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SENATE BILL NO. 471

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact §§ 2.2-2260, 2.2-2261, and 2.2-2263 of the Code of Virginia, relating to the Virginia Public Building Authority Act of 1981; Military Mission Improvement and Expansion projects.*

Patrons—Reeves; Delegate: Bell, John J.

Referred to Committee on General Laws and Technology**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-2260, 2.2-2261, and 2.2-2263 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2260. Short title; definitions.

A. This article may be cited as Virginia Public Building Authority Act of 1981.

B. As used in this article, unless the context requires a different meaning:

"Construction" or "to construct" means acquisition and construction, all in such manner as may be deemed desirable.

"Cost" means as applied to a project financed under the provisions of this article, the sum total of all costs reasonable and necessary for carrying out all works and undertakings necessary or incident to accomplish a project, including, but not limited to the cost of all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the vendor of such land, buildings or improvements, site preparation and development including demolition or removal of existing structures, construction, and reconstruction, furnishing of a project, the reasonable cost of financing incurred in the course of the development of a project, carrying charges during construction to the occupancy date, interest on bonds issued to finance a project to a date subsequent to the estimated date of completion of a project, necessary expenses incurred in connection with the initial occupancy of a project, the cost of reimbursing the Central Capital Planning Fund, established under § 2.2-1520, for payments made for pre-planning or detailed planning of all projects that have been approved for construction by the General Assembly, the funding of such funds and accounts as the Authority determines to be reasonable and necessary and the cost of such other items as the Authority determines to be reasonable and necessary.

"Fixtures" and "furnishings" means any fixtures, leasehold improvements, equipment, office furniture and furnishings whatsoever necessary or desirable for the use and occupancy of such project, and the terms "to furnish" and "furnishing" means the acquisition and installation of such fixtures, equipment and furnishings.

"Improvement" or "to improve" means extension, enlargement, improvement, and renovation, all in such manner as may be deemed desirable.

"Major Employment and Investment project" or "MEI project" means a high-impact regional economic development project in which a private entity is expected to make a capital investment in real and tangible personal property exceeding \$250 million and create more than 400 new full-time jobs, and is expected to have a substantial direct and indirect economic impact on surrounding communities.

"Military Mission Improvement and Expansion project" or "MMIE project" means a project recommended by the Commission on Military Installations and Defense Activities, or a successor entity, and approved by the Governor to improve, expand, develop, or redevelop a federal or state military installation or its supporting infrastructure in order to enhance its military value, including base realignment preparation and mitigation, state acquisition of or grants to regional or local governments to acquire property or property interests adjoining military installations to address or mitigate encroachment, and the costs to acquire, construct, improve, undertake, or otherwise develop transportation, communications, utilities, housing, environmental, security, or cybersecurity infrastructure at the state, regional, or local level.

"Personal property" means all items of equipment, fixtures, and furnishings, including items affixed to real property.

"Project" means any structure, facility, personal property or undertaking that the Authority is authorized to finance, refinance, construct, improve, furnish, equip, maintain, acquire, or operate under the provisions of this article, including an MEI project or MMIE project.

§ 2.2-2261. Virginia Public Building Authority created; purpose; membership; terms; expenses;

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59 staff.

60 There is created a political subdivision of the Commonwealth to be known as the "Virginia Public
61 Building Authority-" (*the Authority*). The Authority is created for the purpose of constructing, improving,
62 furnishing, maintaining, acquiring, financing, refinancing, and operating public buildings for the use of
63 the Commonwealth (~~heretofore or hereafter constructed~~), state arsenals, armories, and military reserves,
64 state institutions of every kind and character (~~heretofore and hereafter constructed~~), additions and
65 improvements to public institutions of higher education, including land grant colleges and medical
66 colleges, and the purchase of lands for rehabilitation purposes in connection with state institutions and
67 for use of state colleges, and museum facilities for a trust instrumentality of the United States, and the
68 purchase of lands for the development of public buildings that may be authorized by the General
69 Assembly in the future, the acquisition of items of personal property for the use of the Commonwealth,
70 the constructing, improving, maintaining, acquiring, financing, and refinancing of major information
71 technology projects as defined in § 2.2-2006, the financing or refinancing of capital projects that benefit
72 the Commonwealth and any of its agencies, authorities, boards, departments, instrumentalities,
73 institutions, or regional or local authorities, the provision of financing on behalf of any of the
74 Commonwealth's agencies, authorities, boards, departments, instrumentalities, institutions, or regional or
75 local authorities or governments of land, buildings, infrastructure, ~~and~~ improvements, *and other costs* for
76 the benefit of an MEI project incentive package endorsed by the MEI Project Approval Commission
77 created pursuant to § 30-309, and *for the benefit of an MMIE project recommended by the Commission*
78 *on Military Installations and Defense Activities, or a successor entity, and approved by the Governor,*
79 the financing or refinancing of reimbursements to localities or governmental entities of all or any portion
80 of the Commonwealth's share of the costs for capital projects made pursuant to other applicable
81 provisions of Virginia law, and the refinancing of (i) obligations issued by other state and local
82 authorities or political subdivisions of the Commonwealth where such obligations are secured by a lease
83 or other payment agreement with the Commonwealth or (ii) the Commonwealth's obligations under such
84 leases or payment agreements, the purpose and intent of this article being to benefit the people of the
85 Commonwealth by, among other things, increasing their commerce and prosperity.

