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SENATE BILL NO. 1202

Senate Amendments in [] — January 26, 2017

A *BILL to amend and reenact §§ 2.2-2202, 2.2-2203, 2.2-2203.2, and 2.2-2204 of the Code of Virginia and to repeal § 2.2-2203.1 of the Code of Virginia, relating to the Commercial Space Flight Authority.*

Patron Prior to Engrossment—Senator Lewis

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2202, 2.2-2203, 2.2-2203.2, and 2.2-2204 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2202. Declaration of public purpose; Virginia Commercial Space Flight Authority created.

The General Assembly has determined that there exists in the Commonwealth a need to (i) disseminate knowledge pertaining to scientific and technological research and development among public and private entities; (ii) promote Science, Technology, Engineering, and Math (STEM) education; and (iii) promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial space flight and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

§ 2.2-2203. Board of directors; members and officers; Executive Director.

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor as follows: one member representing the business community; one member representing the financial industry; one member representing the marketing industry; one member representing the legal industry; one member representing the research and development industry; and two at-large members. Of the members appointed by the Governor, one shall be appointed for a term of one year, two for terms of two years, two for terms of three years, and two for terms of four years from the effective date of their appointment. Thereafter, the members and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, [~~or~~] (iv) scientific and technological research and development [; or (v) higher education] . Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members 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 all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such

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60 compensation shall be established at a level that will enable the Authority to attract and retain a capable
61 Executive Director. The Executive Director shall employ or retain such other agents or employees
62 subordinate to the Executive Director as may be necessary to carry out the powers and duties of the
63 Authority.

64 **§ 2.2-2203.2. Strategic plan.**

65 ~~The Every four years the Executive Director shall present to the Board shall initiate and further plan~~
66 ~~for the development of commercial space flight in the Commonwealth and, to this end, shall keep~~
67 ~~informed as to the present requirements and likely future needs of any and all space flight facilities~~
68 ~~located within the Commonwealth or operated by the Authority. The Board shall submit a strategic plan~~
69 ~~to the Governor and the General Assembly no later than December 1, 2012, and such plan shall be~~
70 ~~updated every four years thereafter for its consideration and adoption a strategic plan for the Authority~~
71 ~~for at least the next six years. Such plan shall include the following:~~

72 *1. An analysis of the current operating performance of the Authority and trends in the aerospace*
73 *industry;*

74 *2. An analysis of the Authority's economic benefit and expected future performance over the term of*
75 *the plan;*

76 *3. An analysis and identification of opportunities to expand the Authority's market share in sectors of*
77 *the aerospace industry in which the Authority is active;*

78 *4. An analysis and identification of opportunities to expand the Authority's operations into other*
79 *sectors of the aerospace industry and other adjacent industries;*

80 *5. An implementation strategy based on the analyses required by subdivisions one through four;*

81 *6. A capital plan to support the implementation strategy; and*

82 *7. The establishment of performance indicators to be used for the Authority covering the term of the*
83 *plan.*

84 **§ 2.2-2204. Powers of the Authority.**

85 The Authority is granted all powers necessary or convenient for the carrying out of its statutory
86 purposes, including, but not limited to, the power to:

87 *1. Sue and be sued, implead and be impleaded, complain and defend in all courts;*

88 *2. Adopt, use, and alter at will a common seal;*

89 *3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest*
90 *therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or*
91 *dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein,*
92 *at any time acquired or held by the Authority on such terms and conditions as may be determined by*
93 *the Board;*

94 ~~4. Plan,~~ *Adopt a strategic plan pursuant to § 2.2-2203.2 and plan develop, undertake, carry out,*
95 *construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such*
96 *plan;*

97 *5. Adopt an annual budget for the Authority's capital improvements and operations;*

98 *6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business*
99 *shall be transacted and the manner in which the power of the Authority shall be exercised and its duties*
100 *performed. Such bylaws, rules, and regulations may provide for such committees and their functions as*
101 *the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt*
102 *from the Administrative Process Act (§ 2.2-4000 et seq.);*

103 *7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the*
104 *sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose*
105 *of providing for the payment of the expenses of the Authority; the planning, development, construction,*
106 *improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties;*
107 *the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal*
108 *of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of*
109 *the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the*
110 *terms and provisions of any agreements made with the purchasers or holders of any such obligations and*
111 *any other purposes as set forth in this article;*

112 *8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue*
113 *for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously*
114 *issued by the Authority, whether such outstanding bonds have matured or are then subject to*
115 *redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof,*
116 *by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any*
117 *project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein;*
118 *make such agreements with the purchasers or holders of such bonds or with others in connection with*
119 *any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to*
120 *provide for the security for said bonds and the rights of holders thereof. However, the total principal*
121 *amount of bonds, including refunding bonds, outstanding at any time shall not exceed \$50 million,*

excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. 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 article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

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

2. That § 2.2-2203.1 of the Code of Virginia is repealed.

3. That the provisions of this act shall not be construed to affect existing appointments to the Commercial Space Flight Authority for terms that have not expired.

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