

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 869

An Act to amend and reenact §§ 2.2-2233.2, 2.2-2235, 2.2-2236, 2.2-2240, 2.2-2414, 2.2-2423, 10.1-1237, 13.1-985, 15.2-6003, 15.2-6203, and 33.1-221.1:1 of the Code of Virginia, relating to the Virginia Economic Development Partnership; Executive Director; change of title.

[H 1372]

Approved April 21, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2233.2, 2.2-2235, 2.2-2236, 2.2-2240, 2.2-2414, 2.2-2423, 10.1-1237, 13.1-985, 15.2-6003, 15.2-6203, and 33.1-221.1:1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2233.2. Biotechnology Commercialization Loan Fund; created; purposes; report.

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is created in the state treasury a special nonreverting, permanent fund, to be known as the Biotechnology Commercialization Loan Fund (the Fund), to be administered by the Authority. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall consist of loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

B. Moneys in the Fund shall be used for the sole purpose of financing technology transfer and commercialization activities related to biotechnology inventions made, solely or in cooperation with other organizations, at qualifying institutions. Such activities shall include, but not be limited to, legal and business consulting services and expenses, including employee compensation, relating to assessing the patentability of inventions, obtaining patent protection for such inventions in the United States and internationally, marketing for such inventions and patents thereon to potential licensees, and negotiating licensing or commercialization agreements with licensees, as well as development of new technology transfer and commercialization programs at qualifying institutions.

The maximum amount of any loans outstanding under the Fund shall be \$3,000,000.

C. Qualifying institutions may apply to the Fund for loans to the extent that such institution's outstanding principal balance at any one time does not exceed \$500,000. Loan applications shall include business plans that detail and explain the anticipated uses of funds received and the proposed repayment schedule.

Loans from the Fund shall take the form of a contractual commitment to the recipient qualifying institution for a line of credit for up to three years, along with an approved schedule of repayment. During the contractual period the recipient qualifying institution may draw upon the line of credit for any expense for which the loan was made, not to exceed the stated amount of the loan award. At the end of the contractual period, the line of credit shall terminate and the outstanding balance of the withdrawals on that line of credit shall become the established basis for that loan.

During the contractual period, deferred interest shall accumulate on the outstanding balance at a rate of three percent compounded annually. Borrowing institutions may prepay part or all of any loan received from the Fund without penalty, and, if repayment is completed within the contractual period of the line of credit, the accumulated interest obligation shall be forgiven.

Repayment of the established basis shall consist of a maximum of 84 equal monthly payments of principal and compounded interest at the determined rate beginning on the first day of the month following the end of the contractual period.

D. Decisions to make loans to applicants from the Fund shall be made by a panel, which shall consist of the President of the Center for Innovative Technology, the Director of the Department of Planning and Budget and the ~~Chief Executive Director~~ *Officer* of the Virginia Economic Development Partnership, or their designees. The President of the Center for Innovative Technology, or his designee, shall serve as chair. The panel may seek the advice of experts in technology, business, technology transfer or other relevant fields as appropriate in devising guidelines for the implementation of this loan program as well as in making loan decisions.

Specific guidelines for the award of funds from this program shall be established and maintained by the Authority, in consultation with the Virginia Economic Development Partnership and the State Council of Higher Education.

E. A recipient of a loan from the Fund shall report annually to the panel on the uses of loan

proceeds during the previous year and on plans for the use of any additional funds it may plan to draw. Such reports shall be filed for so long as the recipient owes money to the Fund.

F. The chairman of the Authority shall report annually to the Governor and the General Assembly on activities of the Fund, including a detailed list of awards committed, the amount and description of each approved award, and an assessment of the effectiveness of the Fund in encouraging the commercialization of bioscience and biotechnology inventions made at Virginia institutions of higher education.

G. A record transmitted or delivered by a loan applicant or a loan recipient to a public body in the conduct of its duties under this section shall be excluded from disclosure under the Virginia Freedom of Information Act to the extent such record reveals information that (a) is the property of the submitting party, (b) has independent economic value to the owner that causes it to be maintained in secrecy by the owner, and (c) is clearly and specifically identified in writing as proprietary, confidential information at the time of its delivery or transmission to the public body. Nothing in this paragraph shall be construed to prevent the disclosure of information regarding the financial or administrative oversight of the Fund by the Authority.

