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SENATE BILL NO. 821

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on February 6, 2018)

(Patron Prior to Substitute—Senator Edwards)

A BILL to amend and reenact §§ 3, 20, 28, and 29 of Chapter 638 of the Acts of Assembly of 2010, relating to the New River Valley Emergency Communications Regional Authority; annual contributions.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3, 20, 28, and 29 of Chapter 638 of the Acts of Assembly of 2010 are amended and reenacted as follows:

§ 3. Definitions.

As used in this act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the New River Valley Emergency Communications Regional Authority Act.

"Annual ~~deficit~~ budget" means the amount of budgeted expenditures ~~in excess of anticipated revenues from necessary~~ each fiscal year for the payment of operations or capital budgets.

"Annual contribution" means the portion of the annual budget attributable to each participating political subdivision for each fiscal year.

"Authority" means the New River Valley Emergency Communications Regional Authority created by this Act.

"Board" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, grant obligations, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all buildings, structures, or facilities purchased, constructed, or otherwise acquired or operated by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivisions" means the Towns of Blacksburg and Christiansburg, the County of Montgomery, and Virginia Polytechnic Institute and State University or any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

"Political subdivision" means a county, city, town, public body, public authority, institution (including an institution of higher education), or commission of the Commonwealth.

"University" means Virginia Polytechnic Institute and State University.

§ 20. Annual ~~deficit~~ budget.

A. The Board shall have full authority to adopt its ~~operating and capital budgets~~ annual budget on an annual fiscal year (July 1 through June 30) basis, ~~and to amend the same from time to time, and for the annual deficit to be divided among all participating political subdivisions.~~

B. The Board shall have the full authority to develop and adopt a formula for allocating to the participating political subdivisions the responsibility to pay for the annual budget. Such allocation formula shall be presented to the participating political subdivisions on or before February 1, 2019. The participating political subdivisions shall consider and make a decision as to the approval of the allocation formula on or before May 1, 2019. If each of the participating political subdivisions approves the allocation formula, each shall pay its annual contribution as allocated by the formula. If all participating political subdivisions do not approve the application formula by July 1, 2019, each participating political subdivision's annual contribution shall be equal to the Authority's annual budget for fiscal year 2019 divided by the number of participating political subdivisions and shall continue to be so calculated for each fiscal year thereafter unless and until an allocation formula is approved by each participating political subdivision. Once approved by each participating political subdivision, the Board shall use the allocation formula to determine each political subdivision's annual contribution. The Board shall have full authority to amend the allocation formula, but any amendment shall be submitted to each participating political subdivision on or before the next February 1 after the amendment is adopted by the Board and shall be approved by each political subdivision by the May 1 preceding the fiscal year in which the amendment is to go into effect.

C. Each participating political subdivision shall contribute its ~~respective one-quarter share of the annual deficit~~ annual contribution each year and otherwise as required; however, such obligation shall

60 be subject to and dependent upon annual appropriations being made from time to time by the governing
61 body of each such respective participating political subdivision, and as to the university by normal
62 approval of appropriations, and shall not be deemed to constitute a debt of such participating political
63 subdivisions within the meaning of Article VII, Section 10 of the Constitution of Virginia, and as to the
64 university, within the meaning of Article X, Section 9 of the Constitution of Virginia, or any applicable
65 statutory debt limitation. Should any participating political subdivision fail to contribute in full its
66 ~~proportionate share of the annual deficit contribution~~, it shall remain a member of the Authority, but its
67 representative on the Board shall not be entitled to cast a vote on any Authority matter until that
68 participating political subdivision's ~~share of the annual deficit contribution~~ has been paid in full. Further,
69 should any participating political subdivision fail to contribute in full its ~~proportionate share of the~~
70 ~~annual deficit contribution~~, the Authority shall have a lien on any share of the Authority's profit or
71 surplus revenues otherwise entitled to be distributed to the participating political subdivision. A
72 participating political subdivision may contribute a portion or all of its ~~share of the annual deficit~~
73 ~~contribution~~ through "in-kind" contributions, subject to the approval of such contribution and valuation
74 by the Authority.

75 § 28. Withdrawal of membership.

76 A participating political subdivision may withdraw its membership in the Authority at the end of any
77 fiscal year if the withdrawing participating political subdivision has given notice to the Authority and all
78 other participating political subdivisions of its intention to withdraw at least one year before the end of
79 such fiscal year and the withdrawing participating political subdivision has paid in full its ~~share of the~~
80 ~~annual deficit contribution~~, if any; provided that no anticipating political subdivision may withdraw its
81 membership in the Authority if the Authority has any outstanding debt without written approval of each
82 participating political subdivision. As used in this section, the term "debt" shall mean a monetary
83 obligation, whether general or limited in any way, to repay a loan or bond, or any long-term obligation,
84 whether absolute or contingent in any way, to refund or reimburse any agency or entity for grant funds
85 received by the Authority.

86 § 29. Dissolution of Authority.

87 Whenever it shall appear to the Board or to all participating political subdivisions that the need for
88 the Authority no longer exists, all participating political subdivisions may petition the Circuit Court of
89 Montgomery County, Virginia, for the dissolution of the Authority. If the court determines that the need
90 for the Authority as set forth in this Act no longer exists and that all debts and other obligations of any
91 kind have been fully paid or provided for:

92 1. The Court shall enter an order dissolving the Authority; and

93 2. The remaining assets of the Authority shall be distributed to the participating political subdivisions
94 in proportion to their respective ~~shares of the annual deficit contributions~~ less any amounts owed to the
95 Authority by *each* such participating political subdivision.

96 Each participating political subdivision and all holders of the Authority's bonds shall be made parties
97 to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to
98 such petition at any time within six months after the filing of the petition. An appeal from the final
99 judgment of the court shall lie to the Supreme Court of Virginia.