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SENATE BILL NO. 1574

Offered January 20, 2017

A *BILL to amend and reenact § 60.2-114 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3; and to repeal § 2.2-2235 of the Code of Virginia, relating to the Virginia Economic Development Partnership Authority; membership; powers and duties.*

Patrons—Ruff and Hanger

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 60.2-114 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3 as follows:

§ 2.2-2235.1. Board of directors; members and officers; Chief Executive Officer.

A. *The Authority shall be governed by a board of directors (the Board) consisting of the Chairman of the Virginia Growth and Opportunity Board, or his designee, serving as an ex officio, voting member, and 13 members to be appointed as follows:*

1. *Seven nonlegislative citizen members appointed by the Governor; and*

2. *Six nonlegislative citizen members appointed by the Joint Rules Committee.*

B. *From the nonlegislative citizen membership, including the Chairman of the Virginia Growth and Opportunity Board and the 13 appointed nonlegislative citizen members, each of the regions designated by the Virginia Growth and Opportunity Board pursuant to § 2.2-2486 shall be represented. Additionally, the 13 appointed nonlegislative citizen members shall possess minimum qualifications and competencies as follows:*

1. *Of the seven nonlegislative citizen members appointed by the Governor, one member shall be a member of the Governor's cabinet or the Lieutenant Governor, one member shall possess technology sector expertise, one member shall possess marketing expertise, one member shall possess international trade expertise, one member shall possess finance or grant administration expertise, one member shall possess business law expertise, and one member shall possess manufacturing sector expertise; and*

2. *Of the six nonlegislative citizen members appointed by the Joint Rules Committee, at least one member shall possess expertise in measuring the effectiveness of incentive programs, at least one member shall be an entrepreneur who has started his own business, at least one member shall possess state, regional, or local economic development expertise, at least one member shall possess expertise in pharmaceutical production or health care, and at least one member shall be from a rural area of the Commonwealth.*

C. *Members shall serve terms of six years, except that ex officio members of the Board shall serve terms coincident with their terms of office. No member shall be eligible to serve more than two terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.*

D. *Members of the Board shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.*

E. *The Board shall be deemed a supervisory board within the meaning of § 2.2-2100.*

F. *The Board shall elect a chairman and a vice-chairman from its membership and shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Board may also form advisory committees, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board.*

G. *A majority of the 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 the rights and perform all duties of the Authority. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.*

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SB1574

59 *H. The Board shall appoint the chief executive officer of the Authority, who shall not be a member*
60 *of the Board, whose title shall be President and Chief Executive Officer and may be referred to as the*
61 *President or as the Chief Executive Officer and who shall serve at the pleasure of the Board and carry*
62 *out such powers and duties conferred upon him by the Board.*

63 **§ 2.2-2236.1. Internal auditor; duties.**

64 *A. The Board shall appoint an internal auditor, who shall not be a member of the Board and who*
65 *shall report directly to the Board. The internal auditor shall have the following duties:*

66 *1. Perform periodic audits, as deemed advisable by the internal auditor, on all operations, accounts,*
67 *and transactions of the Authority, including the Division of Incentives, and report its findings to the*
68 *Board; and*

69 *2. Perform annual audits on all operations, accounts, and transactions of the Authority, including the*
70 *Division of Incentives, and report its findings to the Board.*

71 *B. After review by the Board, a copy of the audit reports required by subsection A shall be submitted*
72 *to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance.*

73 **§ 2.2-2237.1. Board to develop strategic plan for economic development; marketing plan;**
74 **operational plan; submission.**

75 *A. The Board and the Chief Executive Officer shall develop and update biennially a strategic plan*
76 *for specific economic development activities for the Commonwealth as a whole. The strategic plan shall*
77 *be developed in conjunction with the development of the comprehensive economic development policy*
78 *required by § 2.2-205. The strategic plan of the Authority shall, at a minimum, include:*

79 *1. The identification of specific goals and objectives for the Authority and the development of*
80 *quantifiable metrics and performance measures for attaining each such goal and objective;*

81 *2. A systematic assessment of how the Authority can best add value in carrying out each of its*
82 *statutory powers and duties; and*

83 *3. Such other information deemed appropriate by the Board to ensure that the Authority fully*
84 *executes its powers and duties.*

85 *B. The Authority shall report annually on its strategic plan and its progress toward meeting the*
86 *goals and objectives as stated in the strategic plan to the chairmen of the House Committee on*
87 *Appropriations and the Senate Committee on Finance. Any modifications to the strategic plan shall be*
88 *promptly submitted to the chairmen of the House Committee on Appropriations and the Senate*
89 *Committee on Finance.*

90 *C. The Board shall include in its strategic planning process the participation of key economic*
91 *development partners, including state, regional, and local economic development agencies and*
92 *organizations and international trade organizations.*

93 *D. In addition, the Board and the Chief Executive Officer shall develop and update biennially:*

94 *1. A marketing plan for the Commonwealth as a whole. The marketing plan of the Authority shall, at*
95 *a minimum, include:*

