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SENATE BILL NO. 1047

Senate Amendments in [] — February 3, 1997

A BILL to amend and reenact §§ 2.1-1.5 and 23-9.4 of the Code of Virginia and to amend the Code of Virginia by adding in Title 23 a chapter numbered 22, consisting of sections numbered 23-277 through 23-286, and by adding a section numbered 51.1-124.36, relating to the creation of the Commonwealth Health Research Fund and the establishment of the Commonwealth Health Research Board.

Patrons—Chichester, Holland and Norment; Delegate: Dickinson

Referred to the Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5 and 23-9.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 23 a chapter numbered 22, consisting of sections numbered 23-277 through 23-286, and by adding a section numbered 51.1-124.36, as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.
 Medical College of Virginia Hospitals Authority.
 Richmond Eye and Ear Hospital Authority.
 Small Business Financing Authority.
 State Education Assistance Authority.
 Virginia Agriculture Development Authority.
 Virginia College Building Authority.
 Virginia Economic Development Partnership.
 Virginia Education Loan Authority.
 Virginia Housing Development Authority.
 Virginia Information Providers Network Authority.
 Virginia Innovative Technology Authority.
 Virginia Port Authority.
 Virginia Public Building Authority.
 Virginia Public School Authority.
 Virginia Resources Authority.
 Virginia Student Assistance Authorities.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.
 Board of Commissioners, Virginia Port Authority.
 Board of Directors, Assistive Technology Loan Fund Authority.
 Board of Directors, Medical College of Virginia Hospitals Authority.
 Board of Directors, Richmond Eye and Ear Hospital Authority.
 Board of Directors, Small Business Financing Authority.
 Board of Directors, Virginia Economic Development Partnership.
 Board of Directors, Virginia Student Assistance Authorities.
 Board of Directors, Virginia Innovative Technology Authority.
 Board of Directors, Virginia Resources Authority.
 Board of Regents, Gunston Hall Plantation.
 Board of Regents, James Monroe Memorial Law Office and Library.
 Board of Trustees, Family and Children's Trust Fund.
 Board of Trustees, Frontier Culture Museum of Virginia.
 Board of Trustees, Jamestown-Yorktown Foundation.
 Board of Trustees, Miller School of Albemarle.
 Board of Trustees, Rural Virginia Development Foundation.
 Board of Trustees, The Science Museum of Virginia.
 Board of Trustees, Virginia Museum of Fine Arts.
 Board of Trustees, Virginia Museum of Natural History.
 Board of Trustees, Virginia Outdoor Foundation.

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- 60 Board of the Virginia Higher Education Tuition Trust Fund.
61 Board of Visitors, Christopher Newport University.
62 Board of Visitors, The College of William and Mary in Virginia.
63 Board of Visitors, George Mason University.
64 Board of Visitors, Gunston Hall Plantation.
65 Board of Visitors, James Madison University.
66 Board of Visitors, Longwood College.
67 Board of Visitors, Mary Washington College.
68 Board of Visitors to Mount Vernon.
69 Board of Visitors, Norfolk State University.
70 Board of Visitors, Old Dominion University.
71 Board of Visitors, Radford University.
72 Board of Visitors, University of Virginia.
73 Board of Visitors, Virginia Commonwealth University.
74 Board of Visitors, Virginia Military Institute.
75 Board of Visitors, Virginia Polytechnic Institute and State University.
76 Board of Visitors, Virginia State University.
77 *Commonwealth Health Research Board.*
78 Governing Board, Virginia College Building Authority.
79 Governing Board, Virginia Public School Authority.
80 Library Board, The Library of Virginia.
81 Motor Vehicle Dealer Board.
82 State Board for Community Colleges, Virginia Community College System.
83 Virginia-Israel Advisory Board.
84 Center
85 A.L. Philpott Manufacturing Research Center.
86 Commissions
87 Alexandria Historical Restoration and Preservation Commission.
88 Charitable Gaming Commission.
89 Chesapeake Bay Bridge and Tunnel Commission.
90 Hampton Roads Sanitation District Commission.
91 Districts
92 Chesapeake Bay Bridge and Tunnel District.
93 Hampton Roads Sanitation District.
94 Educational Institutions
95 Christopher Newport University.
96 College of William and Mary in Virginia.
97 Frontier Culture Museum of Virginia.
98 George Mason University.
99 James Madison University.
100 Jamestown-Yorktown Foundation.
101 Longwood College.
102 Mary Washington College.
103 Miller School of Albemarle.
104 Norfolk State University.
105 Old Dominion University.
106 Radford University.
107 The Science Museum of Virginia.
108 University of Virginia.
109 Virginia Commonwealth University.
110 Virginia Community College System.
111 Virginia Military Institute.
112 Virginia Museum of Fine Arts.
113 Virginia Polytechnic Institute and State University.
114 The Library of Virginia.
115 Virginia State University.
116 Foundations
117 Chippokes Plantation Farm Foundation.
118 Rural Virginia Development Foundation.
119 Virginia Conservation and Recreation Foundation.
120 Virginia Historic Preservation Foundation.
121 Virginia Outdoor Foundation.

