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SENATE BILL NO. 948

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 12, 2017)

(Patron Prior to Substitute—Senator Ruff)

A *BILL to amend and reenact §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405 through 3.2-2407.1, and 3.2-2410 of the Code of Virginia and to repeal §§ 3.2-2403 and 3.2-2404 of the Code of Virginia, relating to commodity boards; Tobacco Board.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405 through 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~~ *organizations 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~~ *bright flue-cured* and type 21 dark-fired tobaccos, and expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund for such purposes.

E. ~~The Tobacco Board may appoint a secretary and such other employees as may be necessary, at~~

60 salaries to be fixed by the Tobacco Board, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.)
61 of Title 2.2. All employees handling money under this chapter shall be required to furnish surety bonds.

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

65 **§ 3.2-2406. Collection of assessment.**

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

69 **§ 3.2-2407. Bright Flue-Cured Tobacco Promotion Fund established.**

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

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

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

85 **§ 3.2-2407.1. Dark-Fired Tobacco Promotion Fund established.**

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

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

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

101 **§ 3.2-2410. Collection of unpaid assessment and interest thereon.**

102 If the ~~tax~~ *assessment* imposed by this chapter is not paid when due or any funds collected by a
103 warehouse or handler are not remitted to the Tobacco Board as required in this chapter, the amount due
104 shall bear interest at the rate of one percent per month from the due date until payment.

105 If any person defaults in any payment of the ~~tax~~ *assessment* or interest thereon, or fails to remit any
106 funds collected to the Tobacco Board, the amount shall be collected by civil action in the name of the
107 Commonwealth at the relation of the Tobacco Board, and the person adjudged in default shall pay the
108 cost of such action. The Attorney General, at the request of the Tobacco Board, shall institute action for
109 the collection of the amount of any ~~tax~~ *assessment* past due under this chapter, including interest
110 thereon.

111 *The Tobacco Board, in its discretion, may waive or remit such interest, or a portion thereof, for*
112 *good cause shown. In determining whether to waive interest charges or request a civil action, the Board*
113 *shall consider any history of previous violations, the seriousness of the violation, and the good faith*
114 *demonstrated in any attempt to achieve compliance with the chapter after notice of the violation.*

115 **2. That §§ 3.2-2403 and 3.2-2404 of the Code of Virginia are repealed.**