

962319144

**HOUSE BILL NO. 1502**

House Amendments in [ ] — February 12, 1996

A *BILL to amend and reenact §§ 11-45, 15.1-227.70, 15.1-227.74, 15.1-227.75, 15.1-227.76, 15.1-227.77, 15.1-227.78, 15.1-227.84 and 15.1-227.85 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.1-227.88 and 15.1-227.89, relating to the Virginia Baseball Stadium Authority.*

Patrons—Callahan, Albo, Almand, Brickley, Darner, Dillard, Fisher, Harris, Heilig, Hull, Katzen, Keating, May, McClure, McEachin, Mims, Moran, Nelms, O'Brien, Plum, Puller, Scott and Watts; Senators: Hawkins, Lambert and Potts

Referred to Committee on Counties, Cities and Towns

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

**1. That §§ 11-45, 15.1-227.70, 15.1-227.74, 15.1-227.75, 15.1-227.76, 15.1-227.77, 15.1-227.78, 15.1-227.84 and 15.1-227.85 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.1-227.88 and 15.1-227.89 as follows:**

§ 11-45. Exceptions to requirement for competitive procurement.

A. Any public body may enter into contracts without competition for the purchase of goods or services (i) which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or (ii) which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

B. Any public body may enter into contracts without competition for (i) legal services, provided that the pertinent provisions of Chapter 11 (§ 2.1-117 et seq.) of Title 2.1 remain applicable; or (ii) expert witness and other services associated with litigation or regulatory proceedings.

C. Any public body may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

D. An industrial development authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.1-1374 (d).

E. The Department of Alcoholic Beverage Control may procure alcoholic beverages without competitive sealed bidding or competitive negotiation.

F. Any public body administering public assistance programs as defined in § 63.1-87, the fuel assistance program, community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.1-745 et seq.) may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 11-41.

G. Any public body may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

H. The Department of Health may enter into contracts with laboratories providing cytology and related services without competitive sealed bidding or competitive negotiation if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

I. The Director of the Department of Medical Assistance Services may enter into contracts without competitive sealed bidding or competitive negotiation for special services provided for eligible recipients pursuant to § 32.1-325 E, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

J. The Virginia Code Commission may enter into contracts without competitive sealed bidding or

ENGROSSED

HB1502E

60 competitive negotiation when procuring the services of a publisher, pursuant to §§ 9-77.7 and 9-77.8, to  
 61 publish the Code of Virginia or the Virginia Administrative Code.

62 K. The Executive Director of the Virginia Health Services Cost Review Council may enter into  
 63 agreements or contracts without competitive sealed bidding or competitive negotiation for the  
 64 compilation, storage, analysis, and evaluation of patient level data pursuant to Article 2 (§ 9-166.1 et  
 65 seq.) of Chapter 26 of Title 9, if the Executive Director has made a determination in advance, after  
 66 reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive  
 67 negotiation for such services is not fiscally advantageous to the public. The writing shall document the  
 68 basis for this determination.

69 L. *The Virginia Baseball Stadium Authority may enter into agreements or contracts without*  
 70 *competitive sealed bidding or competitive negotiation for the operation of any facilities developed under*  
 71 *the provisions of Chapter 5.3 (§ 15.1-227.70 et seq.) of Title 15.1, including contracts or agreements*  
 72 *with respect to the sale of food, beverages and souvenirs at such facilities.*

73 § 15.1-227.70. Definitions.

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

75 "Authority" means the Virginia Baseball Stadium Authority.

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

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

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

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

89 "*Minor league baseball stadium*" means *a sports facility which is designed for use primarily as a*  
 90 *stadium for a minor league professional baseball team.*

91 "Sales tax revenues" means taxes collected under the Virginia Retail Sales and Use Tax Act  
 92 (§ 58.1-600 et seq.), as limited herein. Sales tax revenues shall not include any local general retail sales  
 93 and use tax levied pursuant to §§ 58.1-605 and 58.1-606.

94 § 15.1-227.74. Executive Director appointment; duties.

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

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

100 1. Direct and supervise the administrative affairs and activities of the Authority in accordance with  
 101 its rules, regulations, and policies;

102 2. Attend all meetings and keep minutes of all proceedings;

103 3. Approve all accounts for salaries, per diem payments, and allowable expenses of the Authority and  
 104 its employees and consultants and approve all expenses incidental to the operation of the Authority;

105 4. Report and make recommendations to the Authority on the merits and status of any proposed  
 106 facility; and

107 5. Perform any other duty that the Authority requires for carrying out the provisions of this chapter.

