

10100655D

HOUSE BILL NO. 1002

House Amendments in [] - February 11, 2010

A BILL to create the New River Valley Emergency Communications Regional Authority.

Patron Prior to Engrossment—Delegate Nutter

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:**1. § 1. Title.**

This Act shall be known and may be cited as the New River Valley Emergency Communications Regional Authority Act.

§ 2. Creation; public purpose.

If the governing bodies of the Towns of Blacksburg and Christiansburg, the County of Montgomery, and the Board of Visitors for Virginia Polytechnic Institute and State University (Virginia Tech) by resolution support the formation of a regional authority to provide 911 dispatch and emergency communications services to the people of each jurisdiction and campus, an authority known as the New River Valley Emergency Communications Regional Authority Act (hereinafter the Authority) shall thereupon exist for such participating entities and shall exercise its powers and functions as prescribed herein.

In any suit, action, or proceeding relating to or involving the validity or enforcement of any contract of the Authority, the Authority shall be deemed to have been created as a political subdivision and body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such towns, county, and university supporting the formation of such Authority. A copy of such resolution duly certified by the clerk or secretary of the governing body of the towns, county, and university by which it is adopted shall be admissible as evidence in any suit, action, or proceedings. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this Act.

The ownership and operation by the Authority of emergency communications services and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. The purposes of such Authority shall be to develop a consolidated system for the receipt of and response to 911 emergency calls and communications that will improve response time, quality of service, and coordination of available resources for the citizens of the affected localities.

The Authority and its members, officers, employees, and agents shall all enjoy sovereign immunity for torts committed in exercise of its governmental and proprietary functions. Nothing in this Act shall be construed as a waiver of the sovereign immunity enjoyed by any of the participating political subdivisions.

The courts of the Commonwealth of Virginia shall have original jurisdiction of all actions brought by or against the Authority, which courts shall in all cases apply the law of the Commonwealth of Virginia.

§ 3. Definitions.

As used in this act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the New River Valley Emergency Communications Regional Authority Act.

"Annual deficit" means the amount of budgeted expenditures in excess of anticipated revenues from operations or capital budgets.

"Authority" means the New River Valley Emergency Communications Regional Authority created by this Act.

"Board" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, grant obligations, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all buildings, structures, or facilities purchased, constructed, or otherwise acquired or operated by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, water rights, franchises,

ENGROSSED

HB1002E

59 furnishings, landscaping, utilities, roadways, or other facilities necessary or desirable in connection
60 therewith or incidental thereto.

61 "Participating political subdivisions" means the Towns of Blacksburg and Christiansburg, the County
62 of Montgomery, and Virginia Polytechnic Institute and State University or any other political subdivision
63 that may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

64 "Political subdivision" means a county, city, town, public body, public authority, institution
65 (including an institution of higher education), or commission of the Commonwealth.

66 "University" means Virginia Polytechnic Institute and State University.

67 § 4. Participating political subdivision.

68 At the time of creation of the Authority, each participating political subdivision shall have entered or
69 shall enter into a memorandum of understanding by and among each of the participating political
70 subdivisions setting forth the terms and conditions of the intended formation of the Authority.

71 No pecuniary liability of any kind shall be imposed upon any participating political subdivision
72 because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or
73 on the part of the Authority or any member thereof, or its agents, servants, or employees, except as
74 otherwise provided in this Act with respect to contracts and agreements between the Authority and any
75 other political subdivision.

76 § 5. Joinder.

77 Membership in the Authority may be expanded only in accordance with the terms of a joinder
78 agreement adopted by the governing bodies of all participating political subdivisions. Only another
79 political subdivision may become a participating political subdivision of the Authority. The governing
80 body of any locality wishing to become a member of the Authority shall by concurrent resolutions or
81 ordinances and by agreement provide for the joinder of such locality. The agreement creating the
82 expanded Authority shall specify the number and terms of office of members of the Board of the
83 expanded Authority that are to be appointed by each of the participating political subdivisions and the
84 names, addresses, and terms of office of initial appointments to Board membership. [Upon the date of
85 issuance of the certificate by the State Corporation Commission, the terms of office of the Board
86 members of the existing Authority shall terminate and the appointments made in the agreement creating
87 the expanded Authority shall become effective.

