

18102727D

HOUSE BILL NO. 1095

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend and reenact §§ 15.2-6606, 15.2-6632, and 15.2-7401 of the Code of Virginia, relating to Chesapeake Bay public water access authorities; regional dredging.

Patron—Hodges

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-6606, 15.2-6632, and 15.2-7401 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-6606. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name;
3. Have perpetual succession;
4. Adopt a corporate seal and alter the same at its pleasure;
5. Maintain offices at such places as it may designate;
6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;
7. Construct, install, maintain, and operate facilities for managing access sites;
8. Determine fees, rates, and charges for the use of its facilities;
9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;
10. *Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;*

11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the NNCBPAA exists;

12. Appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

~~11.~~ *13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-6612 hereof, accounting services, including the annual independent audit required by § 15.2-6609 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;*

~~12.~~ *14. Establish personnel rules;*

~~13.~~ *15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;*

~~14.~~ *16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;*

INTRODUCED

HB1095

59 ~~15.~~ 17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting
60 casual deficits in its revenues;

61 ~~16.~~ 18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its
62 facilities and governing the conduct of persons and organizations using its facilities and to enforce such
63 rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all
64 as hereinafter provided;

65 ~~17.~~ 19. Purchase and maintain insurance or provide indemnification on behalf of any person who is
66 or was a director, officer, employee or agent of the Authority against any liability asserted against him
67 or incurred by him in any such capacity or arising out of his status as such;

68 ~~18.~~ 20. Request and accept legal advice and assistance from the Office of the Attorney General;

69 ~~19.~~ 21. Do all things necessary or convenient to the purposes of this act. To that end, the Authority
70 may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and
71 adopt rules and regulations; and

72 ~~20.~~ 22. Whenever it shall appear to the Authority, or to a simple majority of participating political
73 subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any
74 such subdivision, may petition the circuit court of a participating political subdivision for the dissolution
75 of the Authority. If the court shall determine that the need for the Authority as set forth in this act no
76 longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or
77 provided for, it may enter an order dissolving the Authority.

78 Upon dissolution, the court shall order any real or tangible personal property contributed to the
79 Authority by a participating political subdivision, together with any improvements thereon, returned to
80 such participating political subdivisions. The remaining assets of the Authority shall be distributed to the
81 participating political subdivisions in proportion to their respective contributions theretofore made to the
82 Authority.

83 Each participating political subdivision and all holders of the Authority's bonds shall be made parties
84 to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to
85 such petition at any time within six months after the filing of the petition. From the final judgment of
86 the court, an appeal shall lie to the Supreme Court of Virginia.

87 **§ 15.2-6632. Powers.**

88 The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this
89 act, including the following, to:

90 1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

91 2. Sue and be sued in its own name;

92 3. Have perpetual succession;

93 4. Adopt a corporate seal and alter the same at its pleasure;

94 5. Maintain offices at such places as it may designate;

95 6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access
96 sites that are owned or managed by the authority within the territorial limits of the participating political
97 subdivisions;

98 7. Construct, install, maintain, and operate facilities for managing access sites;

99 8. Determine fees, rates, and charges for the use of its facilities;

100 9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property, or other
101 financial assistance from the United States of America and agencies and instrumentalities thereof, the
102 Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition,
103 ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of
104 any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the
105 Authority shall have the power to render such services, comply with such conditions, and execute such
106 agreements, and legal instruments, as may be necessary, convenient, or desirable or imposed as a
107 condition to such financial aid;

108 10. *Receive and expend public funds and private donations for dredging or construction; apply for*
109 *permits in order to perform dredging projects on waterways or to construct facilities and infrastructure*
110 *within the region for which the Authority exists, provided that such projects enhance recreational and*
111 *commercial public access; and perform such dredging projects or construct such facilities and*
112 *infrastructure;*

113 11. *In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA),*
114 *created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Middle Peninsula*
115 *Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter*
116 *66 (§ 15.2-6600 et seq.), receive and expend public funds and private donations for dredging, apply for*
117 *permits in order to perform dredging projects, and perform such dredging projects on waterways within*
118 *the region for which any or all of the Authority, the ESWAA, or the MPCBPAA exists;*

119 12. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys,
120 accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may

be necessary or appropriate, and to fix their duties and compensation;

~~14.~~ 13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, and depository and investment services contemplated by § 15.2-6638 hereof, accounting services, including the annual independent audit required by § 15.2-6635 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

~~14.~~ 14. Establish personnel rules;

~~15.~~ 15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

~~16.~~ 16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

~~17.~~ 17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

~~18.~~ 18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

~~19.~~ 19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

~~20.~~ 20. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

~~21.~~ 21. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia.

§ 15.2-7401. Creation; public purpose.

If any of the governing bodies of the Counties of Accomack and Northampton by resolution declare that there is a need for a public access authority to be created and an operating agreement is developed for the purpose of establishing or operating a public access authority for any such participating political subdivisions and that they should unite in the formation of an authority to be known as the Eastern Shore Water Access Authority (the Authority), which shall thereupon exist for such participating counties and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions. The Authority shall be charged with the following duties:

1. Identify land, either owned by the Commonwealth or private holdings, that can be secured for use by the general public as a public access site;

2. Research and determine ownership of all identified sites;

3. Determine appropriate public use levels of identified access sites;

4. Develop appropriate mechanisms for transferring title of Commonwealth or private holdings to the Authority;

5. Develop appropriate acquisition and site management plans for public access usage;

6. Determine which holdings should be sold to advance the mission of the Authority;

7. Receive and expend public funds and private donations in order to restore or create tidal wetlands within the region for which the Authority exists, provided that any tidal mitigation credits resulting from such restoration or creation projects shall be held by the Authority for the benefit and use of participating political subdivisions and shall not be sold or conveyed to any private party by the Authority or any participating political subdivision;

182 8. Receive and expend public funds and private donations ~~and for dredging or construction~~; apply
183 for permits in order to perform dredging projects on waterways ~~and or to construct facilities and~~
184 infrastructure within the region for which the Authority exists, provided that such projects enhance
185 recreational and commercial public access; and *perform such dredging projects or construct such*
186 *facilities and infrastructure*;

187 9. *In conjunction with one or both of the Middle Peninsula Chesapeake Bay Public Access Authority*
188 *(the MPCBPAA), created pursuant to the provisions of Chapter 66 (§ 15.2-6600 et seq.), and the*
189 *Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the*
190 *provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations*
191 *for dredging, apply for permits in order to perform dredging projects, and perform such dredging*
192 *projects on waterways within the region for which any or all of the Authority, the MPCBPAA, or the*
193 *NNCBPAA exists; and*

194 10. Perform other duties required to fulfill the mission of the Authority.

195 In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract
196 of the Authority, the Authority shall be deemed to have been created as a body corporate and to have
197 been established and authorized to transact business and exercise its powers hereunder upon proof of the
198 adoption of a resolution as aforesaid by the participating political subdivisions declaring that there is a
199 need for such Authority. A copy of such resolution duly certified by the clerks of the counties by which
200 it is adopted shall be admissible as evidence in any suit, action, or proceeding. Any political subdivision
201 of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this
202 act.

203 The ownership and operation by the Authority of any public access sites and related facilities and the
204 exercise of powers conferred by this act are proper and essential governmental functions and public
205 purposes and matters of public necessity for which public moneys may be spent and private property
206 acquired. The Authority is a regional entity of government by or on behalf of which debt may be
207 contracted by or on behalf of any county pursuant to Article VII, Section 10 (a) of the Constitution of
208 Virginia.