

LD7751812

## HOUSE BILL NO. 2293

House Amendments in [ ] — February 5, 1995

*A BILL to amend and reenact § 2.1-1.5 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 32.1 of Title 2.1 an article numbered 7, consisting of sections numbered 2.1-548.26 through 2.1-548.44, relating to the creation of the Virginia Economic Development Partnership, an Authority.*

Patrons—Cantor, Albo, Callahan, Cox, Fisher, Harris, Howell, Katzen, Kilgore, Morgan, Nixon, Purkey, Reid, Ruff, Way and Wilkins; Senators: Bell, Calhoun, Colgan, Hawkins, Holland, C.A., Holland, E.M., Holland, R.J., Nolen, Robb and Stolle

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.1-1.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 32.1 of Title 2.1 an article numbered 7, consisting of sections numbered 2.1-548.26 through 2.1-548.44, as follows:**

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or enabling legislation of the entities:

## Authorities

Richmond Eye and Ear Hospital Authority.  
 Small Business Financing Authority.  
 State Education Assistance Authority.  
 Virginia Agriculture Development Authority.  
 Virginia College Building Authority.  
*Virginia Economic Development Partnership.*  
 Virginia Education Loan Authority.  
 Virginia Housing Development Authority.  
 Virginia Innovative Technology Authority.  
 Virginia Port Authority.  
 Virginia Public Building Authority.  
 Virginia Public School Authority.  
 Virginia Resources Authority.  
 Virginia Student Assistance Authorities.

## Boards

Board of Commissioners, Virginia Agriculture Development Authority.  
 Board of Commissioners, Virginia Port Authority.  
 Board of Directors, Richmond Eye and Ear Hospital Authority.  
 Board of Directors, Small Business Financing Authority.  
*Board of Directors, Virginia Economic Development Partnership.*  
 Board of Directors, Virginia Student Assistance Authorities.  
 Board of Directors, Virginia Innovative Technology Authority.  
 Board of Directors, Virginia Resources Authority.  
 Board of Regents, Gunston Hall Plantation.  
 Board of Regents, James Monroe Memorial Law Office and Library.  
 Board of Trustees, Family and Children's Trust Fund.  
 Board of Trustees, Frontier Culture Museum of Virginia.  
 Board of Trustees, Jamestown-Yorktown Foundation.  
 Board of Trustees, Miller School of Albemarle.  
 Board of Trustees, Rural Virginia Development Foundation.  
 Board of Trustees, The Science Museum of Virginia.  
 Board of Trustees, Virginia Museum of Fine Arts.  
 Board of Trustees, Virginia Museum of Natural History.  
 Board of Trustees, Virginia Outdoor Foundation.  
 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund.  
 Board of Visitors, Christopher Newport University.  
 Board of Visitors, The College of William and Mary in Virginia.  
 Board of Visitors, George Mason University.

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- 60 Board of Visitors, Gunston Hall Plantation.
- 61 Board of Visitors, James Madison University.
- 62 Board of Visitors, Longwood College.
- 63 Board of Visitors, Mary Washington College.
- 64 Board of Visitors to Mount Vernon.
- 65 Board of Visitors, Norfolk State University.
- 66 Board of Visitors, Old Dominion University.
- 67 Board of Visitors, Radford University.
- 68 Board of Visitors, University of Virginia.
- 69 Board of Visitors, Virginia Commonwealth University.
- 70 Board of Visitors, Virginia Military Institute.
- 71 Board of Visitors, Virginia Polytechnic Institute and State University.
- 72 Board of Visitors, Virginia State University.
- 73 Governing Board, Virginia College Building Authority.
- 74 Governing Board, Virginia Public School Authority.
- 75 Library Board, The Library of Virginia.
- 76 State Board for Community Colleges, Virginia Community College System.
- 77 Commissions
- 78 Alexandria Historical Restoration and Preservation Commission.
- 79 Chesapeake Bay Bridge and Tunnel Commission.
- 80 Hampton Roads Sanitation District Commission.
- 81 Districts
- 82 Chesapeake Bay Bridge and Tunnel District.
- 83 Hampton Roads Sanitation District.
- 84 Educational Institutions
- 85 Christopher Newport University.
- 86 College of William and Mary in Virginia.
- 87 Frontier Culture Museum of Virginia.
- 88 George Mason University.
- 89 James Madison University.
- 90 Jamestown-Yorktown Foundation.
- 91 Longwood College.
- 92 Mary Washington College.
- 93 Miller School of Albemarle.
- 94 Norfolk State University.
- 95 Old Dominion University.
- 96 Radford University.
- 97 The Science Museum of Virginia.
- 98 University of Virginia.
- 99 Virginia Commonwealth University.
- 100 Virginia Community College System.
- 101 Virginia Military Institute.
- 102 Virginia Museum of Fine Arts.
- 103 Virginia Polytechnic Institute and State University.
- 104 The Library of Virginia.
- 105 Virginia State University.
- 106 Foundations
- 107 Chippokes Plantation Farm Foundation.
- 108 Rural Virginia Development Foundation.
- 109 Virginia Conservation and Recreation Foundation.
- 110 Virginia Historic Preservation Foundation.
- 111 Virginia Outdoor Foundation.
- 112 Museum
- 113 Virginia Museum of Natural History.
- 114 Plantation
- 115 Gunston Hall Plantation.
- 116 System
- 117 Virginia Retirement System.
- 118 Article 7.
- 119 Virginia Economic Development Partnership Act.
- 120 § 2.1-548.26. Short title.
- 121 This Act shall be known and may be cited as the "Virginia Economic Development Partnership Act."

