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HOUSE BILL NO. 1696

Offered January 17, 2020

A BILL to amend and reenact §§ 2, 4, 5, 7, 10, 16, 17, 23, and 27 of Chapter 812 of the Acts of Assembly of 2007, relating to Virginia's Region 2000 Airport Authority.

Patron—Byron (By Request)

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 2, 4, 5, 7, 10, 16, 17, 23, and 27 of Chapter 812 of the Acts of Assembly of 2007 are amended and reenacted as follows:

§ 2. Creation; public purpose.

If (i) the governing body of the City of Lynchburg or (ii) the governing body of the City of Lynchburg and the governing bodies of one or more of the Counties of Amherst, Appomattox, Bedford, and Campbell by resolution declare that there is a need for an airport authority to be created for the purpose of establishing or operating an airport for such participating political subdivisions, and, if one or more such counties elects to participate in the establishment of an authority, that they should unite in its formation, an airport authority to be known as Virginia's Region 2000 Airport Authority (the Authority) shall thereupon exist for such participating city and any such participating counties and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Virginia's Region 2000 Airport Authority, such Authority shall be conclusively deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such counties, if any, and the governing body of the city declaring that there is a need for such Authority and, if one or more such counties elect to participate in the establishment of the Authority, that they should unite in its formation. A copy of such resolution duly certified by the respective clerks of each of the counties, if any, and city by which it is adopted shall be admissible as evidence in any suit, action, or proceedings. Any political subdivision of the Commonwealth, all or part of which is located within 60 miles of an Authority facility, is authorized to join such Authority pursuant to the terms and conditions of this Act.

It is hereby declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. It is also declared that the promotion and stimulation of industry and trade to induce the location, retention, and expansion of manufacturing, industrial, governmental, and commercial enterprises and institutions in the Authority's participating political subdivisions, and to vest the Authority with all powers that may be necessary to enable it to accomplish these purposes, are essential governmental functions and public purposes and are for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce or through the promotion of their safety, health, welfare, convenience, or prosperity. It is further declared that contract obligations of a city or town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such city or town for purposes of calculating debt limit pursuant to Article VII, Section 10 (a) of the Constitution of Virginia. It is further declared that the Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Article VII, Section 10 (b) of the Constitution of Virginia.

§ 4. Participating political subdivision.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the Authority and any other participating political subdivisions setting forth the participation arrangements to be made by such political subdivision to the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any other political subdivision.

§ 5. Appointment and tenure of a Board of Directors.

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HB1696

59 The powers of the Authority shall be vested in the directors thereof in office from time to time. The
60 governing body of each participating political subdivision shall appoint the number of directors, as
61 agreed by the participating political subdivisions, *if more than one political subdivision has become a*
62 *participating political subdivision*. The governing body of each political subdivision shall be empowered
63 to remove at any time, without cause, any director appointed by it and appoint a successor director to
64 fill the unexpired portion of the removed director's term. Each director may be reimbursed by the
65 Authority for the amount of actual expenses incurred by him in the performance of his duties.

66 § 7. Powers.

67 The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this
68 Act, including, for purposes of illustration, the following:

69 1. To sue and be sued in its own name;

70 2. To have perpetual succession;

71 3. To adopt a corporate seal and alter the same at its pleasure;

72 4. To maintain offices at such places as it may designate in the City of Lynchburg or the County of
73 Campbell;

74 5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate any
75 airport, air landing fields, structures, navigation facilities, and other property incidental thereto within the
76 territorial limits of the participating political subdivisions subject to the limitation that such power shall
77 be limited to such items as may be necessary for the operation of the Lynchburg Regional Airport;

78 6. To construct, install, maintain, and operate facilities for the servicing and storage of aircraft and
79 for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of
80 air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment
81 and supplies incidental to the operation of its airport facilities;

82 7. To grant to others the privilege to operate for profit concessions, leases, and franchises, including
83 but not limited to the sale of airplanes, fuel, parts and equipment; maintenance of aircraft; the
84 accommodation and comfort of persons using its facilities and the providing of ground transportation
85 and parking facilities for such persons; and such concessions, leases, and franchises shall be exclusive or
86 limited, *to the extent permitted by Federal Aviation Administration Order 5190.6B*, when deemed by the
87 Authority necessary to further the public safety, improve the quality of air service, avoid duplication of
88 service or conserve airport property and the airport operation;

89 8. To determine fees, rates, and charges for the use of its facilities;

90 9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property, or
91 other financial assistance from the United States of America and agencies and instrumentalities thereof,
92 the Commonwealth and political subdivisions, agencies, and instrumentalities thereof, or any other
93 person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or
94 repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority,
95 interest thereon or other cost incident thereto, or in order to make loans in furtherance of the purposes
96 of this Act of such money, contributions, grants, and other financial assistance, and to this end the
97 Authority shall have the power to render such services, comply with such conditions, and execute such
98 agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a
99 condition to such financial aid;

