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HOUSE BILL NO. 2254

Offered January 11, 2017

Prefiled January 11, 2017

A *BILL to amend and reenact §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405, 3.2-2406, 3.2-2407, 3.2-2407.1, and 3.2-2410 of the Code of Virginia and to repeal § 3.2-2404 of the Code of Virginia, relating to the Tobacco Board; composition; excise tax.*

Patron—Edmunds

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405, 3.2-2406, 3.2-2407, 3.2-2407.1, and 3.2-2410 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-1105. Commodity boards; appointment terms; quorum.

The following provisions apply to each commodity board established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 16 (§ 3.2-1600 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or~~ Chapter 21 (§ 3.2-2100 et seq.), *or Chapter 24 (§ 3.2-2400 et seq.):*

1. The term for each appointment to a commodity board shall be for four years, with the exception of an appointment to fill a vacancy, which shall be for the unexpired term, unless otherwise authorized in this subtitle; and

2. A majority of the members of a commodity board shall constitute a quorum of that commodity board unless otherwise authorized in this subtitle.

§ 3.2-1106. Commodity board officers and reimbursement of expenses.

The following provisions apply to each commodity board established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 15 (§ 3.2-1500 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or~~ Chapter 21 (§ 3.2-2100 et seq.), *or Chapter 24 (§ 3.2-2400 et seq.):*

1. The members of a commodity board shall elect one board member as chairman and such other officers as deemed appropriate unless otherwise authorized in this subtitle; and

2. Each appointed member of a commodity board shall serve without compensation. Such commodity board may reimburse any of its members for actual expenses incurred in the performance of his duties unless otherwise authorized in this subtitle. Such reimbursements shall be made from the special funds established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 15 (§ 3.2-1500 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or~~ Chapter 21 (§ 3.2-2100 et seq.), *or Chapter 24 (§ 3.2-2400 et seq.).*

§ 3.2-2401. Tobacco Board; composition and appointment of members.

The Tobacco Board is hereby established within the Department. The Tobacco Board shall consist of nine members. Each of the six production areas of flue-cured tobacco set out in § 3.2-2402 shall have a representative on the Tobacco Board, and three members shall represent, as nearly as possible, each important type 21 dark-fired tobacco-producing section in the Commonwealth. The Governor shall appoint members from nominations made by the Virginia Farm Bureau Federation and other ~~tobacco~~ ~~grower~~ organizations ~~existing~~ *representing bright flue-cured tobacco growers or type 21 dark-fired tobacco growers* in tobacco-producing counties. Each member shall be a citizen of the Commonwealth and engaged in producing tobacco in the Commonwealth. ~~Each organization shall submit two or more nominations for each available position at least 90 days before the expiration of the member's term for which the nomination is being provided. If the organizations fail to provide the nominations at least 90 days before the expiration date pursuant to this section, the Governor may appoint other nominees that meet the foregoing criteria.~~

§ 3.2-2405. Powers and duties of the Tobacco Board.

A. All funds levied and collected under this chapter shall be administered by the Tobacco Board.

B. The Tobacco Board shall plan and conduct campaigns of education, advertising, publicity, sales promotion, and research to increase the demand for, and the consumption of, bright flue-cured and type 21 dark-fired tobaccos.

C. The Tobacco Board may make contracts, expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund, and do whatever else may be necessary to effectuate the purposes of this chapter.

D. The Tobacco Board may cooperate with other state, regional, and national agricultural organizations in research, advertising, publicity, education, and other means of promoting the sale, use, and exportation of bright-flue-cured and type 21 dark-fired tobaccos, and expend moneys of the Bright

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59 Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund for such purposes.

60 E. ~~The Tobacco Board may appoint a secretary and such other employees as may be necessary, at~~
61 ~~salaries to be fixed by the Tobacco Board, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.)~~
62 ~~of Title 2.2. All employees handling money under this chapter shall be required to furnish surety bonds.~~

63 F. The Chairman shall make a report at the annual meeting of the Tobacco Board and furnish
64 members with a statement of the total receipts and disbursements for the year. He shall file a copy of
65 such report and the audit required by § 3.2-2407 with the Commissioner.

66 **§ 3.2-2406. Levy of excise tax.**

67 An excise tax of ~~20~~ 40 cents (~~\$0.20~~) (\$0.40) per 100 pounds is levied on all bright flue-cured and
68 type 21 dark-fired tobaccos that are harvested in the Commonwealth and sold by the grower and shall
69 be payable by the grower.

70 **§ 3.2-2407. Bright Flue-Cured Tobacco Promotion Fund established.**

71 There is hereby created in the state treasury a special nonreverting fund to be known as the Bright
72 Flue-Cured Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established
73 on the books of the Comptroller. All moneys levied and collected under this chapter on all bright
74 flue-cured tobacco shall be paid into the state treasury and credited to the Fund.

75 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys
76 remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the
77 general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of
78 carrying out the administration and enforcement of this chapter with respect to bright flue-cured tobacco,
79 including the collection of taxes, the payment of personal services and expenses of ~~employees and~~
80 agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to
81 effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by
82 the Tobacco Board on warrants issued by the Comptroller upon written request signed by a duly
83 authorized officer of the Tobacco Board.

84 The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for
85 in § 30-133.

86 **§ 3.2-2407.1. Dark-Fired Tobacco Promotion Fund established.**

87 There is hereby created in the state treasury a special nonreverting fund to be known as the
88 Dark-Fired Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established
89 on the books of the Comptroller. All moneys levied and collected under this chapter on type 21
90 dark-fired tobacco shall be paid into the state treasury and credited to the Fund.

91 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys
92 remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the
93 general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of
94 carrying out the administration and enforcement of this chapter with respect to type 21 dark-fired
95 tobacco, including the collection of taxes, the payment of personal services and expenses of ~~employees~~
96 ~~and~~ agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to
97 effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by
98 the Tobacco Board on warrants issued by the Comptroller upon written request signed by a duly
99 authorized officer of the Tobacco Board.

100 The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for
101 in § 30-133.

102 **§ 3.2-2410. Collection of unpaid excise tax and interest thereon.**

103 If the tax imposed by this chapter is not paid when due or any funds collected by a warehouse or
104 handler are not remitted to the Tobacco Board as required in this chapter, the amount due shall bear
105 interest at the rate of one percent per month from the due date until payment. If any person defaults in
106 any payment of the tax or interest thereon, or fails to remit any funds collected to the Tobacco Board,
107 the amount shall be collected by civil action in the name of the Commonwealth at the relation of the
108 Tobacco Board, and the person adjudged in default shall pay the cost of such action. The Attorney
109 General, at the request of the Tobacco Board, shall institute action for the collection of the amount of
110 any tax past due under this chapter, including interest thereon. *The Tobacco Board may waive or remit*
111 *such interest penalty, or portion thereof, in its discretion for good cause shown. In determining whether*
112 *to waive an interest penalty or request for civil action, the Tobacco Board shall give due consideration*
113 *to (i) any history of previous violations, (ii) the seriousness of the current violation, and (iii)*
114 *demonstrated good faith in attempting to achieve compliance with this chapter after notification of the*
115 *violation.*

116 **2. That § 3.2-2404 of the Code of Virginia is repealed.**