

090053536

HOUSE BILL NO. 2404

Offered January 14, 2009

Prefiled January 14, 2009

A *BILL to establish the Virginia Universities Clean Energy Development and Economic Stimulus Foundation.*

Patrons—Bell, Athey, Howell, W.J., Lingamfelter, Merricks, Miller, J.H., Nutter, Rust and Toscano

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. § 1. That there is hereby created the Virginia Universities Clean Energy Development and Economic Stimulus Foundation which, with the cooperation and assistance of the universities, shall identify, obtain, disburse and administer funding for the following purposes: (i) research and development of alternative fuels, clean energy production, and related technologies; (ii) support of economic development projects in disadvantaged rural areas; and (iii) provision of assistance in the commercialization of alternative fuels and clean energy technologies developed with funds administered by the Foundation.

§ 2. Definitions.

As used in this act, unless the context requires otherwise:

"Board" means the Board of Directors of the Foundation.

"Commission" means the Tobacco Indemnification and Community Revitalization Commission created pursuant to § 3.2-3101 of the Code of Virginia.

"Disadvantaged rural areas" means those communities of the Commonwealth identified by the Commission as eligible for assistance pursuant to clause (ii) of § 3.2-3101 of the Code of Virginia.

"Foundation" means the Virginia Universities Clean Energy Development and Economic Stimulus Foundation created pursuant to this act.

"Universities" means the University of Virginia and Virginia Polytechnic Institute and State University.

§ 3. Structure and status.

A. The Virginia Universities Clean Energy Development and Economic Stimulus Foundation is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this act. The Foundation shall have only those powers enumerated in this act.

B. All funding made available to the Foundation is to be used solely for the purposes set forth in this act and shall be provided from those sources identified in this act. The Foundation shall not be the recipient of funds appropriated by the General Assembly of Virginia and will not be an agency of the Commonwealth.

C. The Foundation shall operate as a not-for-profit corporate entity.

D. The Foundation shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia).

E. The exercise of the powers granted by this act shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

F. The Foundation shall be performing an essential governmental function in the exercise of the powers conferred upon it by this act, and the property of the Foundation and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Foundation under the provisions of this act.

§ 4. Membership of the Board, terms, vacancies, officers, meetings, etc.

A. The Foundation shall be governed by a Board of Directors composed of seven members as follows:

1. One member of the Senate of Virginia, to be appointed by the Senate Committee on Rules;

2. One member of the House of Delegates to be appointed by the Speaker of the House;

3. One citizen to be appointed by the Governor;

4. The President of the University of Virginia or his designee;

5. The President of Virginia Polytechnic Institute and State University or his designee;

6. One representative of the business community having specialized background and expertise on energy production issues, to be appointed by the Speaker of the House; and

7. One citizen having specialized background and expertise on environmental or conservation issues, to be appointed by the Senate Committee on Rules.

INTRODUCED

HB2404

59 *B. There shall be no limitation on the terms of Board members and they shall serve at the pleasure*
60 *of the appointing authority.*

61 *C. The Board shall appoint from its membership a chairman and a vice-chairman, both of whom*
62 *shall serve in such capacities at the pleasure of the Board. The chairman, or in his absence, the*
63 *vice-chairman, shall preside at all meetings of the Board. The meetings of the Board shall be held on*
64 *the call of the chairman or whenever the majority of the members so request, but in no event shall there*
65 *be fewer than two meetings per calendar year. A majority of members of the Board serving at any one*
66 *time shall constitute a quorum for the transaction of business. Notwithstanding any other provision of*
67 *law, the Board may meet, conduct business and vote by means of electronic communication.*

68 *§ 5. Powers and duties of the Board.*

69 *A. The Board shall have the power to:*

70 *1. Adopt, use, and alter at will an official seal;*

71 *2. Make bylaws for the management and regulation of its affairs;*

72 *3. Sue and be sued;*

73 *4. Maintain an office at such place or places within the Commonwealth as it may designate;*

74 *5. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or*
75 *bequeathed to the Foundation, absolutely or in trust, for the purposes for which the Foundation is*
76 *created;*