108 § 15.1-227.75. Powers.

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

110 1. Adopt and alter an official seal;

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

112 3. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;

113 4. Maintain an office at such place as the Authority may designate;

114 5. Employ, either as regular employees or independent contractors, consultants, engineers, architects,  
 115 accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers  
 116 and other professional personnel, personnel, and agents as may be necessary in the judgment of the  
 117 Authority, and fix their compensation;

118 6. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add  
 119 to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to  
 120 accomplish the purposes of the Authority;

121 7. Acquire, hold, lease, use, encumber, transfer, or dispose of real and personal property, *including a*

122 *lease of its property or any interest therein whatever the condition thereof, whether or not constructed*  
123 *or acquired, to the Commonwealth or any political subdivision of the Commonwealth. The*  
124 *Commonwealth and any such political subdivision are authorized to acquire or lease such property or*  
125 *any interest therein;*

126 8. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect  
127 to its carrying out the powers in this chapter to accomplish the purposes of the Authority;

128 9. ~~Regulate~~ *Operate, enter contracts for the operation of, and regulate* the use and operation of  
129 facilities developed under the provisions of the chapter;

130 10. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the  
131 use of facilities or for services rendered in connection with the facilities;

132 11. Borrow money from any source for any valid purpose, including working capital for its  
133 operations, reserve funds, or interest, and to mortgage, pledge, or otherwise encumber the property or  
134 funds of the Authority and to contract with or engage the services of any person in connection with any  
135 financing, including financial institutions, issuers of letters of credit, or insurers;

136 12. Issue bonds under this chapter;

137 13. Receive and accept from any source, private or public, contributions, gifts, or grants of money or  
138 property; and

139 14. Do all things necessary or convenient to carry out the powers granted by this chapter.

140 § 15.1-227.76. Public hearings; notice; reports.

141 A. At least sixty days prior to selecting a ~~facility~~ *site for a major league or minor league baseball*  
142 *stadium*, the Authority shall hold a public hearing within thirty miles of the site proposed to be acquired  
143 for the purpose of soliciting public comment.

144 B. Except as otherwise provided herein, at least sixty days prior to the public hearing required by  
145 this section, the Authority shall notify the local governing body in which the ~~facility~~ *major league or*  
146 *minor league baseball stadium* is proposed to be located and advertise the notice in a newspaper of  
147 general circulation in that locality. The notice shall include: (i) a description of the site proposed to be  
148 acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing.  
149 After receipt of the notice required by this section, the local governing body in which a ~~facility~~ *major*  
150 *league or minor league baseball stadium* is proposed to be located may require that this period be  
151 extended for up to sixty additional days or for such other time period as agreed upon by the local  
152 governing body and the Authority.

153 C. At least thirty days before acquiring or entering into a lease involving a ~~facility~~ *site major league*  
154 *or minor league baseball stadium* and before entering into a construction contract involving a ~~new~~  
155 ~~facility~~ *major league or minor league baseball stadium* or ~~facility~~ *stadium* site, the Authority shall  
156 submit a detailed written report and ~~the~~ findings of the Authority that justify the proposed acquisition,  
157 lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the  
158 method of funding and the economic necessity of the proposed acquisition, lease, or contract.

159 D. The time periods in subsections A, B, and C of this section may not run concurrently.

160 § 15.1-227.77. Acquisition of property.

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

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

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

168 D. *The Authority shall have the right to acquire by eminent domain any real property, including*  
169 *fixtures and improvements, which it deems necessary for the purposes of acquiring a site or sites for a*  
170 *major or minor league baseball stadium, offsite utilities, parking lots or garages and any other items*  
171 *related to the construction and operation of a stadium. The Authority may exercise the power of eminent*  
172 *domain pursuant to the provisions of Chapter 1.1 (§ 25-46.1 et seq.) of Title 25 enacted for the exercise*  
173 *of the power of eminent domain by a county, city or town.*

174 § 15.1-227.78. Bond issues.

