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HOUSE BILL NO. 1007

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Title 9 a chapter numbered 46, consisting of sections numbered 9-350 through 9-368, creating the Virginia Geographic Information Authority.

Patrons—Murphy, Watkins, Phillips and Plum; Senators: Gartlan and Marye

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 9 a chapter numbered 46, consisting of sections numbered 9-350 through 9-368, as follows:

CHAPTER 46.

VIRGINIA GEOGRAPHIC INFORMATION AUTHORITY.

§ 9-350. Short title.

This chapter shall be known and may be cited as the "Virginia Geographic Information Authority."

§ 9-351. Definitions.

As used in this chapter:

"Attribute" means nongraphic data that are typically linked to graphic data within a geographic information system and that provides additional information (e.g., population or demographic data) about the graphic element (e.g., census block).

"Authority" means the political subdivision of the Commonwealth of Virginia created by this chapter.

"Base map" means the digitized map of the Commonwealth to which all data layers are keyed to create a geographic information system.

"Board" means the Board of Directors of the Authority.

"Board of Directors" means a group of individuals who provide oversight and policy direction to the activities of the Authority as set forth in § 9-354.

"Digital orthophoto" means a digitized map, based on aerial photography of the Commonwealth, utilizing a uniform map scale. The photographs are rectified to remove distortion and then scanned into digital form. Digital orthophoto is used to create a digitized base map.

"Geographic information system (GIS)" means a computerized system that stores and links graphic data with nongraphic data (attributes) to allow integrated information processing, mapping, and analysis.

"Hydrography" means the description of bodies of water, such as lakes, rivers, and streams.

"Map scale" means the ratio of units of linear measurement on a map to units of measurement on the earth, expressed as a ratio (e.g., 1:12,000) or in specific units of measurement (e.g., 1"=100' or one inch equals 100 feet).

"Topographic features" means features that define elevation, including contour lines, point elevations, and elevation values.

§ 9-352. Declaration of public purpose.

The Virginia Geographic Information Authority shall oversee the construction and maintenance of a statewide, shared geographic information system that shall meet the strategic geographic information needs of the legislative and executive branches of the Commonwealth and shall provide comprehensive products and access to geographic information to state agencies, local and regional governments, private companies, and individual citizens.

§ 9-353. Data development.

A. The Authority shall utilize the private sector, to the fullest extent feasible, for the design, development, storage, and distribution of Virginia geographic information. The Authority shall assist in building and maintaining the statewide geographic information system. An initial digital base map shall be prepared by acquiring digital orthophotography with color infrared film at a scale of 1:12,000 mapping resolution. Additional digital base maps may be prepared as the Authority deems necessary.

B. Geographic information data layers shall be developed according to priority categories, including:

1. Transportation,
2. Hydrography,
3. Topography,
4. Political boundaries, and
5. Geodetic survey control.

C. Any other geographic information product that is identified by the Authority may be considered a high-priority geographic information resource if it is deemed as such by the board of directors.

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60 Otherwise, any other geographic information product shall be considered special to particular
61 applications, and shall not take precedence over the timely and expedient development of the five
62 high-priority geographic information resources.

63 § 9-354. Board of directors.

64 A. The Authority shall be governed by a board of directors consisting of fifteen members appointed
65 as follows: (i) ten members to be appointed by the Governor, two of whom shall be state agency
66 officials, two of whom shall be elected officials of localities in the Commonwealth, one of whom shall be
67 an elected official who serves on a planning district commission, and five of whom shall be
68 representatives of private businesses with expertise and experience in the establishment, operation, and
69 maintenance of geographic information systems, and (ii) five members of the General Assembly, three of
70 whom shall be members of the House of Delegates, to be appointed by the Speaker of the House of
71 Delegates, and two of whom shall be members of the Senate, to be appointed by the Senate Committee
72 on Privileges and Elections.

73 B. The gubernatorial appointees to the board of directors shall serve five-year terms, except that
74 three initial appointees shall serve three-year terms, three shall serve four-year terms, and four shall
75 serve five-year terms. Directors appointed by the Governor shall serve no more than two consecutive
76 terms. All members of the board of directors appointed by the governor shall be confirmed by each
77 house of the General Assembly.

78 C. The terms of General Assembly members appointed to the board of directors shall be coincident
79 with their service in the house from which appointed.

80 D. Vacancies among the gubernatorial appointees to the board of directors shall be filled by
81 appointment of the Governor for the unexpired portion of the term. Vacancies among General Assembly
82 members shall be filled by the Speaker of the House of Delegates, for House of Delegate members, and
83 by the Senate Committee on Privileges and Elections, for Senate members.