96 *a. Identification of the Authority's specific and measurable marketing goals, and the timetable to*
97 *achieve such goals;*

98 *b. Identification of specific marketing activities;*

99 *c. The resources and staff allocated to such marketing activities; and*

100 *d. The development of quantifiable metrics and performance measures for attaining each such goal.*

101 *The Authority shall report annually on its marketing plan and its progress toward meeting the goals*
102 *and objectives as stated in the marketing plan to the chairmen of the House Committee on*
103 *Appropriations and the Senate Committee on Finance. Any modifications to the marketing plan shall be*
104 *promptly submitted to the chairmen of the House Committee on Appropriations and the Senate*
105 *Committee on Finance; and*

106 *2. An operational plan for carrying out the powers and duties of the Authority. Such plan shall*
107 *include a process to evaluate the Authority's effectiveness in exercising the powers and duties conferred*
108 *by this article, including the Authority's ability to work with other state, regional, and local economic*
109 *development organizations and international trade organizations. The Authority shall report annually on*
110 *its operational plan and its progress toward meeting the goals and objectives as stated in the*
111 *operational plan to the chairmen of the House Committee on Appropriations and the Senate Committee*
112 *on Finance. Any modifications to the operational plan shall be promptly submitted to the chairmen of*
113 *the House Committee on Appropriations and the Senate Committee on Finance.*

114 *E. The strategic and marketing plans required by this section shall not be exempt from disclosure*
115 *pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

116 **§ 2.2-2237.2. Office of the Attorney General to provide instruction to Board.**

117 *The Attorney General or his designee assigned as counsel to the Board shall provide instruction to*
118 *the Board on its responsibilities and obligations as a supervisory board within 30 days after the initial*
119 *appointment of members of the Board. Thereafter, such counsel shall provide such instruction biennially.*

120 **§ 2.2-2237.3. Division of Incentives.**

Within the Authority shall be created a Division of Incentives that shall be responsible for tracking, managing, and coordinating the economic development incentives offered by the Commonwealth and each locality for each approved project. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. Notwithstanding any other provision of law, approval of both the Board and the MEI Project Approval Commission shall be required to grant any additional extensions.

§ 2.2-2239.1. Advisory Committee on Business Development and Marketing.

A. The Board shall establish an Advisory Committee on Business Development and Marketing (the Advisory Committee) consisting of nine nonlegislative citizen members representing the regions designated by the Virginia Growth and Opportunity Board in accordance with § 2.2-2486 as follows:

1. Five nonlegislative citizen members possessing experience or expertise in business development or marketing, to be appointed by the Governor and approved by the General Assembly; and

2. Four nonlegislative citizen members possessing experience or expertise in business development or marketing to be appointed by the Joint Rules Committee.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Advisory Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Staffing of the Advisory Committee shall be provided by the Authority. The Advisory Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

B. The Advisory Committee shall advise the Board on all matters relating to business development and marketing and shall make such recommendations as it may deem desirable.

§ 2.2-2239.2. Advisory Committee on International Trade.

A. The Board shall establish an Advisory Committee on International Trade (the Advisory Committee) consisting of the Secretary of Agriculture and Forestry, serving as an ex officio member with voting privileges and whose term is coincident with his term of office, and eight nonlegislative citizen members as follows:

1. One member who is a member of the Board of Commissioners of the Virginia Port Authority, and three nonlegislative citizen members possessing experience or expertise in international trade or trade promotion to be appointed by the Governor and approved by the General Assembly; and

2. Four nonlegislative citizen members possessing experience or expertise in international trade or trade promotion to be appointed by the Joint Rules Committee.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Advisory Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Staffing of the Advisory Committee shall be provided by the Authority. The Advisory Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

B. The Advisory Committee shall advise the Board on all matters relating to international trade and trade promotion and shall make such recommendations as it may deem desirable.

§ 58.1-3122.3. Commissioners to provide certain information to the Virginia Economic Development Partnership Authority; confidentiality of such information.

A. Each commissioner of the revenue shall provide to the Virginia Economic Development Partnership Authority (the Authority), upon entering into a written agreement, such tax information as may be necessary to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards, the provisions of § 58.1-3 notwithstanding.

B. Any tax information provided to the Authority under this section shall be confidential and shall not be divulged by the Authority. Any tax information so provided shall be used by the Authority solely for the purpose of verifying capital investment claims of those businesses that have received incentive awards.

§ 60.2-114. Records and reports.

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with

182 respect to persons employed by it, which the Commission deems necessary for the effective
183 administration of this title. Information thus obtained shall not be published or be open to public
184 inspection, other than to public employees in the performance of their public duties, in any manner
185 revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate,
186 nor shall such information be used in any judicial or administrative proceeding other than one arising
187 out of the provisions of this title; however, the Commission shall make its records about a claimant
188 available to the Workers' Compensation Commission if it requests such records. However, any claimant
189 at a hearing before an appeal tribunal or the Commission shall be supplied with information from such
190 records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions
191 of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such
192 communication is not inconsistent with the proper administration of this title.

