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SENATE BILL NO. 976

Offered January 9, 2013

Prefiled January 8, 2013

A *BILL to amend and reenact §§ 2.2-108 and 33.1-1 of the Code of Virginia, relating to the Commonwealth Transportation Board; circumstances for removal from office by the Governor.*

Patron—Lucas

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-108 and 33.1-1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-108. Removal of members of certain boards, commissions, etc.

A. Notwithstanding any provision of law to the contrary, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any (i) member of the board of any public institution of higher education or other educational institution in Virginia or (ii) citizen member of the Commonwealth Transportation Board, and fill the vacancy resulting from the removal. Each appointment to fill a vacancy shall be subject to confirmation by the General Assembly.

B. Notwithstanding any provision of law to the contrary, the Governor may remove from office for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor any member of any board, commission, council or other collegial body established by the General Assembly in the executive branch of state government except those boards provided for in subsection A, and fill the vacancy resulting from the removal subject to confirmation by the General Assembly.

C. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to this section at the time the removal occurs. The Governor shall be the sole judge of the sufficiency of the cause for removal as set forth in this section.

§ 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation Board; number and terms of members; Commonwealth Transportation Commissioner continued as Commissioner of Highways; vacancies.

The State Highway and Transportation Board, formerly known as the State Highway and Transportation Commission, is continued and shall hereafter be known as the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the State Highway and Transportation Board or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.

The Board shall consist of seventeen members: the Secretary of Transportation, the Commissioner of Highways, the Director of the Department of Rail and Public Transportation, and fourteen citizen members. The citizen members shall be (i) appointed by the Governor as provided in § 33.1-2; (ii) and subject to confirmation by the General Assembly; and (iii) removable from office during their respective terms by the Governor at his pleasure. Appointments of citizen members shall be for terms of four years commencing upon July 1, upon the expiration of the terms of the existing members, respectively. The initial terms of the members appointed in January, 1987, shall commence when appointed and shall be for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. No person shall be eligible to serve more than two successive terms of four years, other than the Secretary of Transportation, the Commissioner of Highways, and the Director of the Department of Rail and Public Transportation. A person heretofore or hereafter appointed to fill a vacancy may serve two additional successive terms.

The Secretary of Transportation shall serve as Chairman of the Board. The Secretary shall have voting privileges only in the event of a tie. The Commissioner of Highways shall serve as Vice-Chairman of the Board. The Commissioner shall have voting privileges only in the event of a tie when he is presiding during the absence of the Chairman. The Director of the Department of Rail and Public Transportation shall serve without a vote.

Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation Commissioner" or "Commonwealth Transportation Commissioner" shall mean Commissioner of Highways; and all references to "Department

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59 of Highways and Transportation" shall refer to the Department of Transportation.