84 E. The board shall establish a fifteen-member technical advisory committee, comprised of the
85 following: the Director of the Council on Information Management or his designee; one member of the
86 Virginia State Bar; one member of the Virginia Association of Land Surveyors; three employees of state
87 agencies that employ automated land information systems or geographic information systems; four
88 members of local governments, regional bodies, or planning district commissions that employ land
89 information systems or geographic information systems; three members representing private businesses
90 engaged in the sale or service of geographic information systems; one member representing users of
91 geographic information systems and products; and one member at large.

92 § 9-345. Executive director. The board shall employ an executive director to administer, manage, and
93 direct the affairs and business of the Authority, subject to the policies, control, and direction of the
94 board. The executive director shall employ such other persons as he shall deem necessary to assist him
95 in carrying out his duties under this section. The executive director shall serve as an ex officio member
96 of the board of directors of the nonstock corporation established pursuant to § 9-365.

97 § 9-356. Powers.

98 The Authority is hereby granted and shall have and may exercise all powers necessary or convenient
99 for the carrying out of its statutory purposes, including the following rights and powers:

100 1. To sue and be sued, implead and be impleaded, complain and defend in all courts.

101 2. To adopt, use, and alter at will a corporate seal.

102 3. To acquire, purchase, hold, use, lease or otherwise dispose of any project and property, real,
103 personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out
104 the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project
105 and any property, real, personal or mixed, or any interest therein, at such annual rental and on such
106 terms and conditions as may be determined by the board of the Authority and to lease as lessor to any
107 person, any project and any property, real, personal or mixed, tangible or intangible, or any interest
108 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual
109 rental and on such terms and conditions as may be determined by the board of the Authority, and to
110 sell, transfer or convey any property, real, personal or mixed, tangible or intangible or any interest
111 therein, at any time acquired or held by the Authority on such terms and conditions as may be
112 determined by the board of the Authority.

113 4. To plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain,
114 and operate projects.

115 5. To make bylaws for the management and regulation of its affairs.

116 6. To establish and maintain satellite offices within the Commonwealth.

117 7. To fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for
118 the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for
119 the purpose of providing for the payment of the expenses of the Authority, the planning, development,
120 construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects
121 and properties, the payment of the costs of accomplishing its purposes set forth in § 9-342, the payment

of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.

8. To borrow money, make and issue bonds, including bonds as the Authority may, from time to time, determine to issue for the purpose of accomplishing the purposes set forth in § 9-352 or of refunding bonds previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any interest therein, and to make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable, and in general to provide for the security for said bonds and the rights of holders thereof.

9. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes and the execution of its powers under this chapter, including agreements with any person or federal agency.

10. To employ, in its discretion, consultants, attorneys, photogrammetrists, surveyors, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority.

11. To receive and accept from any federal or private agency, foundation, corporation, association or person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and 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.

12. To pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority.

13. To receive, administer, and market any interest in patents, copyrights and materials which are potentially patentable or copyrightable.

14. Formulate policies, standards, conventions, and specifications for geographic information collection, storage, analysis, and display as well as the design, installation, and implementation of geographic information systems, which shall be adopted by the Council on Information Management pursuant to § 2.1-563.31 and shall be utilized by state agencies. The Authority, in consultation with the Council on Information Management, may grant state agencies exemptions, on a case-by-case basis, from such policies, standards, conventions, and specifications upon a showing of exigent circumstances.

15. Coordinate all procurement of geographic information systems, base maps, and data layers, with particular emphasis on state level activities related to this chapter.

16. Review and coordinate prior to execution all agreements and contracts of entities from all branches of state government for geographic information resource acquisition and design, installation, and maintenance of geographic information systems. Agencies of the Commonwealth shall not purchase or procure data products that substantially duplicate any data products developed by the Authority pursuant to § 9-353 or any other provisions of this chapter. However, upon a written determination, made in advance by the Department of General Services for executive branch agencies, or by the Division of Legislative Automated Systems for legislative branch agencies, that an agency of the Commonwealth is unable to use any such data product due to exigent circumstances or because such product is not suited to or compatible with the data needs of a particular agency application or project, such agency may be exempted, on a case-by-case basis, from the requirements of this section.

17. Manage and coordinate the various computerized systems needed to implement the provisions of this chapter.

18. Acquire, lease, or construct such facilities and equipment as necessary to deliver comprehensive geographic information services and maintain such facilities and equipment whether owned or leased.