100 10. To establish, operate, and maintain a business/industrial park;

101 11. To establish, operate, and maintain a foreign trade zone and otherwise to expedite and encourage
102 foreign commerce;

103 12. To appoint, employ, or engage such officers, employees, architects, engineers, attorneys,
104 accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may
105 be necessary or appropriate, and to fix their duties and compensation;

106 13. ~~To contract with a participating political subdivision for such subdivision to provide legal~~
107 ~~services, engineering services, depository and investment services contemplated by §-14, accounting~~
108 ~~services, including the annual independent audit required by §-12, procurement of goods and services,~~
109 ~~and to act as fiscal agent for the Authority. In the event of a contract for a participating political~~
110 ~~subdivision to act as fiscal agent, the Authority's employees shall be compensated, shall receive the same~~
111 ~~benefits, including pensions, and shall be subject to the personnel rules of said subdivision; [Repealed]~~

112 14. To establish personnel rules;

113 15. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest, or otherwise
114 acquire any property, real or personal, or any interest therein, and in connection therewith to assume or
115 take subject to any indebtedness secured by such property;

116 16. Subject to the provisions of any deed or deeds from the City of Lynchburg or the County of
117 Campbell to the Authority and any agreement or agreements among or between the Authority and any
118 participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or
119 otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the
120 public interest and in furtherance of the purposes of this Act or if such property is not necessary for the

purposes of the Authority;

17. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities, and to charge and collect rent and other fees and charges under any such lease, contract, and other arrangement with respect to such facilities;

18. a. To borrow money, including the issuance of bonds, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

b. The total indebtedness of the Authority at no time shall exceed the amount of \$5,000,000, in principal, whether by purchase of encumbered property, direct loan, bonded indebtedness, or debt in any other form except as agreed to by each participating political subdivision by resolution of the governing body thereof, in which case the total amount of indebtedness shall be expressed in the resolution of each such governing body.

19. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

20. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

21. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

22. To make loans or grants to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this Act, including for the purposes of promoting economic development, provided that such loans or grants shall be made only from revenues of the Authority that have not been pledged or assigned for the payment of any of the Authority's bonds, and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans and any security therefor. The Authority may forgive loans or other obligations if it is deemed to further economic development. The word "revenues" as used in this subdivision includes contributions, grants, and other financial assistance, as set out in subdivision 9; and

23. To do all things necessary or convenient to the purposes of this Act. However, the powers of the Authority expressed in this Act shall be limited to those powers necessary for the operation of the Lynchburg Regional Airport and a business/industrial park, *or any other governmental use of such facilities approved by the Board of Directors of the Authority*. To that end, property acquired, owned, or conveyed to the Authority, contracts entered into, financial assistance, indebtedness, rules and regulations adopted by the Authority, and any other actions thereof may only pertain to said airport or business/industrial park.

The grant of regulatory authority by this Act, including regulations that displace, eliminate, or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical, and efficient provision of air transportation and related facilities and services to the public.

§ 10. Police powers.

The Lynchburg Regional Airport police department and airport police officers shall be subject to and comply with all provisions and requirements of § 15.2-1123.1 of the Code of Virginia.

Authority employees meeting the minimum requirements of the Department of Criminal Justice Services shall be given police power by the circuit court of the political subdivision where the employee will normally be exercising enforcement authority. ~~The authority conferred upon such police officers shall be exercised only upon Authority facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2 of the Code of Virginia.~~

~~Such Airport~~ police officers shall have all powers vested in police officers under Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2 of the Code of Virginia and shall be responsible upon Authority facilities for enforcing Authority rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies, and instrumentalities thereof and the Commonwealth and political subdivisions, agencies, and instrumentalities thereof.

~~Such Airport~~ police officers may issue summonses to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any court of competent jurisdiction any person violating any rule or regulation of the Authority or other applicable statute, ordinance, rule, or regulation.

For the purpose of enforcing such statutes, ordinances, rules, and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the ~~participating~~ political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violation of any such

182 statutes, ordinances, rules, or regulations.

183 § 16. Resolution or trust indenture to secure bonds.

184 In connection with the issuance of bonds and in order to secure the payment of such bonds, the
185 Authority shall have power:

186 1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or
187 revenues;

188 2. To covenant to impose and maintain such schedule of fees, rents, and charges as will produce
189 funds sufficient to pay operating costs and debt service;

190 3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then
191 exists or the right to which may thereafter come into existence or against permitting or suffering any
192 lien thereon;

193 4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and
194 powers in the fees, rents, and revenues which are subject to a pledge;

195 5. To covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any
196 facility or facilities of the Authority or any part thereof or with respect to limitations on its right to
197 undertake additional projects;

198 6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other
199 instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and
200 disposition of the proceeds thereof;

201 7. To covenant as to what other, or additional, debt may be incurred by it;

202 8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

203 9. To provide for the replacement of lost, destroyed, or mutilated bonds;

