the Governor, subject to confirmation by the General Assembly,
 74 who shall serve at the pleasure of the Governor. Unconfirmed appointments shall expire 30 days after
 75 the convening of the General Assembly. Members of the Authority shall be entitled to no compensation
 76 for their services as members, but shall be reimbursed for all reasonable and necessary expenses incurred
 77 in the discharge of their duties as provided in § 2.2-2825. The term of each member appointed by the
 78 Governor shall be five years.

79 Vacancies in the membership of the Authority shall be filled by appointment for the unexpired
 80 portion of the term. The Governor shall designate one member of the Authority as chairman. The
 81 Department of the Treasury shall serve as staff to the Authority.

82 § 2.2-2263. Powers and duties of Authority; limitations.

83 A. The Authority is granted all powers necessary or convenient for carrying out its purposes,
 84 including, but not limited to, the following powers to:

85 1. Have perpetual existence as a corporation.

86 2. Sue and be sued, implead and be impleaded, complain and defend in all courts.

87 3. Adopt, use, and alter at will a corporate seal.

88 4. Acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or
 89 any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee,
 90 with the approval of the Governor, any property, real, personal or mixed, or any interest therein for a
 91 term not exceeding 99 years at a nominal rental or at such annual rental as may be determined; with the
 92 approval of the Governor, lease as lessor to the Commonwealth and any city, county, town or other
 93 political subdivision, or any agency, department, or public body of the Commonwealth, or land grant
 94 college, any project at any time constructed by the Authority and any property, real, personal or mixed,
 95 tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or
 96 partially completed; with the approval of the Governor, sell, transfer and convey to the Commonwealth,
 97 any project at any time constructed by the Authority; and, with the approval of the Governor, sell,
 98 transfer and convey any property, real, personal or mixed, tangible or intangible, or any interest therein,
 99 at any time acquired by the Authority.

100 5. Acquire by purchase, lease, or otherwise, and construct, improve, furnish, maintain, repair, and
 101 operate projects.

102 6. Adopt bylaws for the management and regulation of its affairs.

103 7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or for
 104 the services rendered by, the Authority, or projects thereof, at reasonable rates to be determined by it for
 105 the purpose of providing for the payment of the expenses of the Authority, the construction,
 106 improvement, repair, furnishing, maintenance, and operation of its facilities and properties, the payment
 107 of the principal of and interest on its bonds, and to fulfill the terms and provisions of any agreements
 108 made with the purchasers or holders of any such bonds.

109 8. Borrow money; make and issue bonds of the Authority and such bonds as the Authority may
 110 determine to issue for the purpose of refunding obligations previously issued by the Authority; secure
 111 the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues,
 112 rentals, and receipts; make such agreements with the purchasers or holders of such bonds or with others
 113 in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable;
 114 and in general, provide for the security for the bonds and the rights of holders thereof.

115 The Authority shall submit an annual report to the Governor and General Assembly on or before
 116 November 1 of each year containing, at a minimum, the annual financial statements of the Authority for
 117 the year ending the preceding June 30.

9. Make contracts of every name and nature, and to execute all instruments necessary or convenient to carry out its business.

10. Borrow money and accept grants from, and enter into contracts, leases or other transactions with, any federal agency.

11. Have the power of eminent domain.

12. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the bonds of the Authority.

13. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

14. Acquire, by assignment from the Commonwealth or the Virginia Retirement System, all contracts, including those that are not completed, which involve constructing, improving, furnishing, maintaining, and operating the structures, facilities, or undertakings similar to those designated herein as projects.

15. Enter into contractual agreements with localities or governmental entities undertaking a capital project that benefits the Commonwealth for which the financing or refinancing of reimbursements of all or any portion of the Commonwealth's share of the costs of such project will be made pursuant to other applicable provisions of Virginia law.