88 If the Authority by resolution expresses its consent to joinder of a locality, the governing body of
89 such locality and the governing bodies of the political subdivisions then members of the Authority shall
90 advertise the agreement and hold a public hearing in accordance with § 15.2-5104 of the Code of
91 Virginia.

92 Upon adoption or approval of the ordinance or resolution and agreement, the governing body
93 seeking to join the Authority shall file an application with the State Corporation Commission. A joinder
94 application shall set forth all of the information required in the case of original incorporation and shall
95 be accompanied by certified copies of the resolutions, ordinances, and agreement described above.
96 Joinder applications shall be executed by the proper officers of each of the political subdivisions that
97 are then members of the Authority, pursuant to resolutions by the governing bodies of such political
98 subdivisions.

99 If the State Corporation Commission finds that the application conforms to law it shall approve the
100 application. When all proper fees and charges have been paid, it shall file the approved application and
101 issue to the applicant a certificate of joinder attached to a copy of the approved application. The
102 joinder shall become effective upon the issuance of such certificate.]

103 § 6. Appointment of members of the Board.

104 The powers of the Authority shall be vested in the members of the Board. The Board shall consist of
105 five persons. Each participating political subdivision shall have the right to appoint one member of the
106 Board and all participating political subdivisions shall jointly appoint the fifth member of the Board by
107 unanimous approval of the participating political subdivisions. Each member of the Board shall be
108 appointed for a term of four years, except that the initial members of the Board representing the
109 participating political subdivisions shall be appointed for the following staggered terms to be selected by
110 lot by the members of the Board at its initial meeting: one member shall be appointed for a term of one
111 year; one member shall be appointed for a term of two years; one member shall be appointed for a
112 term of three years; and one member shall be appointed for a term of four years. The jointly appointed
113 member shall be appointed for an initial term of four years. Upon the expiration of the original term of
114 office of a member of the Board, that member may continue to exercise all powers as a member of the
115 Board until that person's successor is duly appointed and qualified.

116 Any vacancy in the membership of the Board other than by expiration of term shall be filled by the
117 governing body that appointed the member or, in the case of the jointly appointed member, by approval
118 of the governing bodies. The person appointed to fill such vacancy shall serve for the unexpired term
119 only. Each participating political subdivision shall have the absolute right to remove its appointee to the
120 Board, with or without cause, at any time. The participating political subdivisions shall have the

absolute right to remove their joint appointee to the Board, with or without cause, at any time by resolution adopted by a majority of the governing bodies of the participating political subdivisions. Except as may be prohibited by the Constitution of Virginia, members of the Board may include elected or appointed officials, employees, managers, administrators, or officers of any participating political subdivision.

Each member of the Board may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties in addition to such other salary or benefit, or both, to be determined by the Authority.

§ 7. Organization.

A majority of the members of the Board shall constitute a quorum, and the vote of a majority of members of the Board shall be necessary for any action taken by the Board. Each member of the Board shall be entitled to one vote except as otherwise set forth herein. 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 Authority. The Board shall elect from its membership a chairman, vice-chairman, and secretary-treasurer of the Board, such officers to serve in these capacities for terms of two years, except that an initial member of the Board whose term on the Board is for one year may be elected to serve in such capacity for a term of one year and if reappointed to the Board may thereupon be reelected to the Board to serve in such capacity.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws.

The Board may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees.

