

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 613

An Act to amend and reenact §§ 15.1-227.70 through 15.1-227.77 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.1-227.83 through 15.1-227.87, relating to the Virginia Baseball Stadium Authority.

[S 944]

Approved March 25, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-227.70 through 15.1-227.77 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.1-227.83 through 15.1-227.87 as follows:

§ 15.1-227.70. Definitions.

As used in this chapter the following words have the meanings indicated:

"Authority" means the Virginia Baseball Stadium Authority.

"Facility" means (i) stadiums for the primary purpose of holding major league and minor league professional baseball games, (ii) practice fields or other areas where major league and minor league professional baseball teams may practice or perform, (iii) offices for major league and minor league professional baseball teams or franchises, ~~and~~ (iv) ~~office, restaurant, concessions, retail and lodging facilities which are adjacent to a major league baseball stadium, and~~ (v) any other directly related adjacent properties including, *but not limited to, onsite and offsite parking lots, garages, and other properties.*

"Major league baseball" means the organization which controls the administrative functions for the ownership and operation of major league baseball operations in the United States and Canada.

"Major league baseball franchise" means the contractual right granted by major league baseball to any person or persons to own or operate a major league baseball team in a specified location.

"Major league baseball stadium" means a sports facility which is designed for use primarily as a baseball stadium and which meets criteria that may be established by major league baseball.

"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 shall not include any local general retail sales and use tax levied pursuant to §§ 58.1-605 and 58.1-606.

§ 15.1-227.71. Creation of Authority.

There is hereby established a body corporate and politic known as the Virginia Baseball Stadium Authority. The Authority is ~~an instrumentality~~ a political subdivision of the Commonwealth.

§ 15.1-227.72. Members of Authority; chairman; terms.

A. The Authority shall consist of nine members *who shall be* appointed by the Governor, ~~who~~ and the Governor shall designate one of the members as chairman. *The members of the Authority annually shall elect a vice-chairman from their membership who shall perform the duties of the chairman in his absence.* In making appointments to the Authority, the Governor shall ensure that the geographic areas of the Commonwealth are represented; *however, in the event a major league baseball stadium is proposed, at least four members of the Authority shall be residents of the county or city in which the facility is proposed to be located. The appointments of the members by the Governor shall be confirmed in accordance with § 2.1-42.1.*

B. The term of a member of the Authority is four years ~~and~~. *However, upon the initial appointment of the members of the Authority, the terms of the members shall be staggered as follows: The initial term of three of the members shall be four years; the initial term of three members shall be three years; and the initial term of the remaining three members shall be two years. The Governor shall designate the term to be served by each appointee at the time of appointment.*

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. Upon the end of the term of a member, or upon the resignation or removal of a member, the Governor shall appoint a member to the Authority. The Governor may remove a member for ~~incompetence, misconduct, or failure to perform the duties of the position~~ *cause in accordance with § 2.1-43. The members of the Authority shall receive no compensation for their services, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of the duties of that office.*

§ 15.1-227.73. Quorum; actions of Authority; meetings.

Five members of the Authority shall constitute a quorum for the purpose of conducting business. Actions of the Authority must receive the affirmative vote of *the majority of* a quorum. *No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all the duties of the*

Authority. The Authority shall determine the times and places of its *regular* meetings. *Special meetings of the Authority shall be held when requested by two or more members of the Authority. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all the members of the Authority are present.*

§ 15.1-227.74. Executive Director appointment; duties.

A. The Authority shall appoint an Executive Director, who is the chief administrative officer and secretary of the Authority and serves at the pleasure of the Authority. *The Executive Director shall be paid from funds received by the Authority.* No state funds shall be used to pay the salary or the expenses of this office.

B. In addition to any other duties set forth in this chapter, the Executive Director shall:

1. Direct and supervise the administrative affairs and activities of the Authority in accordance with its rules, regulations, and policies;
2. Attend all meetings and keep minutes of all proceedings;
3. Approve all accounts for salaries, per diem payments, and allowable expenses of the Authority and its employees and consultants and approve all expenses incidental to the operation of the Authority;
4. Report and make recommendations to the Authority on the merits and status of any proposed facility; and
5. Perform any other duty that the Authority requires for carrying out the provisions of this chapter.

§ 15.1-227.75. Powers.

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

1. Adopt and alter an official seal;
2. Sue and be sued, ~~plead and be impleaded~~ *in its own name*;
3. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;
4. Maintain an office at such place as the Authority may designate;
5. Employ, either as regular employees or independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers 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, 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 the 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 to mortgage, pledge, or otherwise encumber the property or funds of the Authority and to 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. Receive and accept from any source, private or public, contributions, gifts, or grants of money or property; and
14. Do all things necessary or convenient to carry out the powers granted by this chapter.

§ 15.1-227.76. Public hearings; notice; reports.

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

B. *Except as otherwise provided herein*, at least ~~ninety~~ *sixty* 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 sixty additional days or for such other time period as agreed upon by the local governing body and the Authority.*

C. At least thirty 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.

§ 15.1-227.77. Acquisition of property.

A. The Authority may acquire in its own name, by gift or purchase, any real or personal property, or interests in property, necessary or convenient to construct or operate any facility.

B. In any jurisdiction where planning, zoning, and development regulations may apply, the Authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

C. This section does not affect the right of the Authority to acquire an option for ~~later~~ acquisition of the property, prior to 2000, once the approval required by this section is obtained.

§ 15.1-227.83. Creation of local advisory boards.

Prior to constructing any facility, the Authority shall create a local advisory board for that facility. Each local advisory board shall be composed of twelve members. Six members shall be appointed by the local governing body in which the proposed facility is to be located. Notwithstanding the provisions of § 15.1-50.4, the governing body may appoint one or more of its members to serve on the local advisory board. Six members shall be appointed by the Authority, and each of those six members shall reside in the county or city in which the facility is proposed to be located. All advisory board members shall be appointed for a term of four years. All advisory board members shall serve without pay, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of advisory functions. Each advisory board shall elect a chairman and a secretary and such other officers as it deems necessary. The Authority shall give each local advisory board reasonable opportunity to provide appropriate comments and recommendations on the design and the operation of the facility in its locality.

§ 15.1-227.84. Entitlement to sales tax revenues derived from a major league baseball stadium.

A. *If the Authority has issued bonds to finance or refinance a major league baseball stadium, the Authority shall be entitled to all sales tax revenues that are generated by transactions taking place upon the premises of the major league baseball stadium. Such entitlement shall continue for the lifetime of such bonds, but that entitlement shall not exceed thirty 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 major league baseball stadium. 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 major league baseball stadium, the local governing body of the county or city in which the stadium 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 major league stadium 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 those remittances to the Authority paid in accordance with subsection A of this section, mutatis mutandis.*

§ 15.1-227.85. Tax revenues of the Commonwealth or any other political subdivision not pledged.

Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, 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 major league baseball stadium for which bonds may have been issued to pay the cost, in whole or in part.

§ 15.1-227.86. Cooperation between the Authority and other political subdivisions.

The Authority may enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.1-21.

§ 15.1-227.87. Tort liability.

No pecuniary liability of any kind shall be imposed on the Commonwealth or on any other political subdivision of the Commonwealth because of any act, agreement, contract, tort, malfeasance or nonfeasance by or on the part of the Authority, its agents, servants or employees.