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HOUSE BILL NO. 2312

Offered January 12, 2017

A BILL to amend and reenact § 15.2-4905 of the Code of Virginia, relating to industrial development authorities; issuance of bonds to finance local tax preferences.

Patron—Morefield

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-4905 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-4905. Powers of authority.**

The authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To enter into contracts; however, any written contract of the authority shall contain provisions addressing the issue of whether attorney's fees shall be recoverable by the prevailing party in the event the contract is subject to litigation;

4. To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip and furnish one or more authority facilities including all real and personal properties which the board of directors of the authority may deem necessary in connection therewith and regardless of whether any such facilities shall then be in existence;

5. To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment of all of the indebtedness of the authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration;

6. To sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the authority was organized;

7. To issue its bonds for the purpose of carrying out any of its powers including specifically, but without intending to limit any power conferred by this section or this chapter, the issuance of bonds to provide long-term financing of any pollution control facility, whether any such facility was constructed prior to or after the enactment hereof or the receipt of a commitment from an authority to undertake financing pursuant hereto, unless the major part of the proceeds of such bonds will be used to redeem any prior long-term financing of such facility other than financings pursuant to this chapter or any similar law;

8. As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues therefrom or from any part thereof or from any loans made by the authority;

9. To employ and pay compensation to such employees and agents, including attorneys, and real estate brokers whether engaged by the authority or otherwise, as the board of directors shall deem necessary in carrying on the business of the authority;

10. To exercise all powers expressly given the authority by the governing body of the locality which established the authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the authority's affairs;

11. To appoint an industrial advisory committee or similar committee or committees to advise the authority, consisting of such number of persons as it may deem advisable. Such persons may be compensated such amount per regular, special, or committee meeting as may be approved by the appointing authority, not to exceed \$50 per meeting day, and may be reimbursed for necessary traveling and other expenses incurred while on the business of the authority;

12. To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance or repair of the authority facilities, for the payment of principal of

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59 any bond of the authority, interest thereon, or other cost incident thereto, or in order to make loans in
60 furtherance of the purposes of this chapter of such money, contributions, grants, and other financial
61 assistance, and to this end the authority shall have the power to comply with such conditions and to
62 execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient
63 or desirable and to agree to such terms and conditions as may be imposed; and

64 13. To make loans or grants to any person, partnership, association, corporation, business, or
65 governmental entity in furtherance of the purposes of this chapter including for the purposes of
66 promoting economic development, provided that such loans or grants shall be made only from revenues
67 of the authority which have not been pledged or assigned for the payment of any of the authority's
68 bonds, and to enter into such contracts, instruments, and agreements as may be expedient to provide for
69 such loans and any security therefor. An authority may also be permitted to forgive loans or other
70 obligations if it is deemed to further economic development. The word "revenues" as used in this
71 subdivision includes contributions, grants and other financial assistance, as set out in subdivision 12.

72 14. *To make loans to any locality for the purpose of enabling such locality to reduce the rate of any*
73 *of the taxes it imposes under Subtitle III (§ 58.1-3000 et seq.) of Title 58.1 so that it may promote*
74 *economic development, expand its tax base, and increase local tax revenues. A locality that receives a*
75 *loan pursuant to this subdivision shall use the funds solely for the purpose of offsetting lost revenue due*
76 *to reduced tax rates.*

77 The authority shall not have power to operate any facility as a business other than as lessor and shall
78 not have the power to operate any single or multi-family housing facilities. However, the authority shall
79 have the power to apply for, establish, operate and maintain a foreign-trade zone in accordance with the
80 provisions of Chapter 14 (§ 62.1-159 et seq.) of Title 62.1. Any meeting held by the board of directors
81 at which formal action is taken shall be open to the public.

82 If a locality has created an industrial development authority pursuant to this chapter or any other
83 provision of law, no other such authority, not created by such locality, shall finance facilities, except
84 pollution control facilities, within the boundaries of such locality, unless the governing body of such
85 locality in which the facilities are located or are proposed to be located, concurs with the inducement
86 resolution adopted by the authority, and shows such concurrence in a duly adopted resolution.
87 Notwithstanding the foregoing, nothing contained herein shall be deemed to invalidate or otherwise
88 impair any existing financing by an authority or the financing of any facilities for which application has
89 been made to an authority prior to July 1, 1981.