

2014 SESSION

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HB1257

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HOUSE BILL NO. 1257

Offered January 17, 2014

A *BILL to amend and reenact § 54.1-831.01 of the Code of Virginia and to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 74, consisting of sections numbered 15.2-7400 through 15.2-7408, relating to the Virginia Sports Authority.*

Patron—Villanueva

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-831.01 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 74, consisting of sections numbered 15.2-7400 through 15.2-7408, as follows:

CHAPTER 74.

VIRGINIA SPORTS AUTHORITY.

§ 15.2-7400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Sports Authority.

"Bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

"Facility" means (i) stadium, arena, golf course, running track, athletics field, bicycle racecourse, archery range, or similar athletic or sports facility; (ii) training or practice facilities or other areas where athletes or sports teams may exercise, practice, or perform; (iii) offices for athletes, teams, trainers, and managers and other staff; (iv) office, restaurant, concessions, and retail facilities that are owned and operated in connection with a sports facility; and (v) any other directly related properties, including, but not limited to, onsite and offsite parking lots, garages, and other properties.

"Fantasy Sports Contest" means a contest of any duration for which an entry fee is charged in which (if the game or contest involves a team or teams) no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions: (i) All prizes and awards offered to winning contestants are established and made known to the contestants in advance of the game or contest and their value is not determined by the number of contestants or the amount of any fees paid by those contestants; (ii) all winning outcomes reflect the relative knowledge and skill of the contestants and are determined predominantly by accumulated statistical results of the performance of participants in multiple real-world sporting or other events; and (iii) no winning outcome is based (aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or (bb) solely on any single performance of a participant in any single real-world sporting or other event.

"Fantasy Sports Contest Entry Fee" means a fee or other charge required to be paid by a contestant in order to participate in a Fantasy Sports Contest.

"Sales tax revenues" means taxes collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein. "Sales tax revenues" does not include any local general retail sales and use tax levied pursuant to §§ 58.1-605 and 58.1-606.

§ 15.2-7401. Creation of Authority; members; expenses.

A. There is hereby established a body corporate and politic known as the Virginia Sports Authority. The Authority is a political subdivision of the Commonwealth.

B. The Authority shall consist of seven members, who shall have a background and interest in the development of sporting opportunities or facilities. Three of the members shall be appointed by the governor, who may not be legislators; two members shall be appointed by the Majority Leader of the Senate, who may not be legislators; and two members shall be appointed by the speaker of the House of Delegates, who may not be legislators. The authority shall select a chair from among its members. The term of a member of the Authority is four years. At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. At the time of appointment, the governor shall adjust the term of two of the governor's appointees to ensure that at least one member is appointed by the governor every two years. At the time of appointment, the speaker and majority leader shall each adjust the term of one of their appointees to ensure that one of their appointees is appointed every two years. When a vacancy occurs in the authority during the term of

59 one of the members, the governor, speaker or senate majority leader, respectively, shall appoint the
60 replacement for the remainder of the unexpired term.

61 C. Members who are not government employees shall receive no compensation or benefits for their
62 services, but may be reimbursed for all reasonable and necessary expenses incurred in the performance
63 of their duties as provided in §§ 2.2-2813 and 2.2-2825 and shall be compensated at the per diem rate
64 established for members of the General Assembly for meetings as provided in § 30-19.12. Members who
65 are state or local government officers or employees and who do not receive expenses and per diem
66 payments from their agencies for their service may be reimbursed for all reasonable and necessary
67 expenses incurred in the performance of their duties on behalf of the Authority as provided in
68 §§ 2.2-2813 and 2.2-2825. Members may decline to receive expenses and per diem for their service.

69 D. Four members of the Authority shall constitute a quorum for the purpose of conducting business.
70 No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all
71 the duties of the Authority. The Authority shall meet as necessary to exercise its powers and duties in
72 accordance with § 15.2-7403 and shall determine the times and places of its meetings.

73 **§ 15.2-7402. Executive Director appointment; duties.**

74 A. The Authority shall appoint an Executive Director, who shall be the chief administrative officer
75 and secretary of the Authority and shall serve at the pleasure of the Authority. The Executive Director
76 shall be paid from funds received by the Authority. No state funds shall be used to pay the salary or the
77 expenses of this office. The Authority may appoint employees to carry out its duties as budgetary
78 constraints allow.