§ 8. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this Act, including the powers to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name;
3. Have perpetual succession;
4. Adopt a corporate seal and alter the same;
5. Maintain offices at such places as it may designate;
6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate any structures, facilities, and other property incidental thereto;
7. Construct, renovate, install, maintain, and operate facilities for the location of dispatching services, necessary equipment, and administration space;
8. Apply for and accept gifts, grants of money, grants or loans of other property, or other financial assistance from, or borrow money from or issue bonds to, the United States of America and agencies and instrumentalities thereof; the Commonwealth and political subdivisions, agencies, and instrumentalities thereof; or any other person or entity, whether public or private, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the Authority's facilities (whether or not such facilities are then in existence) or for the payment of the principal of any indebtedness of the Authority, interest thereon, or other costs incident thereto and to borrow money on such terms as the Authority deems advisable. To this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid, loans, grants, or other assistance;
9. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate and fix their duties and compensation;
10. Establish personnel rules;
11. Own; purchase; lease; obtain options upon; acquire by gift, grant, or bequest; or otherwise acquire any property, real, personal or intangible, or any interest therein, and in connection therewith to create, assume, or take subject to any indebtedness secured by such property;
12. Sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein;
13. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;
14. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such

182 *rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities;*

183 *15. Purchase and maintain insurance and provide indemnification on behalf of any person who is or*
184 *was a director, officer, employee, or agent of the Authority against any liability asserted against or*
185 *incurred by him in any such capacity or arising out of his status as such;*

186 *16. Place a lien upon any or all of its property or otherwise secure its debts; and*

187 *17. Do all things necessary or convenient to the purposes of this Act.*

188 *§ 9. Rules, regulations, and minimum standards.*

189 *The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum*
190 *standards for the use, maintenance, and operation of its facilities and governing the conduct of persons*
191 *and organizations using its facilities.*

192 *The Authority's rules and regulations shall be available for public inspection in the Authority's*
193 *principal office.*

194 *The Authority's rules and regulations shall have the force of law, as shall any other rule or*
195 *regulation of the Authority that shall contain a determination by the Authority that it is necessary to*
196 *accord the same force and effect of law in the interest of the public safety.*

197 *§ 10. Reports.*

198 *The Authority shall keep minutes of its proceedings, which shall be open to public inspection during*
199 *normal business hours. It shall keep suitable records of all its financial transactions and shall arrange*
200 *to have the same audited annually by an independent certified public accountant. Copies of each such*
201 *audit shall be furnished to each participating political subdivision and shall be open to public*
202 *inspection. The Authority shall be deemed a local governmental agency subject to the requirements of*
203 *the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) of the Code of Virginia.*

204 *§ 11. Procurement.*

205 *All contracts that the Authority may let for professional services, nonprofessional services, or*
206 *materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of the Code of*
207 *Virginia.*

208 *§ 12. Deposit and investment of funds.*

209 *Except as provided by contract with a participating political subdivision, all moneys received*
210 *pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or*
211 *otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All*
212 *moneys of the Authority shall be deposited in a qualified public depository and secured in accordance*
213 *with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.) of the Code of Virginia.*

214 *Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions*
215 *of any contract between the Authority and the holders of its bonds, be invested in securities that are*
216 *considered lawful investments for public sinking funds or other public funds as set forth in the*
217 *Investment of Public Funds Act (§ 2.2-4500 et seq.) of the Code of Virginia.*

218 *§ 13. Authority to issue bonds.*

219 *The Authority shall have the power to issue bonds in its discretion, for any of its purposes, including*
220 *the payment of all or any part of the cost of Authority facilities and including the payment or retirement*
221 *of bonds previously issued by it. The Authority may issue such types of bonds as it may determine,*
222 *including (without limiting the generality of the foregoing) bonds payable, both as to principal and*
223 *interest (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts*
224 *of certain designated facilities or loans, whether or not they are financed in whole or in part from the*
225 *proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or*
226 *contribution from a participating political subdivision, the Commonwealth, or any political subdivision,*
227 *agency, or instrumentality thereof; any federal agency; or any unit, private corporation, copartnership,*
228 *association, or individual as such participating political subdivision or other entities may be authorized*
229 *to make under general law or by pledge of any income or revenues of the Authority or by mortgage or*
230 *encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding*
231 *authorizing the issuance of the bonds or in the trust indenture or agreement securing the same, all*
232 *bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or*
233 *loan. Bonds may be executed and delivered by the Authority at any time and from time to time, may be*
234 *in such form and denominations and of such terms and maturities, may be in registered or bearer form*
235 *either as to principal or interest or both, may be payable in such installments and at such time or times*
236 *not exceeding 40 years from the date thereof, may be payable at such place or places whether within or*
237 *without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or*
238 *times and at such places, may be evidenced in such manner, and may contain such provisions not*
239 *inconsistent herewith, all as shall be provided and specified by the Authority in authorizing each*
240 *particular bond issue.*