H. For purposes of this section:

"Determined rate" means the rate of interest paid by the Commonwealth on the most recent sale of tax-exempt bonds backed by the full faith and credit of the Commonwealth.

"Qualifying institution" means an institution of higher education in the Commonwealth or its associated intellectual property foundation that adopts a policy regarding the ownership, protection, assignment, and use of intellectual property pursuant to § 23-4.3.

I. No loan shall be made to any entity which conducts human stem cell research from human embryos, or for any loan to conduct such research; however, research conducted using adult stem cells may be funded.

§ 2.2-2235. Board of directors; members and officers; Chief Executive Officer.

The Authority shall be governed by a board of directors consisting of the Secretary of Commerce and Trade, the Secretary of Finance, and the Chancellor of the Virginia Community College System, or their designees, serving as ex officio, voting members, and 18 members to be appointed as follows: (i) one from each congressional district in the Commonwealth and one citizen at large, appointed by the Governor, subject to confirmation by the General Assembly; (ii) four citizens at large appointed by the Speaker of the House; and (iii) two citizens at large appointed by the Senate Committee on Rules. The six citizens appointed by the General Assembly shall reside in regions of the Commonwealth that have a higher unemployment rate than that of the statewide average unemployment rate as reported by the Virginia Employment Commission for the preceding four years from the date of appointment. Ex officio members of the Board shall serve terms coincident with their terms of office. Four of the 12 directors initially appointed by the Governor shall be appointed for terms of two and one-half years, three for terms of four and one-half years, and five for terms of six and one-half years, from the effective date of their appointment; and thereafter the terms of members of the Board shall be six years. No member shall be eligible to serve more than two terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.2-2104 for each day spent on the business of the Board.

The Board shall elect from its membership a chairman and a vice-chairman, and shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board.

A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

The Board shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, ~~who~~ *whose title shall be known as the Executive Director President and Chief Executive Officer and may be referred to as the President or as the Chief Executive Officer*, and who shall serve at the pleasure of the Board and carry out such of the powers and duties conferred upon him by the Board.

§ 2.2-2236. Powers and duties of the Chief Executive Officer.

The *Chief Executive Director Officer* shall employ or retain such agents or employees subordinate to the *Chief Executive Director Officer* as may be necessary to fulfill the duties of the Authority conferred upon the *Chief Executive Director Officer*, subject to the Board's approval. Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. The *Chief Executive Director Officer* shall also exercise such of the powers and duties relating to the direction of the Commonwealth's economic development efforts

conferred upon the Authority as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The *Chief Executive Director Officer* shall also exercise and perform such other powers and duties as may be lawfully delegated to him or as may be conferred or imposed upon him by law.

§ 2.2-2240. Nonstock corporation to assist economic development.

The Board may establish nonprofit, nonstock corporations under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as public instrumentalities exercising public and essential governmental functions, to assist the Board and the Authority in (i) promoting Virginia's economic development and tourism promotion efforts in the national and international corporate community; (ii) raising money in the corporate and nonprofit community to pay for advertising and promotion of the Commonwealth; (iii) raising nonstate dollars to complement state and local economic development activities; or (iv) conducting or undertaking other activities useful in carrying out the provisions of this article.

The board of directors of any such corporation shall be composed of the *Chief Executive Director Officer* of the Authority and eight members appointed by the Board of the Authority. However, any such corporation established to promote the tourism industry in the Commonwealth shall be composed of the *Chief Executive Director Officer* of the Authority, six members appointed by the Board of the Authority, and six members who represent the tourism industry appointed by the Governor. The terms of the members of any corporation established to promote the tourism industry in the Commonwealth appointed by the Governor shall be four years.

The Board shall require any such corporation to report to it at least annually on its activities.

§ 2.2-2414. Duties of the Board.

