

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 17

An Act to amend and reenact §§ 2.2-2801 and 67-1202 of the Code of Virginia, relating to the Virginia Offshore Wind Development Authority.

[S 1134]

Approved March 1, 2011

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2801 and 67-1202 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2801. Disability to hold state office; exceptions.

A. Section 2.2-2800 shall not be construed to prevent:

1. Members of Congress from acting as visitors of the University of Virginia or the Virginia Military Institute, or from holding offices in the militia;

2. United States commissioners or United States census enumerators, supervisors, or the clerks under the supervisor of the United States census, or fourth-class or third-class postmasters, or United States caretakers of the Virginia National Guard, from acting as notaries, school board selection commission members, or supervisors, or from holding any district office under the government of any county, or the office of councilman of any town or city in the Commonwealth;

3. Any United States rural mail carrier, or star route mail carrier from being appointed and acting as notary public or holding any county or district office;

4. Any civilian employee of the United States government from being appointed and acting as notary public;

5. Any United States commissioners or United States park commissioners from holding the office of commissioner in chancery, bail commissioner, jury commissioner, commissioner of accounts, assistant commissioner of accounts, substitute or assistant civil justice, or assistant judge of a municipal court of any city or assistant judge of a juvenile and domestic relations district court of any city, or judge of any county court or juvenile and domestic relations district court of any county, or the municipal court or court of limited jurisdiction, by whatever name designated, of any incorporated town;

6. Any person employed by, or holding office or a post of profit, trust or emolument, civil, legislative, executive or judicial, under the government of the United States, from being a member of the militia or holding office therein, or from being a member or director of any board, council, commission or institution of the Commonwealth who serves without compensation except one who serves on a per diem compensation basis;

7. Foremen, quartermen, leading men, artisans, clerks or laborers, employed in any navy yard or naval reservation in Virginia from holding any office under the government of any city, town or county in the Commonwealth;

8. Any United States government clerk from holding any office under the government of any town or city; or from being appointed as special policeman for a county by the circuit court or judge thereof as provided for in § 15.2-1737;

9. Any person holding an office under the United States government from holding a position under the management and control of the State Board of Health;

10. Any state federal director of the Commonwealth in the employment service of the United States Department of Labor from holding the office of Commissioner of Labor of the Commonwealth;

11. Clerks and employees of the federal government engaged in the departmental service in Washington from acting as school trustees;

12. Any person, who is otherwise eligible, from serving as a member of the governing body or school board of any county, city or town, or as a member of any public body who is appointed by such governing body or school board, or as an appointive officer or employee of any county, city or town or the school board thereof;

13. Game management agents of the United States Fish and Wildlife Service or United States deputy game wardens from acting as special conservation police officers;

14. Any appointive state or local official or employee from serving, with compensation, on an advisory board of the federal government;

15. Any state or local law-enforcement officer from serving as a United States law-enforcement officer; however, this subdivision shall not be construed to authorize any law-enforcement officer to receive double compensation;

16. Any United States law-enforcement officer from serving as a state or local law-enforcement officer when requested by the chief law-enforcement officer of the subject jurisdiction; however, this subdivision shall not be construed to authorize any law-enforcement officer to receive double compensation;

17. Any attorney for the Commonwealth or assistant attorney for the Commonwealth from serving as or performing the duties of a special assistant United States attorney or assistant United States attorney; however, this subdivision shall not be construed to authorize any attorney for the Commonwealth or assistant attorney for the Commonwealth to receive double compensation;

18. Any assistant United States attorney from serving as or performing the duties of an assistant attorney for the Commonwealth when requested by the attorney for the Commonwealth of the subject jurisdiction; however, this subdivision shall not be construed to authorize any assistant United States attorney to receive double compensation;

19. Any elected state or local official from serving, without compensation, on an advisory board of the federal government; however, this subdivision shall not be construed to prohibit reimbursement for actual expenses;

20. Sheriffs' deputies from patrolling federal lands pursuant to contracts between federal agencies and local sheriffs;

21. State judicial officers from performing acts or functions with respect to United States criminal proceedings when such acts or functions are authorized by federal law to be performed by state judicial officers; or

22. Any member of the Armed Forces of the United States from serving on the Virginia Military Advisory Council *or the Virginia Offshore Wind Development Authority*.

B. Nor shall § 2.2-2800 be construed to exclude:

1. A person to whom a pension has been granted by the United States or who receives retirement compensation in any manner from the United States, or any person receiving or entitled to receive benefits under the Federal Old-Age and Survivors' Insurance System or under the Federal Railroad Retirement Act.

2. Officers or soldiers on account of the recompense they may receive from the United States when called out in actual duty.

§ 67-1202. Membership; terms; vacancies; expenses.

A. The Authority shall be composed of 11 nonlegislative citizen members appointed by the Governor. Of these, three members, *including representatives of major military commands and installations located in the Commonwealth or in jurisdictions adjacent thereto*, shall be appointed by the Governor ~~from a list of nine persons provided after consideration of the persons nominated~~ by the Secretary of the Navy ~~or his designee~~, and one member shall be a representative of the Virginia Commercial Space Flight Authority. With the exception of the three members appointed ~~from the list provided after consideration of the persons nominated~~ by the Secretary of the Navy ~~or his designee~~ and the representative of the Virginia Commercial Space Flight Authority, all members of the Authority shall reside in the Commonwealth.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member, except for ~~the members representing those appointed after consideration of persons nominated by the Secretary of the Navy~~, shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The initial appointments of members shall be as follows: four members shall be appointed for terms of four years; four members shall be appointed for terms of three years; and three members shall be appointed for terms of two years. Thereafter all appointments shall be for terms of four years.

D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

E. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

F. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).