241 *If deemed advisable by the Authority, there may be retained in the proceedings under which any*
242 *bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may*
243 *be specified in such proceedings, at such price or prices and after such notice or notices and on such*

terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the Authority to be most advantageous and the Authority may pay all costs, premiums, and commissions that it may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the Authority may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall except such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this Act; provided that nothing contained in this Act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code (§ 8.1A-101 et seq.) of the Code of Virginia, subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this Act, the Authority is authorized to provide for the issuance from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this Act that relate to bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

§ 14. Credit of Commonwealth and political subdivisions not pledged.

Bonds issued pursuant to the provisions of this Act shall not be deemed to constitute a debt of the

305 *Commonwealth or any political subdivision thereof other than the Authority, but such bonds shall be*
306 *payable solely from the funds provided therefore as herein authorized. All such bonds shall contain on*
307 *the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision*
308 *thereof, nor the Authority, except as may be otherwise stated, shall be obligated to pay the same or the*
309 *interest thereon or other costs incident thereto except from the revenues and money pledged therefore*
310 *and that neither the faith and credit nor the taxing power of the Commonwealth, nor any political*
311 *subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or*
312 *other costs incident thereto.*

313 *Bonds issued pursuant to the provisions of this Act shall not constitute indebtedness within the*
314 *meaning of any debt limitation or restriction.*

315 *§ 15. Members of the Board and persons executing bonds not liable thereon.*

316 *Neither the members of the Board nor any person executing the bonds shall be liable personally on*
317 *the Authority's bonds by reasons of the issuance thereof.*

318 *§ 16. Security for payment of bonds; default.*

319 *The principal of and interest on any bonds issued by the Authority may be secured by a pledge of*
320 *the revenues and receipts out of which the same shall be made payable, and may be secured by a trust*
321 *indenture or agreement covering all or any part of the Authority facilities from which revenues or*
322 *receipts so pledged may be derived, including any enlargements or any additions to any such projects*
323 *thereafter made. The resolution under which the bonds are authorized to be issued and any such trust*
324 *indenture or agreement may contain any agreements and provisions respecting the maintenance of the*
325 *projects covered thereby, the fixing and collection of rents for any portions thereof leased by the*
326 *Authority to others, the creation and maintenance of special funds from such revenues, and the rights*
327 *and remedies available in the event of default, all as the Authority shall deem advisable not in conflict*
328 *with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security*
329 *of any of the bonds of the Authority shall continue to be effective until the principal of and interest on*
330 *the bonds for the benefit of which the same were made shall have been fully paid. In the event of*
331 *default in such payment or in any agreements of the Authority made as a part of the contract under*
332 *which the bonds were issued, whether contained in the proceeding authorizing the bonds or in any trust*
333 *indenture or agreement executed as security therefor, may be enforced by mandamus, suit, action, or*
334 *proceeding at law or in equity to compel the Authority and the members, officers, agents, or employees*
335 *thereof to perform each and every term, provision, and covenant contained in any trust indenture or*
336 *agreement of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust*
337 *indenture, or any one or more of said remedies.*

338 *§ 17. Taxation.*

339 *The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit*
340 *of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of*
341 *their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any*
342 *project that the Authority is authorized to undertake will constitute the performance of an essential*
343 *governmental function, the Authority shall not be required to pay any taxes or assessments upon any*
344 *facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the*
345 *provisions of this Act, their transfer and the income therefrom, including any profit made on the same*
346 *thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political*
347 *subdivision thereof.*

348 *§ 18. Bonds as legal investments.*

349 *Bonds issued by the Authority under the provisions of this Act are hereby made securities in which*
350 *all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance*
351 *companies, trust companies, banking associations, investment companies, executors, administrators,*
352 *trustees, and other fiduciaries may properly and legally invest funds, including capital in their control*
353 *or belonging to them. Such bonds are hereby made securities that may properly and legally be*
354 *deposited with and received by any state or municipal officer or any agency or political subdivision of*
355 *the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may*
356 *hereafter be authorized by law.*