The Board shall advise the Department of Business Assistance on the small business programs, including, but not limited to, locally based centers to assist and develop small businesses. It shall make recommendations to the Director, the Secretary of Commerce and Trade, and the Governor concerning the actions that the Department of Business Assistance and the state government might take to enhance the growth of small businesses. Additionally, the Board shall be a resource to the Department of Business Assistance, the Secretary of Commerce and Trade, the *Chief Executive Director Officer* of the Virginia Economic Development Partnership, and the Governor as they conduct the economic development efforts of the Commonwealth.

§ 2.2-2423. Virginia Geographic Information Network Advisory Board; membership; terms; quorum; compensation and expenses.

A. The Virginia Geographic Information Network Advisory Board (the Board) is hereby established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall advise the Geographic Information Network Division (the Division) of the Virginia Information Technologies Agency on issues related to the exercise of the Division's powers and duties.

B. The Board shall consist of 18 members appointed as follows: nine nonlegislative citizen members to be appointed by the Governor that consist of one agency director from one of the natural resources agencies, one official from a state university, one elected official representing a local government in the Commonwealth, one member of the Virginia Association of Surveyors, one elected official who serves on a planning district commission, two representatives of utilities or transportation industries utilizing geographic data, and two representatives of private businesses with expertise and experience in the establishment, operation, and maintenance of geographic information systems; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; the Chief Information Officer, the Commonwealth Transportation Commissioner, and the *Chief Executive Director Officer* of the Economic Development Partnership Authority or their designees who shall serve as ex officio, voting members. Gubernatorial appointees may be nonresidents of the Commonwealth. All members of the Board appointed by the Governor shall be confirmed by each house of the General Assembly. The agency director and state university official appointed by the Governor may each designate a member of his organization as an alternate who may attend meetings in his place and be counted as a member of the Board for the purposes of a quorum.

Any members of the Board who are representatives of private businesses that provide geographic information services, and their companies, are precluded from contracting to provide goods or services to the Division.

C. Legislative members' terms shall be coincident with their terms of office. The gubernatorial appointees to the Board shall serve five-year terms, except for the initial appointees whose terms were staggered. Members appointed by the Governor shall serve no more than two consecutive five-year terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility to serve.

D. The Board shall elect from its membership a chairman, vice-chairman, and any other officers deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its

chairman or the Chief Information Officer.

E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Geographic Information Network Division of the Virginia Information Technologies Agency.

F. The Geographic Information Network Division shall provide staff support to the Board.

§ 10.1-1237. Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund established; uses.

A. There is hereby created and set apart a special, permanent, perpetual and nonreverting fund to be known as the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund for the purposes of promoting the restoration and redevelopment of brownfield sites and to address environmental problems or obstacles to reuse so that these sites can be effectively marketed to new economic development prospects. The Fund shall consist of sums appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including any federal grants, awards or other forms of financial assistance received by the Commonwealth.

B. The Authority shall administer and manage the Fund and establish the interest rates and repayment terms of such loans in accordance with a memorandum of agreement with the Partnership. The Partnership shall direct the distribution of loans or grants from the Fund to particular recipients based upon guidelines developed for this purpose. With approval from the Partnership, the Authority may disperse monies from the Fund for the payment of reasonable and necessary costs and expenses incurred in the administration and management of the Fund. The Authority may establish and collect a reasonable fee on outstanding loans for its management services.

C. All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check and signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies and savings institutions are authorized to give security for the deposits. Money in the Fund shall not be commingled with other money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth. Expenditures and disbursements from the Fund shall be made by the Authority upon written request signed by the *Chief Executive Director* ~~Director~~ *Officer* of the Virginia Economic Development Partnership.