175 A. The Authority may at any time and from time to time issue bonds for any valid purpose,  
176 including the establishment of reserves and the payment of interest. In this chapter the term "bonds"  
177 includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

178 B. The bonds of any issue shall be payable solely from the property or receipts of the Authority,  
179 including, but not limited to:

180 1. Taxes, fees, charges, or other revenues payable to the Authority;

181 2. Payments by financial institutions, insurance companies, or others pursuant to letters or line of  
182 credit, policies of insurance, or purchase agreements;

183 3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust  
184 agreement; and

185 4. Proceeds of refunding bonds.

186 C. Bonds shall be authorized by resolution of the Authority and may be secured by a trust agreement  
187 by and between the Authority and a corporate trustee or trustees, which may be any trust company or  
188 bank having the powers of a trust company within or without the Commonwealth. The bonds shall:

189 1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a  
190 time or times, whether as serial bonds or as term bonds or both, not exceeding forty years from their  
191 respective dates of issue;

192 2. Bear interest at the fixed or variable rate or rates determined by the method provided in the  
193 resolution or trust agreement;

194 3. Be payable at a time or times, in the denominations and form, and carry the registration and  
195 privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the  
196 resolution or trust agreement may provide;

197 4. Be payable in lawful money of the United States at a designated place;

198 5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the  
199 resolution or trust agreement provides;

200 6. Be executed by the manual or facsimile signatures of the officers of the Authority designated by  
201 the Authority which signatures shall be valid at delivery even for one who has ceased to hold office;  
202 and

203 7. Be sold in the manner and upon the terms determined by the Authority including private  
204 (negotiated) sale.

205 D. Any resolution or trust agreement may contain provisions which shall be a part of the contract  
206 with the holders of the bonds as to:

207 1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the Authority or  
208 proceeds or benefits of any contract and conveying or otherwise securing any property rights;

209 2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost  
210 of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;

211 3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue  
212 of bonds may be applied and restrictions to investments of revenues or bond proceeds in government  
213 obligations for which principal and interest are unconditionally guaranteed by the United States of  
214 America;

215 4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may  
216 be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

217 5. The refunding or refinancing of outstanding bonds;

218 6. The procedure, if any, by which the terms of any contract with bondholders may be altered or  
219 amended and the amount of bonds the holders of which must consent thereto, and the manner in which  
220 consent shall be given;

221 7. Defining the acts or omissions which shall constitute a default in the duties of the Authority to  
222 bondholders and providing the rights or remedies of such holders in the event of a default which may  
223 include provisions restricting individual right of action by bondholders;

224 8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for  
225 the benefit of bondholders; and

226 9. Any other matter relating to the bonds which the Authority determines appropriate.

227 E. No member of the Authority nor any person executing the bonds on behalf of the Authority shall  
228 be liable personally for the bonds or subject to any personal liability by reason of the issuance of the  
229 bonds.

230 F. The Authority may enter into agreements with agents, banks, insurers, or others for the purpose of  
231 enhancing the marketability of, or as security for, its bonds.

232 G. A pledge by the Authority of revenues as security for an issue of bonds shall be valid and  
233 binding from the time the pledge is made.

234 The revenues pledged shall immediately be subject to the lien of the pledge without any physical  
235 delivery or further act, and the lien of any pledge shall be valid and binding against any person having  
236 any claim of any kind in tort, contract or otherwise against the Authority, irrespective of whether the  
237 person has notice.

238 No resolution, trust agreement or financing statement, continuation statement, or other instrument  
239 adopted or entered into by the Authority need be filed or recorded in any public record other than the  
240 records of the Authority in order to perfect the lien against third persons, regardless of any contrary  
241 provision of public general or public local law.

242 H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds  
243 issued under this chapter or a trustee acting under a trust agreement entered into under this chapter,  
244 may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of

245 Virginia or by any applicable resolution or trust agreement.

246 I. The Authority may issue bonds to refund any of its bonds then outstanding, including the payment  
247 of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date  
248 of redemption, purchase or maturity of the bonds. Refunding bonds may be issued for the public  
249 purposes of realizing savings in the effective costs of debt service, directly or through a debt  
250 restructuring, for alleviating impending or actual default and may be issued in one or more series in an  
251 amount in excess of that of the bonds to be refunded.

252 J. The franchise holder must agree that the franchise will not be relocated until any bonds issued  
253 hereunder are defeased.

