

13103526D

SENATE BILL NO. 1138

Offered January 9, 2013

Prefiled January 9, 2013

A *BILL to amend the Code of Virginia by adding in Title 67 a chapter numbered 14, consisting of sections numbered 67-1400 through 67-1406, relating to the Virginia Nuclear Energy Consortium.*

Patron—McWaters

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 14, consisting of sections numbered 67-1400 through 67-1406, as follows:

*CHAPTER 14.**VIRGINIA NUCLEAR ENERGY CONSORTIUM.***§ 67-1400. Definitions.**

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

"Authority" means the Virginia Nuclear Energy Consortium Authority established pursuant to this chapter.

"Board" means the board of directors of the Authority.

"Consortium" means the nonstock, nonprofit corporation established by the Authority pursuant to § 67-1404.

"Member" means a member of the Consortium.

§ 67-1401. Virginia Nuclear Energy Consortium Authority established.

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the Virginia Nuclear Energy Consortium Authority (the Authority). The Authority's exercise of powers conferred by this chapter shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

§ 67-1402. Purposes; powers of Authority.

A. The Authority is established for the purposes of making the Commonwealth a national and global leader in nuclear energy and serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues.

B. The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the following rights, powers, and duties to:

1. Adopt, use, and alter at will a corporate seal;

2. Acquire, purchase, hold, use, lease, or otherwise dispose of property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority;

3. Adopt bylaws for the management and regulation of its affairs;

4. Develop and adopt a strategic plan for carrying out the purposes set out in this chapter;

5. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this chapter, including agreements with any person or federal agency;

6. Sue and be sued, implead and be impleaded, complain and defend in all courts;

7. Consult with the General Assembly; federal, state, and local agencies; nonprofit organizations; private industry; and other potential developers and users of nuclear energy;

8. Promote and facilitate agreements among public and private institutions of higher education in the Commonwealth and other research entities to carry out research projects relating to nuclear energy;

9. Disseminate information and research results;

10. Identify and support, in cooperation with Virginia's nuclear entities and the public and private sectors, the development of education programs related to Virginia's nuclear industry;

11. Provide for the establishment of the Consortium by the Board as provided in § 67-1404;

12. Develop a policy regarding any interest in intellectual property that may be acquired or developed by the Consortium;

13. In order to fund and support the activities of the Authority and the Consortium, apply for, solicit, and accept from any source, including any agency of the federal government, the Commonwealth, or any other state, any municipality, county, or other political subdivision thereof, any member, or any private corporation or other entity, (i) grants, including grants made available pursuant to federal legislation, (ii) aid, or (iii) contributions of money, property, or other things of value, which shall be

INTRODUCED

SB1138

59 held, used, and applied for the purposes set out by this chapter;

60 14. Facilitate the collaboration of members toward the attainment of grants and the expenditure of
61 funds in accomplishing the purposes set out by this chapter;

62 15. Encourage, facilitate, and support the application, commercialization, and transfer of new
63 nuclear energy technologies;

64 16. Provide public information and communication about nuclear energy and related educational and
65 job opportunities.

66 17. Provide advice, assistance, and services to institutions of higher education and to other persons
67 providing services or facilities for nuclear research or graduate education;

68 18. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's
69 public institutions of higher education, private companies, federal laboratories, and not-for-profit
70 organizations to accomplish the purposes set out by this chapter; and

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

72 **§ 67-1403. Board of the Authority.**

73 A. The Authority shall be governed by a board of directors consisting of 17 members appointed as
74 follows:

75 1. The Director of the Department of Mines, Minerals and Energy or his designee;

76 2. The President and Chief Executive Officer of the Virginia Economic Development Partnership or
77 his designee;

78 3. The Chancellor of the Virginia Community College System or his designee;

79 4. The President of Virginia Commonwealth University or his designee;

80 5. The President of the University of Virginia or his designee;

81 6. The President of Virginia Polytechnic Institute and State University or his designee;

82 7. The President of George Mason University or his designee;

83 8. Two individuals, each to represent a public or private institution of higher education in the
84 Commonwealth not already represented on the Board;

85 9. Six individuals, each to represent a single business entity located in the Commonwealth that is
86 engaged in activities directly related to the nuclear energy industry;

87 10. One individual to represent a nuclear energy-related nonprofit organization; and

88 11. One individual to represent a Virginia-based federal research laboratory.

89 B. The members of the Board described in subdivisions A 1 through A 7 shall serve terms coincident
90 with their terms of office.