Museum
Virginia Museum of Natural History.
Plantation
Gunston Hall Plantation.
System

Virginia Retirement System.

§ 23-9.4. Employment of director and other personnel.

A. The Council shall employ and appoint a director who shall be the chief executive officer of the Council, and such personnel as may be required to assist it in the exercise and performance of its powers and duties.

B. *The director shall serve as executive secretary of the Commonwealth Health Research Board. The director and other personnel are authorized to perform all duties imposed on them pursuant to Chapter 22 (§ 23-277 et seq.) of this title.*

CHAPTER 1.3.

COMMONWEALTH HEALTH RESEARCH FUND.

§ 23-277. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"Board" means the Commonwealth Health Research Board.

"Council" means the State Council of Higher Education for Virginia.

"Fund" means the Commonwealth Health Research Fund.

§ 23-278. Commonwealth Health Research Board created.

A. There is hereby created, as an independent body, the Commonwealth Health Research Board. The purpose of the Board shall be to provide financial support, in the form of grants, donations, or other assistance, for research efforts that have the potential of maximizing human health benefits for the citizens of the Commonwealth. Research efforts eligible for support by the Board shall include traditional medical and biomedical research relating to the causes and cures of diseases as well as research related to health services and the delivery of health care.

B. The Board shall be composed of seven members. The Governor shall appoint three members of the Board who shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Joint Rules Committee shall appoint the other four members of the Board who shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The initial members shall be appointed for terms of office as follows: one of the members appointed by the Governor shall be appointed for a term of one year; one of the members appointed by the Joint Rules Committee shall be appointed for a term of two years; one of the members appointed by the Governor and one of the members appointed by the Joint Rules Committee shall be appointed for terms of three years; one of the members appointed by the Joint Rules Committee shall be appointed for a term of four years; and one of the members appointed by the Governor and one of the members appointed by the Joint Rules Committee shall be appointed for terms of five years. Appointments thereafter shall be for terms of five years. Vacancies in the membership of the Board shall be filled by appointment of the entity initially making the appointment for the unexpired portion of the term. No member shall be eligible to serve for more than two successive five-year terms; however, after the expiration of a term of four years or less, or after the expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Immediately after such appointment, the members shall enter upon the performance of their duties.

C. The members shall have substantial experience or expertise, personal or professional, in at least one of the following areas: medicine, medical or scientific research, public policy, government, business, or education. No member shall be an incumbent elected official, state official or employee, or member of the governing board of a state agency or institution. Members of the Board need not be residents of the Commonwealth.

D. The members shall elect annually a chairman and vice-chairman from among its members. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Board shall meet annually or more frequently at the call of the chairman.

E. Members of the Board shall receive compensation for their services at the rate provided in § 2.1-20.3 and shall receive reimbursement for actual expenses incurred in the performance of their duties on behalf of the Board. Such compensation and expenses shall be paid from the Fund.

§ 23-279. Duties of the Board.

The Board shall perform the following duties:

1. Establish specific criteria and procedures governing its decisions to support research efforts consistent with its purposes, including, but not limited to, (i) encouraging collaborative research efforts

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183 among two or more institutions or organizations, (ii) giving priority to those research efforts where
184 Board support can be leveraged to foster contributions from federal agencies or other entities, and (iii)
185 supporting both new research efforts and the expansion or continuation of existing research efforts;

186 2. Establish requirements for the submission of research proposals, including, but not limited to, (i) a
187 clear statement of the problem or opportunity to be addressed; (ii) the specific objectives; (iii) a
188 description of how the results will maximize human health benefits for the citizens of the
189 Commonwealth; (iv) a budget for the research effort including other anticipated sources of financial
190 assistance; and (v) the time frame for the conduct of the research;

191 3. Evaluate the proposals in accordance with the criteria established by the Board and the
192 provisions of this chapter; and

193 4. Evaluate the implementation and results of all research efforts receiving support from the Board.

194 § 23-280. Conditions and restrictions on financial assistance.

195 A. The Board shall provide financial support only to research efforts that satisfy the following
196 conditions:

197 1. The research shall be conducted by state institutions [of higher education, agencies of the
198 Commonwealth,] or nonprofit organizations exempt from income taxation pursuant to § 501 (c) (3) of
199 the Internal Revenue Code and located in the Commonwealth;

200 2. The institution [, agency,] or organization shall provide a cash amount for the support provided
201 by the Board in such percentage of the Board's support as the Board deems appropriate;

202 3. Support provided by the Board shall not be used by the recipient to finance capital improvements
203 or renovations, indirect costs incurred by the institution [, agency,] or organization in its
204 administration of the financial support, or for any other purpose proscribed by the Board; and

205 4. Recipients of support provided by the Board shall agree to provide the Board with such
206 information regarding the implementation of the research effort, and to allow monitoring and review of
207 the research effort, as may be required by the Board to ensure compliance with the terms by which the
208 support is provided.