254 K. In the event a major league baseball facility is planned, no bonds shall be issued hereunder until  
255 *the Authority has executed a long-term lease with a major league baseball franchise is secured for a*  
256 *Virginia location and all approvals from the ownership of the other major league baseball franchises*  
257 *have been obtained.* In the event a minor league baseball facility is planned, the same requirements,  
258 mutatis mutandis, shall apply.

259 § 15.1-227.84. Entitlement to sales tax revenues derived from a major league baseball stadium.

260 A. ~~If the Authority has issued~~ *In connection with the issuance of bonds by the Authority to finance*  
261 *or refinance a major league baseball stadium, the Authority shall be entitled to all sales tax revenues*  
262 *that are generated by transactions taking place upon the premises of the major league baseball stadium.*  
263 *Such entitlement shall continue for the lifetime of such bonds, but that entitlement shall not exceed*  
264 *thirty years. All Sales tax revenues shall may be applied to repayment of the bonds, stadium operating*  
265 *expenses, master lease rental payments by the Commonwealth, capital expenditures and other purposes*  
266 *of the Authority.* The State Comptroller shall remit such sales tax revenues to the Authority on a  
267 quarterly basis, subject to such reasonable processing delays as may be required by the Department of  
268 Taxation to calculate the actual net sales tax revenues generated by transactions taking place upon the  
269 premises of the major league baseball stadium. The State Comptroller shall make such remittances to the  
270 Authority, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales  
271 and Use Tax Act (§ 58.1-600 et seq.).

272 B. ~~If the Authority has issued~~ *In connection with the issuance of bonds by the Authority to finance or*  
273 *refinance a major league baseball stadium, the local governing body of the county or city in which the*  
274 *stadium is located may direct, by ordinance or resolution, that all local sales and use tax revenues*  
275 *generated by transactions taking place upon the premises of the major league stadium from taxes levied*  
276 *pursuant to §§ 58.1-605 and 58.1-606 shall be remitted by the State Comptroller to the Authority for the*  
277 *repayment of bonds, stadium operating expenses, master lease rental payments by the Commonwealth,*  
278 *capital expenditures and other purposes of the Authority.* Such remittances shall be for the same period  
279 and under the same conditions as remittances to the Authority paid in accordance with subsection A,  
280 mutatis mutandis.

281 C. *In connection with the issuance of bonds by the Authority to finance or refinance a major league*  
282 *baseball stadium, the local governing body of the county or city in which the stadium is located may*  
283 *direct, by ordinance or resolution, that all admissions tax revenues of such county or city generated by*  
284 *admissions to the major league stadium from taxes levied pursuant to §§ 58.1-3818 and 58.1-3840 shall*  
285 *be remitted to the Authority for the repayment of bonds, stadium operating expenses, master lease rental*  
286 *payments by the Commonwealth, capital expenditures and other purposes of the Authority. Any levy*  
287 *pursuant to this section may be for the lifetime of such bonds, but such levy shall not exceed thirty*  
288 *years.*

289 § 15.1-227.85. Tax revenues of the Commonwealth or any other political subdivision not pledged.

290 Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the  
291 Commonwealth of Virginia, or any of its revenues, or the faith and credit of any other political  
292 subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds. ~~Any~~  
293 ~~appropriation made pursuant to this chapter shall be made only from sales tax revenues generated from~~  
294 ~~transactions taking place upon the premises of the major league baseball stadium for which bonds may~~  
295 ~~have been issued to pay the cost, in whole or in part.~~

296 § 15.1-227.88. Tort claims.

297 *For purposes of Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, the Authority is an*  
298 *"agency" within the meaning of § 8.01-195.2, and each of its members and agents is an "employee"*  
299 *within the meaning of such section.*

300 § 15.1-227.89. Tax exemption.

301 *It is hereby found, determined, and declared that the acquisition of a major league baseball*  
302 *franchise and a major league baseball stadium will result in substantial economic development in the*  
303 *Commonwealth and is in all respects for the benefit of the people of the Commonwealth and is a public*  
304 *purpose and that the Authority will be performing an essential government function in the exercise of*  
305 *the powers conferred by this chapter. [ Accordingly, no tax or assessment upon any property or project*

**306** *of the Authority or any interest therein shall be assessed to the Authority or any other party. This*  
**307** *exemption shall include, without limitation, all local property taxes, taxes upon leasehold interests and*  
**308** *taxation pursuant to § 58.1-3603. ]*