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HOUSE BILL NO. 2211

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact §§ 2.2-309.2, 3.2-3103, and 3.2-3106 of the Code of Virginia, relating to Tobacco Region Revitalization Fund; investment by Tobacco Region Revitalization Commission.

Patron—Rush

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-309.2, 3.2-3103, and 3.2-3106 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-309.2. Additional powers and duties; Tobacco Region Revitalization Commission.

The State Inspector General shall (i) review the condition of the Tobacco Region Revitalization Commission's accounting, financial, and administrative controls to ensure that the purposes set forth in Chapter 31 (§ 3.2-3100 et seq.) of Title 3.2 are lawfully achieved; (ii) investigate to resolve allegations of fraudulent, illegal, or inappropriate activities concerning (a) disbursements from the Tobacco Indemnification and Community Revitalization Endowment created pursuant to § 3.2-3104 and (b) management and investment of the assets of, and distributions from, the Tobacco Indemnification and Community Revitalization Fund created pursuant to § 3.2-3106; and (iii) detect fraud, waste, and abuse and take actions to prevent the same.

§ 3.2-3103. Powers and duties of the Tobacco Region Revitalization Commission; report.

A. The Commission shall have the power and duty to:

- 1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at such place or places within the Commonwealth as it may designate;
4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Commission, absolutely or in trust, for the purposes for which the Commission is created;
5. Determine how moneys in the Fund are to be distributed;
6. Authorize grants, loans, or other distributions of moneys in the Fund for the purposes set forth in this chapter;
7. For each economic development grant or award, including a grant from the Tobacco Region Opportunity Fund, require a dollar-for-dollar match from non-Commission sources. Performance bonds shall be considered acceptable matching payment. No more than 25 percent of the match shall be in-kind. However, a match of less than 50 percent may be considered by a two-thirds majority vote of the Commission;
8. Adopt policies governing the Tobacco Region Opportunity Fund, including a repayment policy. The Commission shall apply the policies consistently;
9. Enter into a contractual or employment agreement with a financial viability manager (the Manager). The management agreement shall require the Manager to provide a written financial viability and feasibility report to the Commission as to the financial propriety of certain loans, grants, or other distributions of money made for the revitalization of a tobacco-dependent locality as proposed in accordance with the Commission's strategic objectives. The Commission shall not make any loan, except a loan made through the Virginia Tobacco Region Revolving Fund created in Chapter 31.1 (§ 3.2-3112 et seq.); grant; or other distribution of money until the Manager has provided the Commission with a written recommendation as to the financial viability and feasibility of the proposed distribution of funds. However, nothing in this section shall eliminate consideration of strategic economic initiatives;
10. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;
11. Invest its funds as provided in this chapter or permitted by applicable law; and
12. Manage and invest the assets of the Tobacco Indemnification and Community Revitalization Fund pursuant to the provisions of § 3.2-3106; and
13. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the Fund.

B. The Commission shall undertake studies and gather information and data in order to determine: (i) the economic consequences of the reduction in or elimination of quota for tobacco growers; (ii) the

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59 potential for alternative cash crops; and (iii) any other matters the Commission believes will affect  
60 tobacco growers in the Commonwealth.

61 C. The Commission shall at least biennially develop a strategic plan containing specific priorities,  
62 measureable goals, and quantifiable outcomes. In developing the Strategic Plan, the Commission shall  
63 solicit input from local and regional economic developers, the Virginia Department of Agriculture and  
64 Consumer Services, the Virginia Economic Development Partnership, the Virginia Department of  
65 Housing and Community Development, the Virginia Tourism Authority, the Virginia Resources  
66 Authority, and the Center for Rural Virginia. The Strategic Plan shall state how each Fund award is  
67 consistent with the Commission's achievement of measurable goals and outcomes and its advancement of  
68 the specific priorities of the Strategic Plan. The Strategic Plan shall also state how awards from the  
69 Fund are projected to affect key economic indicators of employment, income, educational attainment,  
70 amount of Virginia-grown agricultural and forestal products used by the project, and return on  
71 investment.

72 D. The Commission shall develop a publicly available online database of all Commission awards,  
73 listing for each project the project's goals, the means by which the project fits into the Strategic Plan,  
74 the project's expected and achieved outcomes, and the total amount of funding the Commission has  
75 awarded to the project through any prior grants.

76 E. The Commission shall submit a report annually to the Governor and the General Assembly.

77 **§ 3.2-3106. Tobacco Indemnification and Community Revitalization Fund; tax credits for**  
78 **technology industries in tobacco-dependent localities.**

79 A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be  
80 deposited into the state treasury subject to the special nonreverting funds established by subsection B  
81 and by §§ 3.2-3104 and 32.1-360.

82 B. There is created in the state treasury a special nonreverting fund to be known as the Tobacco  
83 Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the  
84 Comptroller. *Subject to the warrant requirement of subsection E, the Fund shall be under the*  
85 *management and control of the Commission, and the Commission shall have such powers and authority*  
86 *as may be necessary to exercise such management and control consistent with the provisions of this*  
87 *section. The Commission shall have full power to invest and reinvest funds credited to the Fund in*  
88 *accordance with the provisions of the Uniform Prudent Management of Institutional Funds Act*  
89 *(§ 64.2-1100 et seq.) and, in addition, as otherwise provided by law.*

90 C. Subject to the sale of all or any portion of the Commission Allocation, 50 percent of the annual  
91 amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the  
92 state treasury and credited to the Fund. In the event of such sale, (i) the Commission Allocation shall  
93 be paid in accordance with the agreement for the period of sale; and (ii) the Fund shall receive the  
94 amounts withdrawn from the Endowment in accordance with § 3.2-3104.

95 D. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any  
96 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert  
97 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the  
98 purposes described in this chapter.

99 E. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants  
100 issued by the Comptroller upon written authorization signed by the chairman of the Commission or his  
101 designee.

102 F. The Fund shall also consist of other moneys received by the Commission, from any source, for  
103 the purpose of implementing the provisions of this chapter. *The Commission may commingle, for*  
104 *purposes of investment, the corpus of the Fund, provided that it shall appropriately account for the*  
105 *investments credited to the Fund. The Commission may hire independent investment advisors and*  
106 *managers as it deems appropriate to assist with investing the Fund. The expenses of making and*  
107 *disposing of investments, such as brokerage commissions, legal expenses related to a particular*  
108 *transaction, investment advisory and management fees and expenses, transfer taxes, and other customary*  
109 *transactional expenses shall be payable out of the income of the Fund.*

110 ~~C.~~ G. The obligations of the Commission shall not be a debt or grant or loan of credit of the  
111 Commonwealth, and the Commonwealth shall not be liable thereon, nor shall such obligations be  
112 payable out of any funds other than those credited to the Fund.