§ 2.1-548.27. Definitions.

The following terms, whenever used or referred to in this Act, have the following meanings, except where the context clearly indicates otherwise:

"Authority" means the Virginia Economic Development Partnership, the body corporate and political subdivision of the Commonwealth created by this Act.

"Board" means the Board of directors of the Authority.

"Federal agency" means the United States; the President of the United States; and any department, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States.

"Person" means natural persons, firms, foundations, associations, corporations, business trusts, partnerships, joint ventures, and public bodies, including but not limited to the Commonwealth of Virginia; any state; and any agency, department, institution, political subdivision or instrumentality of the Commonwealth or any state.

§ 2.1-548.28. Authority created.

The Virginia Economic Development Partnership, hereinafter referred to as the Authority, is created as a body corporate and political subdivision and as such shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter.

§ 2.1-548.29. Economic development services.

It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities:

1. To see that there are prepared and carried out effective economic development marketing and promotional programs;

2. To make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. To formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. To encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. To encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities; and

6. To establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade.

§ 2.1-548.30. Planning and research.

It shall also be the duty of the Authority to:

1. Assist in the development of the comprehensive economic development strategy for the Commonwealth, starting the first year of each new gubernatorial administration, consistent with the provisions of Chapter 5.9 (§ 2.1-51.38 et seq.) of Title 2.1;

2. Report annually to the Governor on the status of the implementation of the comprehensive economic development strategy and recommend legislative and executive actions related to the implementation of the comprehensive economic development strategy; and

3. Conduct such studies and research, in collaboration with state agencies, universities, local and regional industrial authorities and organizations, and other persons within and without the Commonwealth, as the Board may deem necessary, to assist in the development of the comprehensive economic strategy and the development of recommendations and advice on the improvement of economic development and related programs and strategies across the Commonwealth.

§ 2.1-548.31. Board of directors; members and officers; Executive Director.

All powers, rights, and duties conferred by this Act, or other provisions of law, upon the Authority shall be exercised by the Board of Directors of the Virginia Economic Development Partnership, hereinafter referred to as the Board. The Board shall consist of the Secretary of Commerce and Trade, the Secretary of Finance, and [ ~~eleven~~ thirteen ] members, one from each congressional district in the Commonwealth [ and two citizens at large ], appointed by the Governor, subject to confirmation by the General Assembly. Four of the eleven directors initially appointed by the Governor shall be appointed for terms of two and one-half years, four for terms of four and one-half years, and three for terms of six and one-half years, from the effective date of their appointment; and thereafter the terms of members of the Board shall be six years. No member appointed by the Governor shall be eligible to serve more than two terms; however, after the expiration of [ ~~a term of four~~ the term of a member appointed to serve three ] years or less, two additional terms may be served if appointed thereto. Any appointment to fill a

183 vacancy shall be for the unexpired term. A person appointed by the Governor to fill a vacancy may be  
184 appointed to serve two additional terms. Members of the Board shall receive their expenses and shall be  
185 compensated at the rate provided in § 2.1-20.3 for each day spent on the business of the Board.

186 The Board shall elect from its membership a chairman and a vice-chairman, and shall also elect a  
187 secretary and a treasurer, who may or may not be members of the Board, and may also elect other  
188 subordinate officers, who may or may not be members of the Board, as it shall deem proper. The Board  
189 may also form committees and advisory councils, which may include representatives who are not  
190 members of the Board, to undertake more extensive study and discussion of the issues before the Board.