D. The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to the Fund under any loan including, if appropriate, taking the action required by § 15.2-2659 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

E. The Partnership may approve grants to local governments for the purposes of promoting the restoration and redevelopment of brownfield sites and to address real environmental problems or obstacles to reuse so that these sites can be effectively marketed to new economic development prospects. The grants may be used to pay the reasonable and necessary costs associated with the restoration and redevelopment of a brownfield site for (i) environmental and cultural resource site assessments, (ii) remediation of a contaminated property to remove hazardous substances, hazardous wastes, or solid wastes, (iii) the necessary removal of human remains, the appropriate treatment of grave sites, and the appropriate and necessary treatment of significant archaeological resources, or the stabilization or restoration of structures listed on or eligible for the Virginia Historic Landmarks Register, (iv) demolition and removal of existing structures, or other site work necessary to make a site or certain real property usable for new economic development, and (v) development of a remediation and reuse plan. The Partnership may establish such terms and conditions as it deems appropriate and shall evaluate each grant request in accordance with the guidelines developed for this purpose. The Authority shall disburse grants from the Fund in accordance with a written request from the Partnership.

F. The Authority may make loans to local governments, public authorities, corporations and partnerships to finance or refinance the cost of any brownfield restoration or remediation project for the purposes of promoting the restoration and redevelopment of brownfield sites and to address real environmental problems or obstacles to reuse so that these sites can be effectively marketed to economic development prospects. The loans shall be used to pay the reasonable and necessary costs related to the restoration and redevelopment of a brownfield site for (i) environmental and cultural resource site assessments, (ii) remediation of a contaminated property to remove hazardous substances, hazardous

wastes, or solid wastes, (iii) the necessary removal of human remains, the appropriate treatment of grave sites, and the appropriate and necessary treatment of significant archaeological resources, or the stabilization or restoration of structures listed on or eligible for the Virginia Historic Landmarks Register, (iv) demolition and removal of existing structures, or other site work necessary to make a site or certain real property usable for new economic development, and (v) development of a remediation and reuse plan.

The Partnership shall designate in writing the recipient of each loan, the purposes of the loan, and the amount of each such loan. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses.

G. Except as otherwise provided in this chapter, the Authority shall determine the interest rate and terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions and other information as it may deem necessary or convenient. In addition to any other terms or conditions that the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, taxes, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of the project, (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of, premium, if any, and interest on the loan from the Fund to the local government, and (iii) any amounts necessary to create and maintain any required reserve.

2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal of and premium, if any, and interest on the loan from the Fund to the local government.

3. Create and maintain a special fund or funds for the payment of the principal of, premium, if any, and interest on the loan from the Fund to the local government and any other amounts becoming due under any agreement entered into in connection with the loan, or the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable.

4. Create and maintain other special funds as required by the Authority.

5. Perform other acts otherwise permitted by applicable law to secure payment of the principal of, premium, if any, and interest on the loan from the Fund to the local government and to provide for the remedies of the Fund in the event of any default by the local government in the payment of the loan, including, without limitation, any of the following:

- a. The conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund;

- b. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

- c. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, for the purpose of financing, and the pledging of the revenues from such combined projects and undertakings to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

- d. The maintenance, replacement, renewal, and repair of the project; and

- e. The procurement of casualty and liability insurance.

6. Obtain a review of the accounting and the internal controls from the Auditor of Public Accounts or his legally authorized representatives. The Authority may request additional reviews at any time during the term of the loan.

7. Directly offer, pledge, and consent to the Authority to take action pursuant to § 62.1-216.1 to obtain payment of any amounts in default.

H. All local governments borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund.

I. Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government.

J. The Partnership, through its ~~Director~~ *Chief Executive Officer*, shall have the authority to access and release moneys in the Fund for purposes of this section as long as the disbursement does not exceed the balance of the Fund. If the Partnership, through its ~~Director~~ *Chief Executive Officer*, requests a disbursement in an amount exceeding the current Fund balance, the disbursement shall require the

written approval of the Governor. Disbursements from the Fund may be made for the purposes outlined in this section, including, but not limited to, personnel, administrative and equipment costs and expenses directly incurred by the Partnership or the Authority, or by any other agency or political subdivision acting at the direction of the Partnership.