91 C. The 10 members of the Board described in subdivisions A 8 through A 11 shall be appointed by
92 the Governor. The original terms of five of such members shall end on June 30, 2015, and the original
93 term of the five other such members shall end on June 30, 2017, all as designated by the Governor.
94 After the initial staggering of terms, such shall be appointed for terms of four years. Vacancies in the
95 membership of the Board shall be filled in the same manner as the original appointments for the
96 unexpired portion of the term. Members of the Board described in subdivisions A 8 through A 11 may
97 serve two successive terms on the Board.

98 D. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the
99 member whose death, resignation, or removal created the vacancy.

100 E. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine
101 members of the Board shall constitute a quorum for the transaction of the business of the Authority. An
102 act of the majority of the members of the Board present at any regular or special meeting at which a
103 quorum is present shall be an act of the Board.

104 F. Immediately after appointment, the members of the Board shall enter upon the performance of
105 their duties.

106 G. The Board shall annually elect from among its members a chairman, a vice-chairman, and a
107 treasurer. The Board shall also elect annually a secretary, who need not be a member of the Board, and
108 may also elect such other subordinate officers who need not be members of the Board, as it deems
109 proper. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board.
110 In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro
111 tempore, who shall preside at such meetings.

112 H. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth
113 shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of
114 acceptance of membership on the Board or by providing service to the Authority or to the Consortium.

115 I. On or before November 15 of each year, the Authority shall submit its updated strategic plan, an
116 annual summary of its activities, and recommendations for the support and expansion of the nuclear
117 energy industry in Virginia to the Governor and the Chairmen of the House Appropriations Committee,
118 the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

119 **§ 67-1404. Establishment of the Consortium.**

120 A. The Board shall provide for the formation, by January 1, 2014, of a nonstock corporation under

Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising essential governmental functions, and not organized for profit, which corporation shall include in its name the words "Virginia Nuclear Energy Consortium," or some variation thereof that is approved by the Board.

B. The Consortium shall be established for the purpose of carrying out the rights, powers, and duties of the Authority pursuant to subsection B of § 38.2-1402 and conducting other activities useful in (i) making the Commonwealth a leader in nuclear energy; (ii) serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues; and (iii) carrying out the provisions of this chapter, including raising money on behalf of the Authority in the corporate and nonprofit community and from other nonstate sources.

C. The membership of the Consortium shall be open to:

1. Public or private institutions of higher education in the Commonwealth;
2. Virginia-based federal research laboratories;
3. Nuclear energy-related nonprofit organizations;
4. Business entities with operating facilities located in the Commonwealth that are engaged in activities directly related to the nuclear energy industry; and
5. Other individuals or entities whose membership is approved by the board of directors of the Consortium through a process established by the bylaws of the Consortium.

D. The board of directors of the Consortium shall consist of the 17 members of the Board of the Authority and other members as the Consortium might select and approve pursuant to a process established by its bylaws.

E. The board of directors of the Consortium shall appoint an executive director to serve as the principal administrative officer of the Consortium. The executive director shall carry out the specific duties assigned to him by the board of directors, develop appropriate policies and procedures for the operation of the Consortium; employ such persons and secure such services as may be required to carry out the purposes of the Consortium; expend funds of the Authority or the Consortium; and accept moneys from federal or private sources on behalf of the Authority, including moneys contributed by Consortium members to the Authority, for cost-sharing on nuclear energy research or projects. The executive director and any other employee of the Consortium (i) shall be compensated in the manner provided by the board of directors of the Authority; (ii) shall not be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), and (iii) shall not be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

F. The articles of incorporation of the Consortium shall provide that upon dissolution the net assets of the Consortium shall be transferred to the Authority.

G. The Consortium shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapters 8 (§ 2.2-800 et seq.), 18 (§ 2.2-1800 et seq.), 24 (§ 2.2-2400 et seq.), 29 (§ 2.2-2900 et seq.), 31 (§ 2.2-3100 et seq.), 37 (§ 2.2-3700 et seq.), 38 (§ 2.2-3800 et seq.), 43 (§ 2.2-4300 et seq.), 44 (§ 2.2-4400 et seq.), 45 (§ 2.2-4500 et seq.), 46 (§ 2.2-4600 et seq.), and 47 (§ 2.2-4700 et seq.) of Title 2.2, Chapter 14 (§ 30-130 et seq.) of Title 30, or Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1.

H. The board of directors of the Consortium shall adopt, alter, and repeal bylaws governing the manner in which its business shall be transacted and the manner in which the activities of the Consortium shall be conducted.

I. The Consortium shall report on its activities at least annually to the Authority.

§ 67-1405. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of such persons as the Authority may authorize to execute such warrants or orders.

§ 67-1406. Audits; external reviews.

A. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Authority, provided that the working papers and files of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

B. The Authority, if it receives state funds, shall be subject to periodic external review either (i) under the provisions of the Legislative Program Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed for that purpose by the Governor.