

# VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

## CHAPTER 521

*An Act to amend and reenact § 2.2-2101 of the Code of Virginia, as it is currently effective and as it shall become effective, and to amend the Code of Virginia by adding in Chapter 27 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2734 through 2.2-2737, relating to the creation of the Southwest Virginia Cultural Heritage Foundation.*

[S 893]

Approved March 25, 2011

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

**1. That § 2.2-2101 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 27 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2734 through 2.2-2737, as follows:**

§ 2.2-2101. (Effective until July 1, 2013) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 2.2-2621; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-306; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Open Education Curriculum Board, who shall be appointed as provided in § 2.2-2463; or to members of the Southwest Virginia Cultural Heritage ~~Commission~~ *Foundation*, who shall be appointed as provided in § ~~2.2-2533~~ 2.2-2735.

§ 2.2-2101. (Effective July 1, 2013) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall

be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 2.2-2621; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-306; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Open Education Curriculum Board, who shall be appointed as provided in § 2.2-2463; or to members of the Southwest Virginia Cultural Heritage ~~Commission~~ *Foundation*, who shall be appointed as provided in § ~~2.2-2533~~ 2.2-2735.

#### Article 10.

##### *Southwest Virginia Cultural Heritage Foundation.*

##### *§ 2.2-2734. Southwest Virginia Cultural Heritage Foundation established; purpose.*

*The Southwest Virginia Cultural Heritage Foundation (the Foundation) is hereby established as a body politic and corporate. The purpose of the Foundation is to encourage the economic development of Southwest Virginia through the expansion of cultural and natural heritage ventures and initiatives related to tourism and other asset-based enterprises, including the Heartwood: Southwest Virginia's Artisan Center, The Crooked Road, 'Round the Mountain, and other related cultural and natural heritage organizations and venues that promote entrepreneurial and employment opportunities.*

##### *§ 2.2-2735. Membership; qualifications; terms; vacancies; officers; compensation.*

*A. The Foundation shall be administered by a board of trustees, consisting of 22 members as follows: two members of the Senate to be appointed by the Senate Committee on Rules; three members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two nonlegislative citizen members who shall be residents of Southwest Virginia and two nonlegislative citizen members who shall be executive directors of either Planning District Commission 1, 2, 3, 4, or 12 or their designees, to be appointed by the Governor; one nonlegislative citizen member who shall be an elected or appointed official of the Town of Abingdon to be appointed by the Governor upon the recommendation, if any, of the Abingdon Town Council; one nonlegislative citizen member who shall be an elected or appointed official of Washington County to be appointed by the Governor upon the recommendation, if any, of the Washington County Board of Supervisors; four nonlegislative citizen members who shall be artisans and members of 'Round the Mountain, who shall be appointed by the Governor upon the recommendation of the executive committee of 'Round the Mountain; and one nonlegislative citizen member who shall represent the Ninth Congressional District and serve as a member of the Virginia Commission for the Arts, to be appointed by the Governor upon the recommendation, if any, of the Executive Director of the Virginia Commission for the Arts. The President of Virginia Highlands Community College or their designees shall serve ex officio with nonvoting privileges. The Chairman of The Crooked Road, the Chairman of 'Round the Mountain, the Director of the Virginia Department of Housing and Community Development, the Director of the Virginia Tourism Corporation, and the Executive Director of the Southwest Virginia Higher Education Center or their designees shall serve ex officio with voting privileges.*

*B. Legislative members and ex officio members of the Foundation board of trustees shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.*

*C. No House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. 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.*

*D. Legislative members shall receive such compensation as provided in § 30-19.12. All members of the Foundation shall 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. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Housing and Community Development.

E. The Foundation shall elect a chairman and a vice-chairman from among its members and may appoint such other officers as it deems necessary. The Foundation shall appoint an executive committee and such other committees as it deems necessary to oversee personnel and other areas related to operations and the achievement of the goals of the Foundation.

§ 2.2-2736. Powers and duties of the Foundation.