The Authority is empowered at any time and from time to time to pledge, assign or transfer from the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of the principal of, premium, if any, and interest on any or all of the bonds, as defined in § 62.1-199, issued to finance any project. The interests of the Fund in any assets so transferred shall be subordinate to the rights of the trustee under the pledge, assignment or transfer. To the extent funds are not available from other sources pledged for such purpose, any of the assets or payments of principal and interest received on the assets pledged, assigned or transferred or held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any, and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority. Any assets of the Fund pledged, assigned or transferred in trust as set forth above and any payments of principal, interest or earnings received thereon shall remain part of the Fund but shall be subject to the pledge, assignment or transfer to secure the bonds of the Authority and shall be held by the trustee to which they are pledged, assigned or transferred until no longer required for such purpose by the terms of the pledge, assignment or transfer.

K. The Authority is empowered at any time and from time to time to sell, upon such terms and conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this chapter. The net proceeds of sale remaining after the payment of the costs and expenses of the sale shall be designated for deposit to, and become part of, the Fund.

L. The Authority may, with the approval of the Partnership, pledge, assign or transfer from the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of the principal of, premium, if any, and interest on any or all of the bonds, as defined in § 62.1-199, issued to finance any project. The interests of the Fund in any assets so transferred shall be subordinate to the rights of the trustee under the pledge, assignment or transfer. To the extent funds are not available from other sources pledged for such purpose, any of the assets or payments of principal and interest received on the assets pledged, assigned or transferred or held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any, and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority. Any assets of the Fund pledged, assigned or transferred in trust as set forth above and any payments of principal, interest or earnings received thereon shall remain part of the Fund but shall be subject to the pledge, assignment or transfer to secure the bonds of the Authority and shall be held by the trustee to which they are pledged, assigned or transferred until no longer required for such purpose by the terms of the pledge, assignment or transfer.

M. The Partnership, in consultation with the Department of Environmental Quality, shall develop guidance governing the use of the Fund and including criteria for project eligibility that considers the extent to which a grant or loan will facilitate the use or reuse of existing infrastructure, the extent to which a grant or loan will meet the needs of a community that has limited ability to draw on other funding sources because of the small size or low income of the community, the potential for redevelopment of the site, the economic and environmental benefits to the surrounding community, and the extent of the perceived or real environmental contamination at the site. The guidelines shall include a requirement for a one-to-one match by the recipient of any grant made by or from the Fund.

§ 13.1-985. Governor to approve articles of incorporation.

The articles of incorporation shall not be issued by the Commission unless approved by the Governor in writing. Such approval shall not be given by the Governor until he first shall have sought the advice of the *Chief Executive Director* ~~Director~~ *Officer* of the Virginia Economic Development Partnership.

§ 15.2-6003. Board of Authority; members and officers; staff; annual report.

All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Virginia Coalfield Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Board members shall serve for terms of four years except that all vacancies shall be filled for the unexpired term. All terms shall commence July 1 of the year of appointment. Initial appointments shall begin July 1, 1988. The Board shall consist of sixteen members, residents of the Commonwealth, as follows:

Three initial members shall be the sitting chairmen of the county boards of supervisors of the three counties which are the three largest contributors to the coal and gas road improvement fund for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be supervisors from the county boards of supervisors of the three counties which are the three largest contributors to the Virginia Coalfield

Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin. Such supervisors shall be selected by their respective county boards of supervisors.

Five members shall be appointed by the Governor at large; however, if there is any participating county or city in which there resides no member of the Board appointed by the other methods herein specified, the Governor shall include at least one member who is a resident of each such county or city among his appointees. For the first four-year terms these five members shall be selected to the extent possible from former members of the Southwest Virginia Economic Development Commission who reside in Planning District 1 or 2.

One member shall be a representative of the Virginia Economic Development Partnership, as designated by the *Chief Executive Director* ~~Director~~ *Officer* of the Partnership.

One member shall be a representative named by the Virginia Coal Association.

Two members shall be the Executive Directors of the LENOWISCO and Cumberland Plateau Planning District Commissions.

Three initial members shall be representatives named by the three largest coal producers determined by the dollar value of their contribution to the respective county coal and gas road improvement funds for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be representatives named by the three largest coal producers determined by the dollar value of their contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

One member shall be a representative named by the largest oil and gas producer determined by the dollar value of its contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

Should a member who is a member solely by virtue of his office as member of a board of supervisors or executive director of a planning district commission cease to hold such office, then an immediate vacancy shall occur, and the vacancy shall be filled for the remainder of the term by his successor selected by the board of supervisors of his county or as executive director.