86 The Authority shall be comprised of the State Treasurer or his designee, the State Comptroller, and
87 five additional members appointed by the Governor, subject to confirmation by the General Assembly,
88 who shall serve at the pleasure of the Governor. Unconfirmed appointments shall expire 30 days after
89 the convening of the General Assembly. Members of the Authority shall be entitled to no compensation
90 for their services as members, but shall be reimbursed for all reasonable and necessary expenses incurred
91 in the discharge of their duties as provided in § 2.2-2825. The term of each member appointed by the
92 Governor shall be five years.

93 Vacancies in the membership of the Authority shall be filled by appointment for the unexpired
94 portion of the term. The Governor shall designate one member of the Authority as chairman who shall
95 serve a two-year term. No member shall be eligible to serve more than two consecutive terms as
96 chairman. The Department of the Treasury shall serve as staff to the Authority.

97 **§ 2.2-2263. Powers and duties of Authority; limitations.**

98 A. The Authority is granted all powers necessary or convenient for carrying out its purposes,
99 including, but not limited to, the following powers to:

- 100 1. Have perpetual existence as a corporation.
- 101 2. Sue and be sued, implead and be impleaded, complain and defend in all courts.
- 102 3. Adopt, use, and alter at will a corporate seal.
- 103 4. Acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or
104 any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee,
105 with the approval of the Governor, any property, real, personal or mixed, or any interest therein for a
106 term not exceeding 99 years at a nominal rental or at such annual rental as may be determined; with the
107 approval of the Governor, lease as lessor to the Commonwealth and any city, county, town or other
108 political subdivision, or any agency, department, or public body of the Commonwealth, or land grant
109 college, any project at any time constructed by the Authority and any property, real, personal or mixed,
110 tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or
111 partially completed; with the approval of the Governor, sell, transfer and convey to the Commonwealth,
112 any project at any time constructed by the Authority; and, with the approval of the Governor, sell,
113 transfer and convey any property, real, personal or mixed, tangible or intangible, or any interest therein,
114 at any time acquired by the Authority.
- 115 5. Acquire by purchase, lease, or otherwise, and construct, improve, furnish, maintain, repair, and
116 operate projects.
- 117 6. Adopt bylaws for the management and regulation of its affairs.
- 118 7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or for
119 the services rendered by, the Authority, or projects thereof, at reasonable rates to be determined by it for
120 the purpose of providing for the payment of the expenses of the Authority, the construction,

improvement, repair, furnishing, maintenance, and operation of its facilities and properties, the payment of the principal of and interest on its bonds, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such bonds.

8. Borrow money; make and issue bonds of the Authority and such bonds as the Authority may determine to issue for the purpose of refunding obligations previously issued by the Authority; secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable; and in general, provide for the security for the bonds and the rights of holders thereof.

The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year containing, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30.

9. Make contracts of every name and nature, and to execute all instruments necessary or convenient to carry out its business.

10. Borrow money and accept grants from, and enter into contracts, leases or other transactions with, any federal agency.

11. Have the power of eminent domain.

12. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the bonds of the Authority.

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

14. Acquire, by assignment from the Commonwealth or the Virginia Retirement System, all contracts, including those that are not completed, which involve constructing, improving, furnishing, maintaining, and operating the structures, facilities, or undertakings similar to those designated herein as projects.

15. Enter into contractual agreements with localities or governmental entities undertaking a capital project that benefits the Commonwealth for which the financing or refinancing of reimbursements of all or any portion of the Commonwealth's share of the costs of such project will be made pursuant to other applicable provisions of Virginia law.

16. Provide for the financing or assist in the financing by any of the Commonwealth's agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities or governments of land, buildings, infrastructure, and improvements for the benefit of an MEI project incentive package endorsed by the MEI Project Approval Commission created pursuant to § 30-309.

17. Provide for the financing or assist in the financing by any of the Commonwealth's agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities or governments of land, buildings, infrastructure, and other costs in connection with an MMIE project.

B. The Authority shall not undertake or finance or refinance any projects ~~or MEI projects~~ that are not specifically included in a bill or resolution passed by a majority of those elected to each house of the General Assembly, authorizing such projects ~~or MEI projects~~ or the reimbursement of all or any portion of the Commonwealth's share of the costs of such projects ~~or MEI projects~~ and, as to any project relating to a public institution of higher education in the Commonwealth, not specifically designated by the governing board of that institution as a project to be undertaken by the Authority.

C. Except as otherwise provided by law, when projects are to be constructed, improved, furnished, maintained, repaired or operated for the use of any department of the Commonwealth, no plans or specifications therefor shall be presented for quotations or bids until the plans and specifications have been submitted to and approved by the Department of General Services and any other department of the Commonwealth having any jurisdiction over the projects, so that the project will conform to standards established by such departments.