79 B. In addition to any other duties set forth in this chapter, the Executive Director shall direct and
80 supervise the administrative affairs and activities of the Authority in accordance with its rules,
81 regulations, and policies; attend all meetings and keep minutes of all proceedings; approve all accounts
82 for salaries, per diem payments, and allowable expenses of the Authority and its employees and
83 consultants and approve all expenses incidental to the operation of the Authority; report and make
84 recommendations to the Authority on the merits and status of any proposed facility; and perform any
85 other duty that the Authority requires for carrying out the provisions of this chapter.

86 **§ 15.2-7403. Powers and duties.**

87 A. The Authority shall coordinate the construction of facilities and the development, promotion, and
88 enhancement of sporting opportunities in Virginia, including opportunities for summer, fall, winter, and
89 spring sports; amateur and professional sports; and participatory and spectator sports. Such sports
90 development may include branding, advertising, and marketing; sports tourism promotion, including
91 attracting and developing sporting events; coordinating with any other entity the promotion or
92 enhancement of sporting opportunities in Virginia; partnering with existing entities for Olympics-related
93 sports development; coordinating with the Virginia Department of Conservation and Recreation the
94 establishment of a destination golf program to promote golf-related tourism; and coordinating with
95 existing entities the recruitment and relocation to Virginia of the United States Olympic Committee,
96 National Governing Bodies, and other organizations governing sports.

97 B. The Authority shall contract with an existing not-for-profit organization for the purpose of
98 fulfilling the duties set forth in subsection A.

99 C. The Authority may acquire in its own name, by gift or purchase, any real or personal property,
100 or interests in property, necessary or convenient to construct or operate any facility. In any jurisdiction
101 where planning, zoning, and development regulations may apply, the Authority shall comply with and is
102 subject to those regulations to the same extent as a private commercial or industrial enterprise.

103 D. The Authority shall oversee and make any necessary rules concerning the Virginia Professional
104 Boxing, Wrestling, and Martial Arts Advisory Board (the Board) and shall ensure compliance by the
105 Board with all federal laws and regulations related to sports and professional athletics.

106 E. In addition to the duties set forth elsewhere in this chapter, the Authority shall keep records as
107 are consistent with sound business practices and accounting records using generally accepted
108 accounting practices; cause an audit by an independent certified public accountant to be made of
109 accounts and transactions at the conclusion of each fiscal year; be subject to audit and examination at
110 any reasonable time of its accounts and transactions by the Auditor of Public Accounts; and submit a
111 detailed report of any activities and change in financial standing to the Governor and to the General
112 Assembly.

113 F. In addition to the powers set forth elsewhere in this chapter, the Authority may:

- 114 1. Adopt and alter an official seal;
- 115 2. Sue and be sued in its own name;
- 116 3. Adopt bylaws, rules, and regulations to carry out the provisions of this chapter;
- 117 4. Maintain an office at such place as the Authority may designate;
- 118 5. Employ, either as regular employees or independent contractors, consultants, engineers, architects,
119 accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers
120 and other professional personnel, personnel, and agents as may be necessary in the judgment of the

Authority and fix their compensation;

6. Determine the locations of, and develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain, facilities to the extent necessary to accomplish the purposes of the Authority;

7. Acquire, hold, lease, use, encumber, transfer, or dispose of real and personal property;

8. Enter into contracts of any kind and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the Authority;

9. Regulate the use and operation of facilities developed under the provisions of this chapter;

10. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;

11. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest, and mortgage, pledge, or otherwise encumber the property or funds of the Authority and contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;

12. Issue bonds under this chapter;

13. Enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300;

14. Receive and accept from any source, private or public, contributions, gifts, or grants of money or property;

15. Promulgate regulations and conditions for the licensing and regulation of commercial entities sponsoring Fantasy Sports Contests that collect Fantasy Sports Contest Entry Fees from residents of the Commonwealth in excess of \$50,000 annually, which regulations shall include standards, qualifications, and procedures for the issuance of a license to each such entity to conduct Fantasy Sports Contests in the Commonwealth including imposition and collection of an annual license fee payable to the Authority not to exceed one percent (1%) of the annual total of a licensed entity's Fantasy Sports Contest Entry Fees collected from residents of the Commonwealth; and

16. Do all things necessary or convenient to carry out the powers granted by this chapter.

§ 15.2-7404. Public hearings; notice; reports.