357 *§ 19. Appropriation by political subdivision.*

358 *Any participating political subdivision or other political subdivision of the Commonwealth is*
359 *authorized to provide services, to donate real or personal property, and to make appropriations to the*
360 *Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any*
361 *such political subdivision is hereby authorized to issue its bonds, including, but not limited to, general*
362 *obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) of the Code of*
363 *Virginia or in any applicable municipal charter for the purpose of providing funds to be appropriated to*
364 *the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to*
365 *the Authority.*

366 *The Authority may agree to assume or reimburse a participating political subdivision for any*

indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority.

§ 20. Annual deficit.

The Board shall have full authority to adopt its operating and capital budgets on an annual fiscal year (July 1 through June 30) basis, to amend the same from time to time, and for the annual deficit to be divided among all participating political subdivisions. Each participating political subdivision shall contribute its respective one-quarter share of the annual deficit each year and otherwise as required; however, such obligation shall be subject to and dependent upon annual appropriations being made from time to time by the governing body of each such respective participating political subdivision, and as to the university by normal approval of appropriations, and shall not be deemed to constitute a debt of such participating political subdivisions within the meaning of Article VII, Section 10 of the Constitution of Virginia, and as to the university, within the meaning of Article X, Section 9 of the Constitution of Virginia, or any applicable statutory debt limitation. Should any participating political subdivision fail to contribute in full its proportionate share of the annual deficit it shall remain a member of the Authority, but its representative on the Board shall not be entitled to cast a vote on any Authority matter until that participating political subdivision's share of the annual deficit has been paid in full. Further, should any participating political subdivision fail to contribute in full its proportionate share of the annual deficit, the Authority shall have a lien on any share of the Authority's profit or surplus revenues otherwise entitled to be distributed to the participating political subdivision. A participating political subdivision may contribute a portion or all of its share of the annual deficit through "in-kind" contributions, subject to the approval of such contribution and valuation by the Authority.

§ 21. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions.

§ 22. Authority as political subdivision.

The Authority is a political subdivision whose actions are exempt from the Commonwealth's rules and regulations on its agencies and commissions as to demolition, alteration, capital outlay requirements, temporary building use requirements, and like regulations and requirements. The Authority is subject to local building code requirements.

§ 23. Fees for Service.

The Authority is authorized to charge a fee for service to individuals who are not members of the participating political subdivisions and is, likewise, authorized to determine a fee schedule.

§ 24. Liberal construction.

Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this Act is cumulative to any such powers; however, the borrowing of money or issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes, or other obligations. This Act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act.

§ 25. Application of local ordinances, service charges, and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia.

§ 26. Existing contracts. Leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provision of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

§ 27. Employees of the Authority.

A. Employees of the Authority shall be employed on such terms and conditions as are established by the Authority. The Board of the Authority shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that the employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion, color,

428 sex, or national origin.

429 B. In cooperation with the Board, each participating political subdivision shall determine which of
430 its current positions will remain under their individual employ and which will be recreated as part of
431 the Authority. Any employee of Virginia Tech who (i) is not offered a position with the Authority for
432 which the employee is qualified or is offered a position that requires relocation or a reduction in salary
433 or (ii) is not offered the opportunity to remain employed with Virginia Tech shall be eligible for the
434 severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) of
435 the Code of Virginia. Any employee of Virginia Tech who accepts employment with the Authority shall
436 not be considered to be involuntarily separated from state employment and shall not be eligible for the
437 severance benefits conferred by the Workforce Transition Act.