Each member of the Board shall, before entering upon the discharge of the duties of this office, take and subscribe the oath prescribed in § 49-1. They shall receive their expenses spent on business of the Authority.

Ten members of the Authority shall constitute a quorum and the affirmative vote of a majority of the quorum present shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board shall elect from its membership a chairman, a vice-chairman, a treasurer and a secretary for each calendar year. The secretary shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director, an assistant treasurer and an assistant secretary, and staff to assist same, who shall discharge such functions as may be directed by the Board.

Staff functions of the Authority may be undertaken by the LENOWISCO and Cumberland Plateau Planning District Commissions, as agreed by the Board and participating Commissions.

The Board, promptly following the close of the calendar year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, the boards of supervisors of the seven coalfield counties and the Norton City Council. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year. The Authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant and the cost thereof may be treated as part of the expense of operation.

§ 15.2-6203. Board of Authority; members and officers; staff; annual report.

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Initial appointments shall begin July 1, 1993. The Board shall consist of seven members as follows: one representative of each of the region's governing bodies, or their designees, who shall be appointed by the respective governing bodies and shall be residents of the region; four at-large members, who shall be appointed by the Governor and shall be residents of the region; and one member to be appointed by the *Chief Executive Director* ~~Director~~ *Officer* of the Virginia Economic Development Partnership. However, all appointments made after July 1, 2005, shall be made solely by the participating governing bodies, in a manner agreed to by the governing bodies. All members shall serve for a term of four years and may be reappointed for one additional term. For the initial appointments only, two of the four at-large members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.

B. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties.

C. Four members of the Board shall constitute a quorum, and the affirmative vote of four members of the Board shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

D. The Board shall elect from its membership a chairman and a secretary-treasurer for each calendar year. The secretary-treasurer shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director and staff who shall discharge such functions as may be directed by the Board.

E. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, and the board of supervisors and town council of the Region. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

§ 33.1-221.1:1. Fund for construction of industrial access railroad tracks.

A. The General Assembly declares it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial or industrial buildings or facilities. This section is enacted in furtherance of these purposes and is intended to be comparable to the Industrial Access Roads Fund, established pursuant to § 33.1-221.

B. The funding for this program shall be set forth in the Appropriations Act.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, such funds for constructing, reconstructing, or improving industrial access railroad tracks and related facilities. The Director of the Department of Rail and Public Transportation may consult with the Commissioner of Agriculture and Consumer Services and the *Chief Executive Director Officer* of the Virginia Economic Development Partnership, or their designated representatives, concerning applications for funds. Funds shall be spent directly by the Director of the Department of Rail and Public Transportation or by reimbursement of the local entities, private or public.

D. Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existent or prospective, for single industries or industrial subdivisions under firm contract or already constructed, including those subdivisions owned or promoted by railroad companies and others. Applications for funds must be approved by the local governing body.

E. In deciding whether to construct any such access track, the Commonwealth Transportation Board shall consider the cost thereof in relation to prospective volume of rail traffic, capital investment, potential employment, and other economic and public benefits. The Commonwealth Transportation Board shall adopt procedures to encourage widespread use of the funds, shall limit allocation of funds so that no county, city or town receives more than twenty-five percent of the funds in any one fiscal year unless there are not sufficient applications prior to May 1 of each year to use the available funds, and shall consider the practices of the Department of Transportation in distributing industrial access road funds under § 33.1-221.

F. Tracks and facilities constructed with such funds shall be the property of the Commonwealth for the useful life of the project as determined by the Director of the Department of Rail and Public Transportation and shall be made available for use by all common carriers using the railway system to which they connect. The landowners or using businesses shall, prior to the commitment of funds by the Director of the Department of Rail and Public Transportation, be contractually committed to the perpetual maintenance of such tracks and facilities so constructed and to the payment of any costs related to the future relocation or removal of such tracks and facilities.