16. *Provide for the financing or assist in the financing by any of the Commonwealth's agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities or governments of land, buildings, infrastructure, and improvements for the benefit of an MEI project incentive package endorsed by the MEI Project Approval Commission created pursuant to § 30-309.*

B. The Authority shall not undertake or finance or refinance any projects *or MEI projects* that are not specifically included in a bill or resolution passed by a majority of those elected to each house of the General Assembly, authorizing such projects *or MEI projects* or the reimbursement of all or any portion of the Commonwealth's share of the costs of such projects *or MEI projects* and, as to any project relating to a public institution of higher education in Virginia, not specifically designated by the board of visitors of that institution as a project to be undertaken by the Authority.

C. Except as otherwise provided by law, when projects are to be constructed, improved, furnished, maintained, repaired or operated for the use of any department of the Commonwealth, no plans or specifications therefor shall be presented for quotations or bids until the plans and specifications have been submitted to and approved by the Department of General Services and any other department of the Commonwealth having any jurisdiction over the projects, so that the project will conform to standards established by such departments.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership, the Virginia Tourism Authority, the Tobacco Indemnification and Community Revitalization Commission, a nonprofit, nonstock corporation created pursuant to § 2.2-2240.1, ~~or~~ local or regional industrial or economic development authorities or organizations, *or the MEI Projects Approval Commission created pursuant to § 30-309*, used by the Department, the Partnership, the Authority, ~~or the Commission~~, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by such entities, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy

contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the records specified in clauses (i), (ii) and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and

Infrastructure Act of 2002.

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary records that are not generally available to the public through regulatory disclosure or otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the records relate to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to §§ 3.1-622 and 3.1-624.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Records submitted as a grant application, or accompanying a grant application, to the Innovative Technology Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

18. Confidential proprietary records and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (i) invoke the protections of this subdivision, (ii) identify with specificity the records or portions thereof for which protection is sought, and (iii) state the reasons why protection is necessary.

19. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Minority Business Enterprise as part of an application for (i) certification as a small, women- or minority-owned business in accordance with Chapter 14 (§ 2.2-1400 et seq.) of this title or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for

Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

21. Documents and other information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to § 32.1-276.5:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Inspector General of the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Inspector General's Office in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Inspector General of the Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

CHAPTER 47.

MEI PROJECT APPROVAL COMMISSION.

§ 30-309. *MEI Project Approval Commission; membership; terms; compensation and expenses; definition.*

A. *The MEI Project Approval Commission (the Commission) is established as an advisory commission in the legislative branch of state government. The purpose of the Commission shall be to review financing for individual incentive packages for MEI projects to be financed by the Virginia Public Building Authority.*

B. *The Commission shall consist of 10 members as follows: the chair of the House Committee on Appropriations and four members of the House Committee on Appropriations appointed by the chair and the chair of the Senate Finance Committee and two members of the Senate Finance Committee appointed by the chair. In addition, the Secretaries of Finance and Commerce and Trade shall serve as ex officio, nonvoting members of the Commission.*

C. *Members shall serve terms coincident with their terms of office. Vacancies for unexpired terms shall be filled in the same manner as the original appointments. Members may be reappointed for successive terms.*

D. *The members of the Commission shall elect a chairman and vice chairman annually. A majority of the voting members of the Commission shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.*

E. *Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative members shall receive such compensation as provided in § 2.2-2813.*

F. *As used in this chapter, "MEI project" means the same as that term is defined in § 2.2-2260.*

§ 30-310. *Review of incentive packages.*

A. *The Commission shall review individual incentive packages for prospective MEI projects that are proposed to be funded by bonds issued by the Virginia Public Building Authority and recommend approval or denial of such packages to the Authority. Factors that shall be considered by the Commission in its review shall include, but not be limited to (i) return on investment, (ii) the time frame for repayment of incentives to the Commonwealth, (iii) average wages of the jobs created by the prospective MEI project, (iv) the amount of capital investment that is required, and (v) the need for enhanced employment opportunities in the prospective location of the prospective MEI project.*

B. *An affirmative vote by three of the five members of the Commission from the House of Delegates and two of the three members of the Commission from the Senate shall be required to endorse any incentive package for an MEI project involving the issuance of bonds by the Virginia Public Building Authority. No endorsement shall be effective without the approval of the package by the Governor.*

§ 30-311. *Staff; cooperation from other state agencies.*

Administrative staff support shall be provided by the staffs of the House Committee on Appropriations and the Senate Finance Committee. Additional assistance as needed shall be provided by the Auditor of Public Accounts, the Virginia Economic Development Authority, or the Virginia Public

Building Authority.