191 The Board shall appoint the chief executive officer of the Authority, who shall not be a member of  
192 the Board, who shall be known as the Executive Director and who shall serve at the pleasure of the  
193 Board and carry out such of the powers and duties conferred upon him as may be delegated by the  
194 Board.

195 § 2.1-548.32. Powers and duties of the Executive Director.

196 The Executive Director shall employ or retain such agents or employees subordinate to the Executive  
197 Director as may be necessary to fulfill the duties of the Authority conferred upon the Executive Director,  
198 subject to the Board's approval. The Executive Director shall also exercise such of the powers and  
199 duties relating to the direction of the state's economic development efforts conferred upon the Authority  
200 as may be delegated to him by the Board, including powers and duties involving the exercise of  
201 discretion. The Executive Director shall also exercise and perform such other powers and duties as may  
202 be lawfully delegated to him or as may be conferred or imposed upon him by law.

203 § 2.1-548.33. Bylaws and organization.

204 The Authority shall have the power to adopt, alter, and repeal bylaws, rules, and regulations  
205 governing the manner in which its business shall be transacted and the manner in which the powers of  
206 the Authority shall be exercised and its duties performed.

207 § 2.1-548.34. Powers not restrictive.

208 The Authority shall have the power to perform any act or carry out any function not inconsistent  
209 with state law, whether included in the provisions of this chapter, which may be useful in carrying out  
210 the provisions of this chapter.

211 § 2.1-548.35. Powers of Authority.

212 The Authority is hereby granted and shall have and may exercise all powers necessary or convenient  
213 for the carrying out of its statutory purposes, including, but without limiting the generality of the  
214 foregoing, the power to:

215 1. Sue and be sued, implead and be implead, complain and defend in all courts;

216 2. Adopt, use, and alter at will a common seal;

217 3. Acquire, purchase, hold, use, lease or otherwise dispose of any property, real, personal or mixed,  
218 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
219 Authority, and to lease as lessee, any property, real, personal or mixed, tangible or intangible, or any  
220 interest therein, at such annual rental and on such terms and conditions as may be determined by the  
221 Board of the Authority and to lease as lessor to any person, any property, real, personal or mixed,  
222 tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or  
223 partially completed, at such annual rental and on such terms and conditions as may be determined by  
224 the Board of the Authority, and to sell, transfer or convey any property, real, personal or mixed,  
225 tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such  
226 terms and conditions as may be determined by the Board of the Authority, provided that the terms of  
227 any conveyance or lease of real property shall be subject to the prior approval of the Governor in  
228 writing;

229 4. Fix, alter, charge and collect rates, rentals, fees, and other charges for the use of property of, the  
230 sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose  
231 of providing for the payment of the expenses of the Authority;

232 5. Make and enter into all contracts and agreements necessary or incidental to the performance of  
233 its duties, the furtherance of its purposes, and the execution of its powers under this Act, including  
234 agreements with any person or federal agency;

235 6. Employ, at its discretion, consultants, researchers, [ ~~attorneys~~, ] architects, engineers, accountants,  
236 financial experts, investment bankers, superintendents, managers and such other employees and agents  
237 as may be necessary, and to fix their compensation to be payable from funds made available to the  
238 Authority. The Authority may hire employees within and without the Commonwealth and the United  
239 States without regard to whether such employees are citizens of the Commonwealth. [ Legal services for  
240 the Authority will be provided by the Attorney General in accordance with Chapter 11 of this title ] ;

241 7. Receive and accept from any federal or private agency, foundation, corporation, association or  
242 person, grants or other aid to be expended in accomplishing the objectives of the Authority, and receive  
243 and accept from the Commonwealth or any state, and any municipality, county or other political  
244 subdivision thereof or from any other source, aid or contributions of either money, property, or other

things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

8. Render advice and assistance and to provide services to state agencies, local and regional economic development entities, private firms, and other persons providing services or facilities for economic development in Virginia;

9. Develop, undertake, and provide programs, alone or in conjunction with any person, for economic research, industrial development research, and all other research that might lead to improvements in economic development in Virginia;

10. Do all acts and things necessary or convenient to carry out the powers granted to it by this Act or any other acts.

§ 2.1-548.36. Appropriations by any government.

Any government may make appropriations for the acquisition, construction, improvement, maintenance or operation of any property acquired, constructed, improved, maintained or operated by the Authority.