19. Provide technical assistance to public and/or private sector organizations in such areas as (i) acquisition of geographic information products, (ii) design, procurement, installation, management, and maintenance of geographic information systems, (iii) creation and promulgation of standards, specifications, procedures, and techniques related to manipulation and management of geographic information, (iv) effecting economies in the acquisition of geographic information and geographic information systems, and (v) planning and forecasting for future needs in geographic information and services.

20. To do all acts and things necessary or convenient to carry out the powers granted to it by this chapter or any other acts.

§ 9-357. Form, terms, execution and sale of bonds; use of proceeds; interim receipts or temporary bonds; lost or destroyed bonds; faith and credit of state and political subdivisions not pledged; expenses.

183 The bonds of each issue shall be dated, shall bear interest at such rate or rates as shall be fixed by
184 the Authority, shall mature at such time or times not exceeding forty years from their date or dates, as
185 may be determined by the Authority, and may be made redeemable before maturity, at the option of the
186 Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority
187 prior to the issuance of the bonds. The Authority shall determine the form of bonds and manner of
188 execution of the bonds and shall fix the denomination or denominations of the bonds and the place or
189 places of payment of principal and interest, which may be at any bank or trust company within or
190 without the Commonwealth. The bonds shall be signed by the chairman or vice-chairman of the
191 Authority, or if so authorized by the Authority, shall bear his facsimile signature, and the official seal of
192 the Authority, or, if so authorized by the Authority, a facsimile signature thereof shall be impressed or
193 imprinted thereon and attested by the secretary or any assistant secretary of the Authority, or, if so
194 authorized by the Authority, with the facsimile signature of such secretary or assistant secretary. Any
195 coupons attached to bonds issued by the Authority shall bear the signature of the chairman or
196 vice-chairman of the Authority or a facsimile thereof. In case any officer whose signature or a facsimile
197 of whose signature shall appear on any bonds or coupons shall cease to be such officer before the
198 delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all
199 purposes the same as if he had remained in office until such delivery and any bonds may bear the
200 facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such
201 bonds shall be the proper officers to sign such bonds although at the date of such bonds such persons
202 may not have been such officers. The bonds may be issued in coupon or in registered form, or both, as
203 the Authority may determine, and provision may be made for the registration of any coupon bonds as to
204 principal alone and also as to both principal and interest, for the reconversion into coupon bonds of
205 any bonds registered as to both principal and interest, and for the interchange of registered and coupon
206 bonds. The Authority may sell such bonds in such manner, either at public or private sale, and for such
207 price, as it may determine will best effect the purposes of this chapter.

208 The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of
209 the powers, of the Authority as may be provided in the resolution authorizing the issuance of such bonds
210 or in the trust agreement hereinafter mentioned securing the same.

211 In addition to the above powers, the Authority shall have the authority to issue interim receipts or
212 temporary bonds as provided in § 15.1-227.18 and to execute and deliver new bonds in place of bonds
213 mutilated, lost or destroyed, as provided in § 15.1-227.23.

214 No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit,
215 of the Commonwealth or of any political subdivision thereof, but shall be payable solely from the
216 revenue and other funds of the Authority pledged thereto. All such obligations shall contain on the face
217 thereof a statement to the effect that the Commonwealth, political subdivisions thereof and the Authority
218 shall not be obligated to pay the same or the interest thereon except from revenues and other funds of
219 the Authority pledged thereto, and that neither the faith and credit nor the taxing power of the
220 Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or
221 the interest on such obligations.

222 All expenses incurred in carrying out the provisions of this chapter shall be payable solely from
223 funds provided under the provisions of this chapter and no liability shall be incurred by the Authority
224 hereunder beyond the extent to which moneys shall have been provided under the provisions of this
225 chapter.

226 § 9-358. Trust agreement securing bonds.

227 In the discretion of the Authority any bonds issued under the provisions of this chapter may be
228 secured by a trust agreement by and between the Authority and a corporate trustee, which may be any
229 trust company or bank having the powers of a trust company within or without the Commonwealth.
230 Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign
231 the revenues to be received and provide for the mortgage of any project or property or any part thereof.
232 Such trust agreement or resolution providing for the issuance of such bonds may contain such
233 provisions for protecting and enforcing the rights and remedies of the bondholders as may be
234 reasonable and proper and not in violation of law, including covenants setting forth the duties of the
235 Authority in relation to the acquisition of property and the planning, development, acquisition,
236 construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair,
237 operation and insurance of the project or projects in connection with which such bonds shall have been
238 authorized, the rates and fees to be charged, the custody, safeguarding and application of all moneys,
239 and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any
240 bank or trust company incorporated under the laws of the Commonwealth which may act as depository
241 of the proceeds of bonds or of revenue to furnish such indemnifying bonds or to pledge such securities
242 as may be required by the Authority. Any such trust agreement may set forth the rights of action by
243 bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such
244 other provisions as the Authority may deem reasonable and proper for the security of the bondholders.