438 C. Notwithstanding any other provision of law to the contrary, any person whose employment is
439 recreated in the Authority as a result of this Act and who is a member of any plan for providing health
440 insurance coverage pursuant to Chapter 28 (§ 2.2-2818 et seq.) of Title 2.2 of the Code of Virginia
441 shall be eligible to continue to be a member of such health insurance plan. Notwithstanding subsection
442 A of § 2.2-2818 of the Code of Virginia, the Authority shall pay the employer contribution, the amount
443 of which is determined by negotiated agreement with the provider, of the costs of providing health
444 insurance coverage to its employees who elect to continue to be members of the state employees'
445 insurance plan. Alternatively, an employee may elect to become a member of any health insurance plan
446 established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the
447 benefit of its employees and (ii) enter into agreements with the Department of Human Resources
448 Management providing for the coverage of its employees under the state employees' health insurance
449 plan, provided that such agreement shall require the Authority to pay the costs described above of
450 providing health insurance coverage under such a plan.

451 D. Notwithstanding any other provision of law to the contrary, any person whose employment is
452 transferred to the Authority as a result of this Act and who is a member of the Virginia Retirement
453 System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title
454 51.1 of the Code of Virginia, shall continue to be a member of the Virginia Retirement System or other
455 such authorized retirement plan under the same terms and conditions as if no transfer had occurred.
456 Alternatively, such employee may elect, during an open enrollment period, to become a member of the
457 retirement program established by the Authority for the benefit of its employees by transferring assets
458 equal to the value to the actuarially determined present value of the accrued basic benefit as of the
459 transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of
460 actuarial services necessary to determine the present value of the accrued basic benefit of employees
461 who elect to transfer to the Authority's retirement plan. The following rules shall apply:

462 1. With respect to any transferred employee who elects to remain a member of the Virginia
463 Retirement System or other such authorized retirement plan, the Authority shall collect and remit any
464 employer and employee contributions to the Virginia Retirement System or other such authorized
465 retirement plan for retirement for such transferred employees.

466 2. Transferred employees who elect to become members of the retirement program established by the
467 Authority for the benefits of its employees shall be given full credit for their creditable service as
468 defined in § 51.1-124.3 of the Code of Virginia, vesting and benefit accrual under the retirement
469 program established by the Authority. For any such employee, employment with the Authority shall be
470 treated as employment with any nonparticipating employer for purposes of the Virginia Retirement
471 System or other retirement plan as authorized by Article 4 of Chapter 1 of Title 51.1 of the Code of
472 Virginia.

473 3. For transferred employees who elect to become members of the retirement program established by
474 the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the
475 retirement plan established by the Authority assets equal to the actuarially determined present value of
476 the accrued basic benefits as of the transfer date. For purposes hereof, the basic benefits shall be the
477 benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on
478 creditable service and average final compensation as defined in § 51.1-124.3 of the Code of Virginia
479 and determined as of the transfer date. The actuarial present value shall be determined on the same
480 basis, using the same actuarial factors and assumptions used in determining the funding needs of the
481 Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the
482 retirement plan established by the Authority will have no effect on the funded status and financial
483 stability of the Virginia Retirement System or other such authorized retirement plan.

484 § 28. Withdrawal of membership.

485 A participating political subdivision may withdraw its membership in the Authority at the end of any
486 fiscal year if the withdrawing participating political subdivision has given notice to the Authority and all
487 other participating political subdivisions of its intention to withdraw at least one year before the end of
488 such fiscal year and the withdrawing participating political subdivision has paid in full its share of the
489 annual deficit, if any, provided that no participating political subdivision may withdraw its membership

in the Authority if the Authority has any outstanding debt without written approval of each participating political subdivision. As used in this section, the term "debt" shall mean a monetary obligation, whether general or limited in any way, to repay a loan or bond, or any long-term obligation, whether absolute or contingent in any way, to refund or reimburse any agency or entity for grant funds received by the Authority.

§ 29. Dissolution of Authority.

Whenever it shall appear to the Board or to all participating political subdivisions that the need for the Authority no longer exists, all participating political subdivisions may petition the Circuit Court of Montgomery County, Virginia, for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this Act no longer exists and that all debts and other obligations of any kind have been fully paid or provided for:

1. The Court shall enter an order dissolving the Authority; and

2. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective shares of the annual deficit less any amounts owed to the Authority by such participating political subdivision.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. An appeal from the final judgment of the court shall lie to the Supreme Court of Virginia.

ENGROSSED

HB1002E