204 10. To covenant as to the use of any or all of its property, real or personal, subject to the continued
205 use of such property for airport or business/industrial park purposes, *or any other governmental use*
206 *approved by the Board of Directors of the Authority;*

207 11. To create or to authorize the creation of special funds in which there may be segregated: (i) the
208 proceeds of any loan or grant; (ii) all of the fees, rents, and revenues of any facility or facilities or parts
209 thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such
210 facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv)
211 any moneys held for the payment of the principal and interest on its bonds or the sums due under its
212 leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies;
213 and to covenant as to the use and disposal of the moneys held in such funds;

214 12. To redeem its bonds, and to covenant for their redemption and to provide the terms and
215 conditions thereof;

216 13. To covenant against extending the time for the payment of its bonds or interest thereon, directly
217 or indirectly, by any means or in any manner;

218 14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be
219 amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner
220 in which such consent may be given;

221 15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon, and the
222 use and disposition of insurance moneys;

223 16. To vest in a bondholder the right, in the event of the failure of the Authority to observe or
224 perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the
225 limitation on total indebtedness expressed in this Act, to advance any moneys necessary for such
226 purpose, and the moneys so advanced may be made an additional obligation of the Authority with such
227 interest, security, and priority as may be provided in any trust indenture, lease, or contract of the
228 Authority with reference thereto;

229 17. To covenant and prescribe as to the events of default and terms and conditions upon which any
230 or all of its bonds shall become or may be declared due before maturity and as to the terms and
231 conditions upon which such declaration and its consequences may be waived;

232 18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any
233 covenant, condition, or obligation;

234 19. To covenant to surrender possession of all or any part of any facility or facilities acquired or
235 constructed from bond proceeds, the revenues from which have been pledged upon the happening of any
236 event of default, as defined in the contract, and to vest in a bondholder the right without judicial
237 proceeding to take possession and to use, operate, manage, and control such facility or any part thereof,
238 and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the
239 Authority itself might do and to dispose of the moneys collected in accordance with the agreement of the
240 Authority with such obligee, subject to the continued use of such facilities for airport purposes;

241 20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in
242 relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities
243 thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or

any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Authority may reasonably require;

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Authority which tend to make the bonds more marketable; notwithstanding that such covenant, acts, or things may not be enumerated herein, it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this Act; and

24. In connection with, or incidental to, the issuance or carrying of notes or bonds or the acquisition or carrying of any investments, to enter into swap agreements or other contracts or arrangements that the Authority determines to be necessary or appropriate to place obligations or investments of the Authority, as represented by notes, bonds, or investments of the Authority, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the Authority or to hedge payment, currency, rate, spread, or other exposure. Such contracts or arrangements may be entered into by the Authority in connection with, or incidental to, entering into or maintaining (i) any agreement that secures notes or bonds of the Authority and is authorized or permitted by law or (ii) any investment, or contract providing for any investment, otherwise authorized or permitted by law.

Such contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Authority, after giving due consideration, to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

In connection with or incidental to any of these contracts or arrangements, the Authority may enter into credit enhancement or liquidity agreements with such terms and conditions as it shall determine.

§ 17. Fees, rents, and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any *other political subdivision*, authority, board, bureau, or agency of the Commonwealth or any participating political subdivision.

The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement.

§ 23. Appropriation by political subdivision.

Any participating political subdivision, ~~or other political subdivision of the Commonwealth all or a part of which is located within 60 miles of an Authority facility,~~ is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, ~~including general obligation bonds,~~ in the manner provided in the Public Finance Act (§ 15.2-2600 et seq. of the Code of Virginia) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivision may enter into contracts obligating such bond proceeds to the Authority.

305 The Authority may agree to assume, or reimburse a participating political subdivision for, any
306 indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it
307 to the Authority. With the consent of the governing body of the participating political subdivision, any
308 such agreement may be made subordinate to the Authority's indebtedness to others.

309 § 27. Dissolution of Authority.

310 Whenever it shall appear to the Authority, or a majority of participating political subdivisions, that
311 the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision,
312 may petition the Circuit Court of Campbell County *or the Circuit Court of the City of Lynchburg* for the
313 dissolution of the Authority and provide a plan for distribution of assets to the participating jurisdictions.
314 If the court shall determine that the need for the Authority as set forth in this Act no longer exists and
315 that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may
316 enter an order dissolving the Authority.

317 Upon dissolution, the court shall order any real property contributed to the Authority by a
318 participating political subdivision, together with any improvements thereon, returned to such participating
319 political subdivision as set forth in the dissolution plan or as determined by the court if no plan exists.
320 In the event no plan exists the remaining assets of the Authority shall be distributed to the participating
321 political subdivisions in proportion to their respective contributions theretofore made to the Authority.

322 Each participating political subdivision and all holders of the Authority's bonds shall be made parties
323 to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to
324 such petition at any time within six months after the filing of the petition. From the final judgment of
325 the court, an appeal shall lie to the Supreme Court of Virginia.