All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project or projects.

§ 9-359. Moneys received deemed trust funds.

All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as a trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and such resolution or trust agreement may provide.

§ 9-360. Proceedings by bondholder or trustee to enforce rights.

Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, and other charges.

§ 9-361. Bonds made securities for investment and deposit.

Bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law.

§ 9-362. Revenue refunding bonds; bonds for refunding and for cost of additional projects.

The Authority is hereby authorized to provide for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions, or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued. The Authority is further authorized to provide by resolution for the issuance of its revenue bonds for the combined purpose of (i) refunding any bonds then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of any additional project or projects or any portion or portions thereof. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this chapter insofar as the same may be applicable.

§ 9-363. Grants or loans of public or private funds.

The Authority is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish, in whole or in part, any of the purposes of this chapter. 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 accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth.

§ 9-364. Exemption from taxes or assessments.

The exercise of the powers granted by this chapter 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 health and living conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance of the purpose of the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this chapter or upon the income therefrom, including sales and use taxes on tangible personal property used in the operations of the Authority, and any bonds issued under the provisions of this chapter, their transfer and the income therefrom (including any profit made on the sale thereof)

shall at all times be free from state and local taxation. The exemption hereby granted shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

§ 9-365. Auxiliaries.

A. The Authority shall establish a nonstock corporation to carry out the purpose of this chapter. The board of directors of the nonstock corporation shall consist of fifteen members, to be appointed by the board of directors of the Authority. However, neither General Assembly members nor any other elected officials serving on the board of the Authority shall serve on the board of directors of the nonstock corporation. The articles of incorporation of the nonstock corporation shall provide that upon dissolution the net assets of the corporation shall be transferred to the Commonwealth of Virginia. The nonstock corporation shall insure that the economic benefits attributable to the income and property rights arising from any transactions in which the nonstock corporation is involved are allocated on a basis which is equitable in the reasonable business judgment of the board of directors, with due account being given to the interest of the citizens of the Commonwealth and the needs of the nonstock corporation. Any such nonstock corporation shall not be deemed to be a state or governmental agency, advisory agency, public body or agency or instrumentality for purposes of Chapters 10 (§ 2.1-110 et seq.), 13 (§ 2.1-153 et seq.), 14 (§ 2.1-173 et seq.), 18 (§ 2.1-327 et seq.), 21 (§ 2.1-340 et seq.), 23 (§ 2.1-359 et seq.), 26 (§ 2.1-377 et seq.) and 40.1 (§ 2.1-639.1 et seq.) of Title 2.1, Chapter 7 (§ 11-35 et seq.) of Title 11 and Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1, nor shall any director, officer or employee of any such nonstock corporation or entity be deemed to be an officer or employee for purposes of Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1. Notwithstanding the foregoing, the Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Authority and any such nonstock corporation entity, provided that the working papers and files of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of Chapter 21 (§ 2.1-340 et seq.) of Title 2.1.

B. Notwithstanding the provisions of subsection A of this section, as an entity receiving state funds, any such nonstock corporation shall be subject to periodic external review either (i) under the provisions of the Legislative Program Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed for that purpose by the Governor. Any such nonstock corporation shall be deemed to be an institution of higher education within the meaning of §§ 23-3.1 and 23-9.2, but only for the limited purposes therein stated.

C. The board of directors of the nonstock corporation shall submit quarterly reports, including financial statements, to the board of directors of the Authority, the Governor, the House Committee on Appropriations, and the Senate Committee on Finance.

§ 9-366. Exemption of Authority from personnel and procurement procedures.

The provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 and Chapter 7 (§ 11-35 et seq.) of Title 11 shall not apply to the Authority in the exercise of any power conferred under this chapter.

§ 9-367. 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 order of the treasurer of the Authority or of other person or persons as the Authority may authorize to execute such warrants or orders. The Auditor of Public Accounts of the Commonwealth, and his legally authorized representatives, shall examine the accounts and books of the Authority.

§ 9-368. Title to property.

The Authority may acquire title to property in its own name or in the name of the Commonwealth for and on behalf of the Authority.