

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 269

*An Act to amend and reenact §§ 2.2-2336 and 2.2-2905 of the Code of Virginia, relating to the Fort Monroe Authority; exemption from the Virginia Personnel Act.*

[S 980]

Approved March 10, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2336 and 2.2-2905 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2336. Short title; declaration of public purpose; Fort Monroe Authority created; successor in interest to Fort Monroe Federal Area Development Authority.**

A. This article shall be known and may be cited as the Fort Monroe Authority Act.

B. The General Assembly finds and declares that:

1. Fort Monroe, located on a barrier spit at Hampton Roads Harbor and the southern end of Chesapeake Bay where the Old Point Comfort lighthouse has been welcoming ships since 1802, is one of the Commonwealth's most important cultural treasures. Strategically located near Virginia's Historic Triangle of Williamsburg, Yorktown, and Jamestown, the 565-acre site has been designated a National Historic Landmark District;

2. As a result of decisions made by the federal Defense Base Closure and Realignment Commission (known as the BRAC Commission), Fort Monroe will cease to be an army base in 2011, and at that time most of the site will revert to the Commonwealth;

3. The planning phase of Fort Monroe's transition from use as a United States Army base was managed by the Fort Monroe Federal Area Development Authority (FMFADA), originally established by the City of Hampton pursuant to legislation enacted by the General Assembly in 2007. The Fort Monroe Federal Area Development Authority, a partnership between the City and the Commonwealth, has fulfilled its primary purpose of formulating a reuse plan for Fort Monroe;

4. It is the policy of the Commonwealth to protect the historic resources at Fort Monroe, provide public access to the Fort's historic resources and recreational opportunities, exercise exemplary stewardship of the Fort's natural resources, and maintain Fort Monroe in perpetuity as a place that is a desirable one in which to reside, do business, and visit, all in a way that is economically sustainable;

5. Fort Monroe's status is unique. Municipal services will need to be provided to Fort Monroe's visitors, residents, and businesses. Both the Commonwealth and the FMFADA are signatories to a Programmatic Agreement under Section 106 of the National Historic Preservation Act that requires several specific actions be taken, including the enforcement of design standards to be adopted by the FMFADA or its successor to govern any new development or building restoration or renovation at Fort Monroe. There exists a need for an entity that can manage the property for the Commonwealth and ensure adherence to the findings, declarations, and policies set forth in this section; and

6. The creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth.

C. The Fort Monroe Authority is created, with the duties and powers 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 duties and powers conferred by this article shall be deemed and held to be the performance of an essential governmental function of the Commonwealth. The exercise of the powers granted by this article and its public purpose shall be in all respects for the benefit of the inhabitants of the Commonwealth.

D. The Fort Monroe Authority is the successor in interest to that political subdivision formerly known as the Fort Monroe Federal Area Development Authority. As such, the Authority stands in the place and stead of, and assumes all rights and duties formerly of, the Fort Monroe Federal Area Development Authority, including but not limited to all leases, contracts, grants-in-aid, and all other agreements of whatsoever nature; holds title to all realty and personalty formerly held by the Fort Monroe Federal Area Development Authority; and may exercise all powers that might at any time past have been exercised by the Fort Monroe Federal Area Development Authority, including the powers and authorities of a Local Redevelopment Authority under the provisions of any and all applicable federal laws, including the Defense Base Closure and Realignment Act of 2005.

E. The Fort Monroe Authority shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and the Board shall adopt procedures consistent with that Act to govern its procurement processes.

F. Employees of the Fort Monroe Authority shall be eligible for membership in the Virginia Retirement System and all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

*G. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) shall not apply to the Fort Monroe Authority.*

**§ 2.2-2905. Certain officers and employees exempt from chapter.**

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard;
10. Student employees at institutions of higher education and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees compensated on an hourly or daily basis;
12. County, city, town, and district officers, deputies, assistants, and employees;
13. The employees of the Virginia Workers' Compensation Commission;
14. The officers and employees of the Virginia Retirement System;
15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of the Department of Human Resource Management as requiring specialized and professional training;
16. Employees of the Virginia Lottery;
17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and service industries who have a human resources classification of industry worker;
18. Employees of the Virginia Commonwealth University Health System Authority;
19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
22. Officers and employees of the Virginia Port Authority;
23. Employees of the Virginia College Savings Plan;
24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;
26. Employees of the Virginia Indigent Defense Commission;
27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809; ~~and~~
28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority; *and*
29. *Officers and employees of the Fort Monroe Authority.*