A. At least 60 days prior to selecting a facility site, the Authority shall hold a public hearing within 30 miles of the site proposed to be acquired for the purpose of soliciting public comment.

B. Except as otherwise provided herein, at least 60 days prior to the public hearing required by this section, the Authority shall notify the local governing body in which the facility is proposed to be located and advertise the notice in a newspaper of general circulation in that locality. The notice shall include (i) a description of the site proposed to be acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice required by this section, the local governing body in which a facility is proposed to be located may require that this period be extended for up to 60 additional days or for such other time period as agreed upon by the local governing body and the Authority.

C. At least 30 days before acquiring or entering into a lease involving a facility site and before entering into a construction contract involving a new facility or facility site, the Authority shall submit a detailed written report and findings of the Authority that justify the proposed acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic necessity of the proposed acquisition, lease, or contract.

D. The time periods in subsections A, B, and C of this section may not run concurrently.

§ 15.2-7405. Bond issues.

A. The Authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest.

B. The bonds of any issue shall be payable solely from the property or receipts of the Authority, including, but not limited to:

1. Taxes, fees, charges, or other revenues payable to the Authority;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and

4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the Authority and may be secured by a trust agreement by and between the Authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding 40 years from their

182 *respective dates of issue;*

183 *2. Bear interest at the fixed or variable rate or rates determined by the method provided in the*
184 *resolution or trust agreement;*

185 *3. Be payable at a time or times, in the denominations and form, and carry the registration and*
186 *privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds, as the*
187 *resolution or trust agreement may provide;*

188 *4. Be payable in lawful money of the United States at a designated place;*

189 *5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the*
190 *resolution or trust agreement provides;*

191 *6. Be executed by the manual or facsimile signatures of the officers of the Authority designated by*
192 *the Authority, which signatures shall be valid at delivery even for one who has ceased to hold office;*
193 *and*

194 *7. Be sold in the manner and upon the terms determined by the Authority, including private*
195 *(negotiated) sale.*

196 *D. Any resolution or trust agreement may contain provisions that shall be a part of the contract*
197 *with the holders of the bonds as to:*

198 *1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the Authority or*
199 *proceeds or benefits of any contract and conveying or otherwise securing any property rights;*

200 *2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, and*
201 *cost of issuance accounts and sinking funds and the regulation, investment, and disposition thereof;*

202 *3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue*
203 *of bonds may be applied and restrictions to investments of revenues or bond proceeds in government*
204 *obligations for which principal and interest are unconditionally guaranteed by the United States of*
205 *America;*

206 *4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may*
207 *be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;*

208 *5. The refunding or refinancing of outstanding bonds;*

209 *6. The procedure, if any, by which the terms of any contract with bondholders may be altered or*
210 *amended and the amount of bonds the holders of which must consent thereto and the manner in which*
211 *consent shall be given;*

212 *7. Defining the acts or omissions that shall constitute a default in the duties of the Authority to*
213 *bondholders and providing the rights or remedies of such holders in the event of a default, which may*
214 *include provisions restricting individual right of action by bondholders;*

215 *8. Providing for guarantees, pledges of property, letters of credit, or other security or insurance for*
216 *the benefit of bondholders; and*

217 *9. Any other matter relating to the bonds which the Authority determines appropriate.*

218 *E. No member of the Authority nor any person executing the bonds on behalf of the Authority shall*
219 *be liable personally for the bonds or subject to any personal liability by reason of the issuance of the*
220 *bonds.*

221 *F. The Authority may enter into agreements with agents, banks, insurers, any political subdivision of*
222 *the Commonwealth, or others for the purpose of enhancing the marketability of, or as security for, its*
223 *bonds.*

224 *G. A pledge by the Authority of revenues as security for an issue of bonds shall be valid and*
225 *binding from the time the pledge is made.*

226 *The revenues pledged shall immediately be subject to the lien of the pledge without any physical*
227 *delivery or further act, and the lien of any pledge shall be valid and binding against any person having*
228 *any claim of any kind in tort, contract, or otherwise against the Authority, irrespective of whether the*
229 *person has notice.*

