

967162809

HOUSE BILL NO. 473

Offered January 18, 1996

A *BILL to amend and reenact §§ 2.1-234.11 through 2.1-234.13 and 2.1-234.25 of the Code of Virginia, relating to the powers and duties of the Virginia Public Building Authority.*

Patrons—Harris, Bloxom, Callahan, Clement, Councill, Croshaw, Hall, Heilig, Jackson, Plum, Putney, Robinson, Thomas and Woodrum

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-234.11 through 2.1-234.13 and 2.1-234.25 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-234.11. Definitions.

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

1. The term "Authority" shall mean the body politic and corporate created by this article.

2. The term "project" shall mean any structure, facility, personal property or undertaking which the Authority is authorized to *finance, refinance*, construct, improve, furnish, equip, maintain, acquire, or operate under the provisions of this article.

3. The term "board" shall mean the governing body of the Authority.

4. The term "person" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships, and public bodies.

5. The term "federal agency" shall mean and include the United States of America, the President of the United States of America, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States of America.

6. The term "bonds" shall mean and include the notes, bonds, and other evidences of indebtedness or obligations which the Authority is authorized to issue pursuant to this article.

7. The term "construction" shall mean and include acquisition and construction, and the term "to construct" shall mean and include to acquire and to construct all in such manner as may be deemed desirable.

8. The term "improvement" shall mean and include extension, enlargement, improvement, and renovation and the term "to improve" shall mean and include to extend, to enlarge, to improve, and to renovate all in such manner as may be deemed desirable.

9. The terms "fixtures" and "furnishings" shall mean and include any fixtures, leasehold improvements, equipment, office furniture and furnishings whatsoever as may be deemed desirable and required by the lessee of a project for the use and occupancy of such project, and the terms "to furnish" and "furnishing" shall mean and include the installation of such fixtures, equipment and furnishings.

10. The term "cost" as applied to a project financed under the provisions of this article shall mean the sum total of all costs incurred by the Authority as are reasonable and necessary for carrying out all works and undertakings necessary or incident to accomplish a project, including, without limitation because of enumeration, the cost incurred by the Authority of all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the vendor of such land, buildings or improvements, site preparation and development including demolition or removal of existing structures, construction, and reconstruction, the reasonable cost of financing incurred by the Authority in the course of the development of a project, carrying charges during construction to the occupancy date, interest on bonds issued to finance a project to a date subsequent to the estimated date of completion of a project, necessary expenses incurred in connection with the initial occupancy of a project, the funding of such funds and accounts as the Authority determines to be reasonable and necessary with regard to bonds of the Authority and the cost of such other items as the Authority determines to be reasonable and necessary.

11. The term "State" shall mean the Commonwealth of Virginia and any agency or department thereof.

12. The term "personal property" shall mean and include all items of equipment, fixtures, and furnishings, including items affixed to real property.

§ 2.1-234.12. Virginia Public Building Authority created; membership; terms; expenses; vacancies; chairman; staff.

The State Treasurer or his designee, the State Comptroller, and five additional members appointed by

INTRODUCED

HB473

60 the Governor, subject to confirmation by the General Assembly, if in session when such appointments
61 are made, and if not in session, at its first session subsequent to such appointment, who shall serve at
62 the pleasure of the Governor, are hereby created a body corporate and politic, constituting a public
63 corporation and governmental instrumentality by the name of the "Virginia Public Building Authority."
64 Unconfirmed appointments shall expire thirty days after the convening of the General Assembly. Such
65 members of the Authority shall be entitled to no compensation for their services as members, but shall
66 be entitled to reimbursement for all necessary expenses incurred in connection with the performance of
67 their duties as members. The term of each member appointed by the Governor shall be five years;
68 provided, however, that of the members first appointed, one shall be appointed for a term of five years,
69 one for a term of four years, one for a term of three years, one for a term of two years, and one for a
70 term of one year. Any vacancy happening among the appointed members of the Authority shall be filled
71 by appointment by the Governor, subject to confirmation by the General Assembly. *The Governor shall*
72 *designate a chairman from among the Authority's membership who shall serve at the pleasure of the*
73 *Governor.* The Department of the Treasury shall serve as staff to the Authority.

74 § 2.1-234.13. Purposes and general powers and duties of Authority.