A. The Foundation shall have the power and duty to:

1. Accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust;

2. Establish and administer agreements with public or private agencies in order to achieve its goals;

3. Rent, lease, including the execution of leases with option to purchase, buy, own, acquire, and dispose of such property, real and personal, as the Foundation deems proper to carry out any of the purposes and provisions of this article;

4. Finance, fund, plan, establish, construct, enlarge, extend, equip, update, and maintain buildings, structures, and facilities that are necessary or desirable to achieve its goals;

5. Establish a corporation eligible for exemption from income taxation under § 501(c) of the Internal Revenue Code to assist in carrying out the purposes of the Foundation;

6. Operate, manage, and oversee the retail sales, demonstration, performance, and interpretation of artisan, musical, or other cultural activities, food and visitor services, and other functions as may be necessary or desirable to achieve its goals;

7. Employ and compensate such employees and agents as the Foundation deems necessary. The Foundation may appoint an executive director who shall be authorized to employ such staff as necessary to enable the Foundation to achieve its goals. The Foundation shall determine the duties of such staff and fix salaries and compensation from such funds as may be received;

8. Borrow and seek, accept, and expend gifts, grants, or donations from public or private sources;

9. Manage the operations of any existing or new facility in accordance with the provisions of this article;

10. Facilitate the sustainability of economic development initiatives relating to the cultural and natural heritage of Southwest Virginia by providing financial resources and technical assistance to organizations and venues that contribute to achieving the goals of the Foundation;

11. Serve as a resource and referral center by maintaining and disseminating information about Southwest Virginia cultural and natural heritage efforts and venues;

12. Develop specific goals and initiatives intended to improve the quality of life and entrepreneurial opportunities in Southwest Virginia in coordination with the Virginia Tourism Corporation, the Virginia Department of Housing and Community Development, Southwest Virginia tourism and economic development organizations, local governments, and other entities; and

13. Submit to the Governor and the General Assembly no later than the first day of each regular session of the General Assembly an annual report for publication as a report document in accordance with the procedures established by the Division of Legislative Automated Systems for legislative documents and reports.

B. The Foundation may establish nonprofit, nonstock corporations under Chapter 10 (§ 13.1-801 *et seq.*) of Title 13.1 as public instrumentalities exercising public and essential governmental functions to assist the Foundation in (i) encouraging the economic development of Southwest Virginia through the expansion of cultural and natural heritage ventures and initiatives related to tourism and other asset-based enterprises, including the Southwest Virginia Artisan Center, The Crooked Road, 'Round the Mountain, and related cultural and natural heritage organizations and venues that promote entrepreneurial and employment opportunities and (ii) conducting other activities useful in carrying out the provisions of this article.

The board of directors of any such corporation shall be composed of the chairman of the Foundation and eight persons appointed by the Foundation. The terms of the members of any corporation established shall be four years.

The Foundation shall require any such corporation to report to it at least annually on its activities.

§ 2.2-2737. Staffing.

The Department of Housing and Community Development shall provide additional staff support to the Foundation. All agencies of the Commonwealth shall provide assistance to the Foundation, upon request.

**2. That as of July 1, 2011, the Southwest Virginia Cultural Heritage Foundation shall be deemed successor in interest to the Southwest Virginia Cultural Heritage Commission to the extent that this act transfers powers and duties. All right, title, and interest in and to any real or tangible personal property vested in the Southwest Virginia Cultural Heritage Commission to the extent that this act transfers powers and duties as of July 1, 2011, shall be transferred to and taken as standing in the name of the Southwest Virginia Cultural Heritage Foundation.**

**3. That the Governor may transfer an appropriation or any portion thereof within a state agency established, abolished or otherwise affected by the provisions of this act or from one such agency to another to support the changes in organization or responsibility resulting from or required by this act.**

**4. That, with the exception of the Chancellor of the Virginia Community College System, any individual serving a term as a commissioner of the Southwest Virginia Cultural Heritage Commission in accordance with the provisions of former § 2.2-2533 of the Code of Virginia shall continue his term of office as a member of the board of trustees of the Southwest Virginia Cultural Heritage Foundation on July 1, 2011.**