193 B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis,
194 furnish wage and unemployment compensation information contained in its records to the Secretary of
195 Health and Human Services and the Division of Child Support Enforcement of the Department of Social
196 Services for their use as necessary for the purposes of the National Directory of New Hires established
197 under § 453 (i) of the Social Security Act.

198 C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request,
199 furnish any:

200 1. Any agency or political subdivision of the Commonwealth, or its designated agent, such
201 information as it may require for the purpose of collecting fines, penalties, and costs owed to the
202 Commonwealth or its political subdivisions. Such information shall not be published or used in any
203 administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties,
204 and costs owed to the Commonwealth or its political subdivisions; and

205 2. *The Virginia Economic Development Partnership Authority such information as it may require to*
206 *facilitate the administration and enforcement by the Authority of performance agreements with*
207 *businesses that have received incentive awards. Any information provided to the Authority under this*
208 *subdivision shall be confidential and shall not be divulged by the Authority. Any information so*
209 *provided shall be used by the Authority solely for the purpose of verifying employment and wage claims*
210 *of those businesses that have received incentive awards.*

211 D. Each employing unit shall report to the Virginia New Hire Reporting Center the employment of
212 any newly hired employee in compliance with § 63.2-1946.

213 E. Any member or employee of the Commission and any member, employee, or agent of any agency
214 or political subdivision of the Commonwealth who violates any provision of this section shall be guilty
215 of a Class 2 misdemeanor.

216 2. That § 2.2-2235 of the Code of Virginia is repealed.

217 3. That the term of any person serving as a member of the board of directors of the Virginia
218 Economic Development Partnership Authority on January 1, 2017, that is set to expire on
219 December 31, 2017, shall expire on July 1, 2017.

220 4. That notwithstanding the provisions of § 2.2-2235.1 of the Code of Virginia, as created by this
221 act, the term of any person serving as a member of the board of directors of the Virginia
222 Economic Development Partnership Authority on January 1, 2017, that is set to expire in 2019
223 shall expire on June 30, 2019. When such term expires, members shall be appointed in accordance
224 with the provisions of § 2.2-2235.1 as follows: two nonlegislative citizen members appointed by the
225 Governor and two nonlegislative citizen members appointed by the Joint Rules Committee. Such
226 nonlegislative citizen members shall be appointed for terms that expire on June 30, 2025.

227 5. That notwithstanding the provisions of § 2.2-2235.1 of the Code of Virginia, as created by this
228 act, the term of any person serving as a member of the board of directors of the Virginia
229 Economic Development Partnership Authority on January 1, 2017, that is set to expire in 2021
230 shall expire on June 30, 2018. When such term expires on June 30, 2018, members shall be
231 appointed in accordance with the provisions of § 2.2-2235.1 as follows: four nonlegislative citizen
232 members appointed by the Governor and two nonlegislative citizen member appointed the Joint
233 Rules Committee. Such nonlegislative citizen members shall be appointed for terms that expire on
234 June 30, 2024.

235 6. That notwithstanding the provisions of § 2.2-2235.1 of the Code of Virginia, as created by this
236 act, the term of any person serving as a member of the board of directors of the Virginia
237 Economic Development Partnership Authority on January 1, 2017, that is set to expire in 2022
238 shall expire on June 30, 2020. When such term expires on June 30, 2020, two nonlegislative citizen
239 members shall be appointed by the Joint Rules Committee in accordance with the provisions of
240 § 2.2-2235.1. Such nonlegislative citizen members shall be appointed for terms that expire on June
241 30, 2026.

242 7. That any current member of the board of directors of the Virginia Economic Development
243 Partnership Authority is eligible for reappointment in accordance with the provisions of this act,

244 provided that such member meets the qualifications set forth in § 2.2-2235.1 of the Code of
245 Virginia, as created by this act.

246 8. That the initial appointments of the Advisory Committee on Business Development and
247 Marketing made in accordance with the provisions of this act shall be staggered as follows: (i) of
248 the five nonlegislative citizen members appointed by the Governor, two shall be appointed for a
249 term of two years, two shall be appointed for terms of three years, and one shall be appointed for
250 a term of four years and (ii) of the four nonlegislative citizen members appointed by the Joint
251 Rules Committee, two shall be appointed for terms of three years and two shall be appointed for a
252 term of four years. Thereafter, the terms of members of the Advisory Committee on Business
253 Development and Marketing shall be four years.

254 9. That the initial appointments of the Advisory Committee on International Trade made in
255 accordance with the provisions of this act shall be staggered as follows: (i) of the three
256 nonlegislative citizen members appointed by the Governor, one shall be appointed for a term of
257 one year, one shall be appointed for a term of two years, and one shall be appointed for a term of
258 three years and the member of the Board of Commissioners of the Virginia Port Authority shall
259 serve a term of four years and (ii) of the four nonlegislative citizen members appointed by the
260 Joint Rules Committee, one shall be appointed for a term of one year, one shall be appointed for a
261 term of three years and two shall be appointed for terms of four years. Thereafter, the terms of
262 members of the Advisory Committee on International Trade shall be four years.