§ 2.1-548.37. Conveyance, lease or transfer of property by a city or county to the Authority.

Any city or county within the Commonwealth in order to provide for the construction, reconstruction, improvement, repair or management of any property, or in order to accomplish any of the purposes of this Act may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to the Authority any real, personal or mixed property located within such city or county.

§ 2.1-548.38. Exemption of Authority from personnel and procurement procedures.

The provisions of Chapter 10 (§ 2.1-100 et seq.) of Title 2.1 and Chapter 7 (§ 11-35 et seq.) of Title 11 of the Code of Virginia shall not apply to the Authority in the exercise of any power conferred under this Act.

§ 2.1-548.39. Exemption of Authority from the Virginia Freedom of Information Act for certain types of information.

Confidential records, voluntarily provided by private business pursuant to a promise of confidentiality from the Authority or local or regional industrial development authorities or organizations, used by the Authority and such entities for business, trade, and tourism development, and records, memoranda, working papers and data and information related to the development of and negotiations with businesses that are considering locating or expanding in Virginia, when such data and records identified as confidential or of a proprietary nature by the Board, shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.).

§ 2.1-548.40. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of such person or persons as the Authority may authorize to execute such warrants or orders.

§ 2.1-548.41. Forms of accounts and records; audit; annual report.

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes. The Auditor of Public Accounts of the Commonwealth, and his legally authorized representatives, shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year, beginning in 1996. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The annual report shall be distributed in accordance with the provisions of § 2.1-467. The Authority shall submit a detailed annual operational plan and budget to the Secretary of Commerce and Trade and the Director of the Department of Planning and Budget by November 1, beginning in 1996. Notwithstanding other provisions of this Act, the form and content of the operating plan and budget shall be determined by the Director of the Department of Planning and Budget and shall include information on salaries, expenditures, indebtedness and other information as shall be determined by the Director of Planning and Budget.

§ 2.1-548.42. Exemptions from taxes or assessments.

The exercise of the powers granted by this Act will be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority

306 will constitute the performance of essential governmental functions, the Authority shall not be required  
307 to pay any taxes or assessments upon any property acquired or used by the Authority under the  
308 provisions of this Act or upon the income therefrom, including sales and use taxes on the tangible  
309 personal property used in the operations of the Authority. The exemption hereby granted shall not be  
310 construed to extend to persons conducting on the premises of any property of the Authority businesses  
311 for which local or state taxes would otherwise be required.

312 § 2.1-548.43. State agencies to furnish information and assistance.

313 All agencies of the Commonwealth shall assist the Authority upon its request and furnish such  
314 assistance and information as the Authority may require in the discharge of its duties.

315 § 2.1-548.44. Nonstock corporation to assist economic development.

316 The Board is hereby authorized to establish nonprofit, nonstock corporations under Chapter 10  
317 (§ 13.1-801 et seq.) of Title 13.1 as public instrumentalities exercising public and essential governmental  
318 functions, to assist the Board and the Authority in (i) promoting Virginia's economic development efforts  
319 in the national and international corporate community; (ii) raising money in the corporate and nonprofit  
320 community to pay for advertising and promotion of the Commonwealth; (iii) raising nonstate dollars to  
321 complement state and local economic development activities; or (iv) conducting or undertaking other  
322 activities useful in carrying out the provisions of this Act.

323 The Board of directors of any such corporation shall be composed of the Executive Director of the  
324 Virginia Economic Development Partnership and eight members appointed by the Board.

325 The Board shall require any such corporation to report to it annually on its activities.

326 **2. That the Board of Directors of the Virginia Economic Development Partnership, hereinafter**  
327 **referred to as the Authority, created pursuant to the first enactment of this act, in collaboration**  
328 **with the Secretary of Commerce and Trade and others as it may deem appropriate, shall develop**  
329 **an operational plan and budget for the 1996-1998 biennium. The plan shall identify functions to be**  
330 **transferred from the Department of Economic Development, staffing requirements of the**  
331 **Authority, expected contributions from the private sector, and other details as may be appropriate**  
332 **for the orderly commencement of operations of the Authority. In developing the plan, the Board**  
333 **shall consider the recommendations of the Governor's Commission on the Development of the**  
334 **Virginia Travel and Tourism Industry with regard to the placement of the tourism promotion**  
335 **efforts of the Commonwealth. The plan and proposed budget shall be presented to the Governor**  
336 **and the General Assembly by December 15, 1995. No functions shall be transferred from the**  
337 **Department of Economic Development to the Authority before July 1, 1996.**