

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 1095]  
5 Approved

6 Be it enacted by the General Assembly of Virginia:

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

9 § 15.2-6606. Powers.

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

- 12 1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
- 13 2. Sue and be sued in its own name;
- 14 3. Have perpetual succession;
- 15 4. Adopt a corporate seal and alter the same at its pleasure;
- 16 5. Maintain offices at such places as it may designate;
- 17 6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate public access  
18 sites that are owned or managed by the authority within the territorial limits of the participating political  
19 subdivisions;
- 20 7. Construct, install, maintain, and operate facilities for managing access sites;
- 21 8. Determine fees, rates, and charges for the use of its facilities;
- 22 9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other  
23 financial assistance from the United States of America and agencies and instrumentalities thereof, the  
24 Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition,  
25 ownership, operation, maintenance or repair of the public access sites or for the payment of principal of  
26 any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the  
27 Authority shall have the power to render such services, comply with such conditions and execute such  
28 agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a  
29 condition to such financial aid;
- 30 10. *Receive and expend public funds and private donations for dredging or construction; apply for*  
31 *permits in order to perform dredging projects on waterways or to construct facilities and infrastructure*  
32 *within the region for which the Authority exists, provided that such projects enhance recreational and*  
33 *commercial public access; and perform such dredging projects or construct such facilities and*  
34 *infrastructure;*
- 35 11. *In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA),*  
36 *created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Northern Neck*  
37 *Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter*  
38 *66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply*  
39 *for permits in order to perform dredging projects, and perform such dredging projects on waterways*  
40 *within the region for which any or all of the Authority, the ESWAA, or the NNCBPAA exists;*
- 41 12. Appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants,  
42 financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary  
43 or appropriate, and to fix their duties and compensation;
- 44 ~~13.~~ 13. Contract with any participating political subdivision for such subdivision to provide legal  
45 services, engineering services, depository and investment services contemplated by § 15.2-6612 hereof,  
46 accounting services, including the annual independent audit required by § 15.2-6609 hereof, procurement  
47 of goods and services, and to act as fiscal agent for the Authority;
- 48 ~~14.~~ 14. Establish personnel rules;
- 49 ~~15.~~ 15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise  
50 acquire any property, real or personal, or any interest therein, and in connection therewith to assume or  
51 take subject to any indebtedness secured by such property;
- 52 ~~16.~~ 16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental  
53 to the exercise of its powers, including contracts for the management or operation of all or any part of  
54 its facilities;
- 55 ~~17.~~ 17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting  
56 casual deficits in its revenues;

57 ~~16.~~ 18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its  
 58 facilities and governing the conduct of persons and organizations using its facilities and to enforce such  
 59 rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all  
 60 as hereinafter provided;

61 ~~17.~~ 19. Purchase and maintain insurance or provide indemnification on behalf of any person who is  
 62 or was a director, officer, employee or agent of the Authority against any liability asserted against him  
 63 or incurred by him in any such capacity or arising out of his status as such;

64 ~~18.~~ 20. Request and accept legal advice and assistance from the Office of the Attorney General;

65 ~~19.~~ 21. Do all things necessary or convenient to the purposes of this act. To that end, the Authority  
 66 may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and  
 67 adopt rules and regulations; and

68 ~~20.~~ 22. Whenever it shall appear to the Authority, or to a simple majority of participating political  
 69 subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any  
 70 such subdivision, may petition the circuit court of a participating political subdivision for the dissolution  
 71 of the Authority. If the court shall determine that the need for the Authority as set forth in this act no  
 72 longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or  
 73 provided for, it may enter an order dissolving the Authority.

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

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

83 **§ 15.2-6632. Powers.**

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

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

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

88 3. Have perpetual succession;

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

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

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

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

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

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

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

109 11. *In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA),*  
 110 *created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Middle Peninsula*  
 111 *Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter*  
 112 *66 (§ 15.2-6600 et seq.), receive and expend public funds and private donations for dredging, apply for*  
 113 *permits in order to perform dredging projects, and perform such dredging projects on waterways within*  
 114 *the region for which any or all of the Authority, the ESWAA, or the MPCBPAA exists;*

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

118 ~~11.~~ 13. Contract with any participating political subdivision for such subdivision to provide legal  
119 services, engineering services, and depository and investment services contemplated by § 15.2-6638  
120 hereof, accounting services, including the annual independent audit required by § 15.2-6635 hereof,  
121 procurement of goods and services, and to act as fiscal agent for the Authority;

122 ~~12.~~ 14. Establish personnel rules;

123 ~~13.~~ 15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise  
124 acquire any property, real or personal, or any interest therein, and in connection therewith to assume or  
125 take subject to any indebtedness secured by such property;

126 ~~14.~~ 16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental  
127 to the exercise of its powers, including contracts for the management or operation of all or any part of  
128 its facilities;

129 ~~15.~~ 17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting  
130 casual deficits in its revenues;

131 ~~16.~~ 18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its  
132 facilities and governing the conduct of persons and organizations using its facilities and to enforce such  
133 rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all  
134 as hereinafter provided;

135 ~~17.~~ 19. Purchase and maintain insurance or provide indemnification on behalf of any person who is  
136 or was a director, officer, employee or agent of the Authority against any liability asserted against him  
137 or incurred by him in any such capacity or arising out of his status as such;

138 ~~18.~~ 20. Do all things necessary or convenient to the purposes of this act. To that end, the Authority  
139 may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and  
140 adopt rules and regulations; and

141 ~~19.~~ 21. Whenever it shall appear to the Authority, or to a simple majority of participating political  
142 subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any  
143 such subdivision, may petition the circuit court of a participating political subdivision for the dissolution  
144 of the Authority. If the court shall determine that the need for the Authority as set forth in this act no  
145 longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or  
146 provided for, it may enter an order dissolving the Authority.

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

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

156 **§ 15.2-7401. Creation; public purpose.**

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

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

167 2. Research and determine ownership of all identified sites;

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

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

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

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

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

178 8. Receive and expend public funds and private donations ~~and for dredging or construction~~; apply

179 for permits in order to perform dredging projects on waterways ~~and~~ or to construct facilities and  
180 infrastructure within the region for which the Authority exists, provided that such projects enhance  
181 recreational and commercial public access; and *perform such dredging projects or construct such*  
182 *facilities and infrastructure;*

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

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

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

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