209 B. Any support provided by the Board shall be used by the recipient only for personal services,
210 contractual services, material, supplies, and equipment directly related to the approved research effort.

211 § 23-281. Powers of the Board.

212 In order to carry out its purpose, the Board shall have the power to:

213 1. Make grants or other expenditures or disbursements from the Fund to provide support for
214 research efforts approved by the Board in accordance with the purposes of this chapter; however, the
215 Board shall not be obligated to make annual or other periodic disbursements or expenditures;

216 2. Contract for the services of consultants to review research proposals and to assist in the
217 evaluation of the research efforts funded by the Board;

218 3. Accept, hold, administer, and solicit, gifts, grants, bequests, contributions or other assistance from
219 federal agencies, the Commonwealth, or any other public or private source to carry out the purposes of
220 this chapter;

221 4. Enter into any agreement or contract relating to the acceptance or use of any grant, assistance or
222 support provided by or to the Board, or otherwise in furtherance of the purposes of this chapter; and

223 5. Perform any lawful acts necessary or appropriate to carry out the purposes of the Board.

224 § 23-282. Executive secretary; staffing; location.

225 The director of the Council shall serve as executive secretary to the Board and shall be responsible
226 for the performance of such duties that the Board may direct. The director and other personnel of the
227 Council shall provide such administrative services as the Board shall request. The actual expenses
228 incurred by such persons in the performance of such administrative duties on behalf of the Board, which
229 shall not include the value of any services, rent, or overhead expenses, shall be paid from the Fund. The
230 office of the Board shall be housed at the offices of the Council. The Board shall not be authorized to
231 employ any personnel.

232 § 23-283. Cooperation with other agencies.

233 All agencies of the Commonwealth shall cooperate with the Board and, upon request, assist the
234 Board in the performance of its duties and responsibilities.

235 § 23-284. Commonwealth Health Research Fund established; administration.

236 A. There is hereby created in the State Treasury a special, nonreverting revolving fund to be known
237 as the Commonwealth Health Research Fund. The Fund shall be established on the books of the State
238 Comptroller.

239 B. The Fund shall consist of all stock distributed to the Commonwealth as a policyholder pursuant to
240 the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue
241 Shield, from a mutual insurance company to a Virginia stock corporation known as Trigon Healthcare,
242 Inc., and any moneys appropriated from the general fund, grants and donations received by the Board,
243 and other moneys received by the State Treasurer and designated for deposit in the Fund. Interest and
244 other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund,

including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

C. Notwithstanding any other provision of law, the moneys and other property comprising the Fund shall be invested, reinvested and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.36. [The State Treasurer shall not be held liable for losses suffered by the Virginia Retirement System on investments made under the authority of this section.]

D. The Fund shall be expended solely for the purpose of supporting research efforts approved by the Board and any other purpose permitted by this chapter.

E. Not more than an amount equal to ninety percent of the annual income, including but not limited to interest, dividends, realized gains, fees, and other earnings, from the investment, reinvestment and management of the Fund, net of any administrative fee assessed pursuant to subsection E of § 51.1-124.36, shall be expended in such year for any purpose permitted by this chapter. The Board shall not be required to expend such amount in any year.

F. The disbursement of moneys from the Fund shall be made by the State Comptroller at the written request of the Board.

§ 23-285. Forms of accounts and records; audit of same.

A. The accounts and records of the Board showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

B. The accounts and records of the Board shall be subject to an annual audit by the Auditor of Public Accounts or his legal representative.

§ 23-286. Reports to the Governor and General Assembly.

The Board shall submit a report annually to the Governor and the General Assembly. The report shall include information regarding research efforts supported by the Board and expenditures from the Fund.

§ 51.1-124.36. Investment of assets of the Commonwealth Health Research Fund.

A. In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage the assets of the Commonwealth Health Research Fund. The Board shall maintain a separate accounting for the assets of the Commonwealth Health Research Fund.

B. The Board shall invest the assets of the Commonwealth Health Research Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax exempt subsidiary corporations whose actions are within the standard of care in subsection B above shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32, 51.1-124.33, and 51.1-124.34 shall apply to the Board's activities with respect to funds in the Commonwealth Health Research Fund.

E. The Board may assess the Commonwealth Health Research Board a reasonable administrative fee for its services [~~provided pursuant to this section, which fee shall be paid only from any annual income, including but not limited to interest, dividends, realized gains, fees, and other earnings, earned from the investment, reinvestment and management of the assets of the Commonwealth Health Research Fund .~~]

2. That the Commonwealth Health Research Board, the State Council on Higher Education for Virginia, the Board of the Virginia Retirement System, the State Treasurer, and the Department of Accounts shall enter into a memorandum of understanding establishing procedures governing the management, administration, and disbursement of moneys in the Commonwealth Health Research Fund, and other financial activities related to the implementation of this act, by September 1, 1997.