§ 30-312. Commission report to General Assembly.

The Commission shall report annually by the first day of each General Assembly Regular Session on all endorsed incentive packages. Staff identified in § 30-311 shall assist the commission in preparing such report, which shall contain the following information: (i) the industrial sector of the MEI project, (ii) known competitor states, (iii) employment creation and capital investment expectations, (iv) anticipated average annual wage of the new jobs, (v) local and state returns on investment as prepared by the Virginia Economic Development Partnership Authority, (vi) expected time frame for repayment of the incentives to the Commonwealth in the form of direct and indirect general tax revenues, (vii) details of the proposed incentive package, including the breakdown of the components into various uses and an expected timeline for payments, and (viii) draft legislation or amendments to the Appropriation Act that propose financing for the endorsed incentive package through the Virginia Public Building Authority and any other proposed funding or financing mechanisms.

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the needs of the Commonwealth for water supply; land conservation or land preservation including land for parks and other recreational purposes; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties; the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings; and the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, energy conservation and energy efficiency projects, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties, the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail, *site acquisition and site development work for the benefit of economic development projects*, technology, construction of local government buildings, and infrastructure for broadband services, and federal facilities or former federal facilities. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other evidences of indebtedness of the Authority.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant or aid which a local government may make or

give to any adjoining state, the District of Columbia or any department, agency or instrumentality thereof to pay the costs incident and necessary to the accomplishment of any project, including, without limitation, the items set forth above. The term also includes interest and principal payments pursuant to any installment purchase agreement.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other forms of collateral or security.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Federal government" means the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal facility" means any federal facility formerly used by the federal government or in transition from use by the federal government to a facility all or part of which is to serve any local government.

"Local government" means any county, city, town, municipal corporation, authority, district, commission or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

"Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, leases or any other evidences of indebtedness of a local government.

"Minimum capital reserve fund requirement" means, as of any particular date of computation, the amount of money designated as the minimum capital reserve fund requirement which may be established in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any outstanding issue of bonds or credit enhancement.

"Project" means (i) any water supply or wastewater treatment facility including a facility for receiving and stabilizing septage or a soil drainage management facility and any solid waste treatment, disposal, or management facility, recycling facility, federal facility or former federal facility, or resource recovery facility located or to be located in the Commonwealth, the District of Columbia or any adjoining state, all or part of which facility serves or is to serve any local government; and (ii) any federal facility located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority and the governing body of the local government receiving the benefit of the loan, grant, or credit enhancement from the Authority make a determination or finding to be embodied in a resolution or ordinance that the undertaking and financing of such facility is necessary for the location or retention of such facility and the related use by the federal government in the Commonwealth. The term includes, without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface and ground water) collection, treatment and disposal facilities; drainage facilities and projects; solid waste treatment, disposal or management facilities; recycling facilities; resource recovery facilities; related office, administrative, storage, maintenance and laboratory facilities; and interests in land related thereto. The term also includes energy conservation measures and facility technology infrastructure as defined in § 11-34.2 and other energy objectives as defined in § 67-101. The term also means any heavy rail transportation facilities operated by a transportation district, created under the Transportation District Act of 1964 (§ 15.2-4500 et seq.), which operates heavy rail freight service, including rolling stock, barge loading facilities, and any related marine or rail equipment. The term also means, without limitation, the design and construction of roads, the construction of local government buildings, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety including, but not limited to, law-enforcement training facilities and emergency response, fire, rescue and police stations. The term also means the remediation, redevelopment and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes or petroleum where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land.

484 *The term also means any program or project for site acquisition or site development work for the*
485 *benefit of economic development projects for local government.*