77 *6. Determine how moneys provided to the Foundation are to be distributed and to authorize grants,*
78 *loans, or other distributions of such moneys for the purposes set forth in this act;*

79 *7. Make and execute contracts and all other instruments and agreements necessary or convenient for*
80 *the exercise of its powers and functions;*

81 *8. Invest its funds as provided in this act or permitted by applicable law;*

82 *9. Expend from such funds as are available to it a reasonable amount for personnel, operations and*
83 *administration of the Foundation; and*

84 *10. Do any lawful act necessary or appropriate to carry out the powers herein granted or*
85 *reasonably implied, including use of whatever lawful means may be necessary and appropriate to*
86 *recover any payments wrongfully made from the funds available to the Foundation.*

87 *B. The Board shall employ on a full, part-time or contract basis such personnel as may be necessary*
88 *to ensure that the purposes of this act are achieved, including, but not limited to, a chief executive*
89 *officer, legal counsel, and chief research policy officer.*

90 *C. The Board and such staff as may be employed shall have the following duties:*

91 *1. Establish procedures by which persons seeking funds from the Foundation may make application*
92 *for an award of such fund;*

93 *2. Actively seek out and encourage appropriate projects; and*

94 *3. Actively seek out and expend all reasonable efforts to obtain funds from all available sources,*
95 *including, but not limited to, federal agencies providing scientific research grants and the Commission.*

96 *D. Any proposed projects funded by the Foundation shall be consistent with the purposes set forth in*
97 *this act.*

98 *E. The Board shall report its activities annually by December 1 to the Governor, the Speaker of the*
99 *House, the Senate Committee on Rules, and the Chairman of the Commission.*

100 *§ 6. Evaluation of proposals, due diligence, participation by universities.*

101 *A. All requests seeking funds from the Foundation shall be thoroughly evaluated utilizing the criteria*
102 *set forth in subsection B of this section. The Board and such staff as may be employed shall participate*
103 *in the evaluation and may utilize such additional assistance as they determine necessary. The*
104 *universities shall provide expertise for the evaluation process as requested by the Board.*

105 *B. All funding requests shall be evaluated on the following criteria:*

106 *1. Whether, and to what extent, the proposed project will identify and develop alternative fuels;*

107 *2. Whether, and to what extent, the proposed project will identify and develop clean energy sources;*

108 *3. Whether, and to what extent, the proposed project will reduce costs and improve efficiencies of*
109 *energy delivery to homes and businesses;*

110 *4. Whether, and to what extent, the proposed project will substantially enhance basic research data*
111 *on clean energy or alternative fuels;*

112 *5. Whether, and to what extent, the proposed project will reduce reliance on foreign energy supplies;*

113 *6. Whether, and to what extent, the proposed project will aid in economic revitalization of*
114 *disadvantaged rural areas;*

115 *7. The scientific and technological value and viability of the proposed project;*

116 *8. The likelihood that the proposed project will fully realize its stated objectives;*

117 *9. The cost of the proposed project in relation to its reasonably foreseeable economic impact;*

118 *10. Whether, and to what extent, the proposed project will likely result in a commercially viable*
119 *outcome;*

120 *11. The effort and time necessary to commercialize outcomes of the proposed project;*

12. Whether, and to what extent, the requesting entity has utilized other available funding sources;
and

13. Such other criteria as the Board may determine.

C. Priority in the award of funding from the Foundation shall be accorded to those proposed projects that will be entirely or substantially conducted by one or both of the universities.

D. The Board shall determine whether a funding request sufficiently meets the criteria established and the purposes of this act, and if so, the appropriate amount of funding to be provided. Funding shall be awarded only to those proposed projects which best meet the established criteria and purposes of this act.

§ 7. Notwithstanding any other provision of law, the Commission is authorized to award to the Foundation up to five percent of the corpus of the endowment established pursuant to § 3.2-3104 of the Code of Virginia each year for five years beginning in calendar year 2009. Any award made by the Commission pursuant to this section shall be in addition to, and not counted as a portion of, any expenditures from corpus authorized by subsection A of § 3.2-3104 of the Code of Virginia, provided that funds awarded by the Commission shall be used only for projects conducted within disadvantaged rural areas.