75 The Authority is created for the purpose of constructing, improving, furnishing, maintaining,
76 acquiring, and operating public buildings for the use of the Commonwealth (heretofore or hereafter
77 constructed), state arsenals, armories, and military reserves, state institutions of every kind and character
78 (heretofore and hereafter constructed), additions and improvements to land grant colleges, state colleges,
79 universities and medical colleges, and the purchase of lands for rehabilitation purposes in connection
80 with state institutions and for use of state colleges, and museum facilities for a trust instrumentality of
81 the United States, and the purchase of lands for the development of public buildings which may be
82 authorized by the General Assembly in the future, and the acquisition of items of personal property for
83 the use of the Commonwealth, *and the financing or refinancing of the Commonwealth's payments, made*
84 *pursuant to Chapter 3 of Title 53.1 (§ 53.1-68 et seq.), of its portion of the costs of local and regional*
85 *correctional facilities* (any and all of the foregoing being herein called "projects"), the purpose and
86 intent of this article being to benefit the people of the Commonwealth by, among other things,
87 increasing their commerce and prosperity. The Authority shall not undertake *or finance or refinance* any
88 project or projects which are not specifically included in a bill or resolution passed by a majority of
89 those elected to each house of the General Assembly, authorizing such project or projects *or the*
90 *payment of all or any part of the Commonwealth's portion of the costs of such project or projects* and,
91 as to any project relating to a state institution of higher education, not specifically designated by the
92 board of visitors of that institution as a project to be undertaken by the Authority. The Authority is
93 hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out
94 of the aforesaid purposes, including, but without limiting the generality of the foregoing, the following
95 rights and powers:

96 1. To have perpetual existence as a corporation.

97 2. To sue and be sued, implead and be impleaded, complain and defend in all courts.

98 3. To adopt, use, and alter at will a corporate seal.

99 4. To acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or
100 any interest therein necessary or desirable for carrying out the purposes of the Authority; without
101 limitation of the foregoing, to lease as lessee, with the approval of the Governor, any property, real,
102 personal or mixed, or any interest therein for a term not exceeding ninety-nine years at a nominal rental
103 or at such annual rental as may be determined; with the approval of the Governor, to lease as lessor to
104 the Commonwealth of Virginia and any city, county, town or other political subdivision, or any agency,
105 department, or public body of the Commonwealth, or land grant college, any project at any time
106 constructed by the Authority and any property, real, personal or mixed, tangible or intangible, or any
107 interest therein, at any time acquired by the Authority, whether wholly or partially completed; with the
108 approval of the Governor, to sell, transfer and convey to the Commonwealth of Virginia, any project at
109 any time constructed by the Authority; and, with the approval of the Governor, to sell, transfer and
110 convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
111 acquired by the Authority.

112 5. To acquire by purchase, lease, or otherwise, and to construct, improve, furnish, maintain, repair,
113 and operate projects.

114 6. To make bylaws for the management and regulation of its affairs.

115 7. To fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or
116 for the services rendered by, the Authority, or projects thereof, at reasonable rates to be determined by it
117 for the purpose of providing for the payment of the expenses of the Authority, the construction,
118 improvement, repair, furnishing, maintenance, and operation of its facilities and properties, the payment
119 of the principal of and interest on its obligations, and to fulfill the terms and provisions of any
120 agreements made with the purchasers or holders of any such obligations.

121 8. To borrow money; make and issue negotiable notes, bonds, and other evidences of indebtedness or

obligations (herein called "bonds") of the Authority and such bonds as the Authority may, from time to time, determine to issue for the purpose of refunding bonds previously issued by the Authority; 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; 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, provided that the total principal amount of such bonds outstanding at any time shall not exceed \$990 \$1,325 million.

The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year containing, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of § 2.1-467.

9. To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying on of its business.

10. Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, leases or other transactions with, any federal agency.

11. To have the power of eminent domain.

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

14. To acquire, by assignment from the Commonwealth or the Virginia Retirement System, all contracts, including those which are not completed, which involve constructing, improving, furnishing, maintaining, and operating the structures, facilities, or undertakings similar to those designated herein as projects.

Except as otherwise provided by law, when projects are to be constructed, improved, furnished, maintained, repaired or operated for the use of any department of the Commonwealth, as hereinbefore listed in this section, no plans or specifications therefor shall be presented for quotations or bids until such plans and specifications shall have been submitted to and approved by the Department of General Services and any other department of the Commonwealth having any jurisdiction over the projects, so that the project will conform to standards established by such departments.

§ 2.1-234.25. Governing body of Authority.

The powers of the Authority shall be exercised by a governing body consisting of the members of the Authority acting as a board. The board shall elect in each odd-numbered year from their number a ~~chairman~~, a vice-chairman, a treasurer and a secretary. *In the absence of the chairman, the vice-chairman shall exercise the powers and duties thereof.* The offices of secretary and treasurer may be combined. The board may elect such other officers from its own membership or from without as it deems appropriate.

Four members shall constitute a quorum of the board for the purpose of organizing the Authority and conducting the business thereof and for all other purposes, and all actions shall be taken by vote of a majority of the members of the Authority, unless in any case the bylaws shall require a larger number.

The board shall have full authority to manage the properties and business of the Authority, and to prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Authority may be conducted, and the powers granted to it may be exercised and embodied. The board may assign to the Treasury Board or the State Treasurer such powers and duties as it may deem proper.