230 *No resolution, trust agreement or financing statement, continuation statement, or other instrument*
231 *adopted or entered into by the Authority need be filed or recorded in any public record other than the*
232 *records of the Authority in order to perfect the lien against third persons, regardless of any contrary*
233 *provision of public general or public local law.*

234 *H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of*
235 *bonds issued under this chapter or a trustee acting under a trust agreement entered into under this*
236 *chapter may, by any suitable form of legal proceedings, protect and enforce any rights granted under*
237 *the laws of the Commonwealth or by any applicable resolution or trust agreement.*

238 *I. The Authority may issue bonds to refund any of its bonds then outstanding, including the payment*
239 *of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date*
240 *of redemption, purchase, or maturity of the bonds. Refunding bonds may be issued for the public*
241 *purposes of realizing savings in the effective costs of debt service, directly or through a debt*
242 *restructuring, for alleviating impending or actual default and may be issued in one or more series in an*
243 *amount in excess of that of the bonds to be refunded.*

J. In the event a facility is planned, no bonds shall be issued hereunder until the Authority has executed a long-term lease with a suitable occupant.

§ 15.2-7406. Investments in bonds; tax exemption; tax revenues of the Commonwealth not pledged.

A. Any financial institution, investment company, or insurance company or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to it or within its control in any bonds issued by the Authority.

B. The Authority shall not be required to pay any taxes or assessments of any kind whatsoever and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by the Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

C. Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this chapter shall be made only from sales tax revenues generated from transactions taking place upon the premises of the facility for which bonds may have been issued to pay the cost, in whole or in part.

§ 15.2-7407. Sports Authority Financing Fund; use.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Sports Authority Financing Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All proceeds from the sale of bonds, revenues collected or received from any source under the provisions of this chapter, and any other revenues under the jurisdiction of the Authority shall be paid into the state treasury and credited to the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. To the extent deemed appropriate by the Authority, the receipts of the Fund shall be pledged to and charged with the payment of debt service on Authority bonds and all reasonable charges and expenses related to Authority borrowing and the management of Authority obligation. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Authority.

§ 15.2-7408. Entitlement to sales tax revenues derived from a facility.

A. If the Authority has issued bonds to finance or refinance a facility, the Authority shall be entitled to all sales tax revenues that are generated by transactions taking place upon the premises of the facility. Such entitlement shall continue for the lifetime of such bonds, but that entitlement shall not exceed 30 years. All sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the Authority on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues generated by transactions taking place upon the premises of the facility. The State Comptroller shall make such remittances to the Authority as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

B. If the Authority has issued bonds to finance or refinance a facility, the local governing body of the locality in which the facility is located may direct, by ordinance or resolution, that all local sales and use tax revenues generated by transactions taking place upon the premises of the facility from taxes levied pursuant to §§ 58.1-605 and 58.1-606 shall be remitted by the State Comptroller to the Authority for the repayment of bonds. Such remittances shall be for the same period and under the same conditions as remittances to the Authority paid in accordance with subsection A mutatis mutandis.

§ 54.1-831.01. Professional Boxing, Wrestling and Martial Arts Advisory Board.

A. The Professional Boxing, Wrestling, and Martial Arts Advisory Board (the Board) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government to advise the Director on matters relating to professional boxing and wrestling events and martial arts competitions in the Commonwealth. The Board shall be overseen by and follow the rules set by the Virginia Sports Authority pursuant to § 15.2-7403.

B. The Board shall consist of seven members appointed by the Director as follows: one representative of the sport of boxing; one representative of the sport of wrestling; one representative of the sport of nontraditional mixed martial arts; one representative of either the sport of boxing, wrestling, or nontraditional mixed martial arts; one member who is a martial arts instructor who has obtained the rank of black belt or higher; and two citizen members. All members shall be residents of the Commonwealth. After the original appointments, all appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to

305 serve for more than two successive full terms.

306 C. The Board shall elect its chairman and vice-chairman from among its members. The Board shall
307 meet at least once each year to conduct its business and upon the call of the Director or chair of the
308 Board. Four members shall constitute a quorum.

309 D. Members of the Board shall receive no compensation for their services, but shall be reimbursed
310 for all reasonable and necessary expenses incurred in the discharge of their duties as provided in
311 § 2.2-2825.

312 E. Such staff support as is necessary for the conduct of the Board's business shall be furnished by
313 the Department.