

Code of Virginia

§ 2.2-2234. Short title; declaration of public purpose; Authority created.

A. This article shall be known and may be cited as the "Virginia Economic Development Partnership Act."

B. The General Assembly has determined that there exists in the Commonwealth a need to encourage, stimulate and support the development and expansion of the economy of the Commonwealth through economic development.

C. To achieve the objective of subsection B, there is created a political subdivision of the Commonwealth to be known as the Virginia Economic Development Partnership Authority. The Authority's exercise of powers and duties conferred by this article shall be deemed the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

(1995, c. 638, §§ 2.1-548.26, 2.1-548.28; 2001, c. 844.)

§ 2.2-2235. Board of directors; members and officers; Chief Executive Officer.

The Authority shall be governed by a board of directors consisting of the Lieutenant Governor, the Secretary of Commerce and Trade, the Secretary of Finance, and the Chancellor of the Virginia Community College System, or their designees, serving as ex officio, voting members, and 18 members to be appointed as follows: (i) one from each congressional district in the Commonwealth and one citizen at large, appointed by the Governor, subject to confirmation by the General Assembly; (ii) four citizens at large appointed by the Speaker of the House; and (iii) two citizens at large appointed by the Senate Committee on Rules. The six citizens appointed by the General Assembly shall reside in regions of the Commonwealth that have a higher unemployment rate than that of the statewide average unemployment rate as reported by the Virginia Employment Commission for the preceding four years from the date of appointment. Ex officio members of the Board shall serve terms coincident with their terms of office. Four of the 12 directors initially appointed by the Governor shall be appointed for terms of two and one-half years, three for terms of four and one-half years, and five 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 shall be eligible to serve more than two terms; however, after the expiration of 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 vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.2-2104 for each day spent on the business of the Board.

The Board shall elect from its membership a chairman and a vice-chairman, and shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Board may also form

committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board.

A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

The Board shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, whose title shall be President and Chief Executive Officer and may be referred to as the President or as the Chief Executive Officer, and who shall serve at the pleasure of the Board and carry out such of the powers and duties conferred upon him by the Board.

(1995, c. 638, § 2.1-548.31; 2001, c. 844; 2005, c. 900; 2008, c. 787; 2009, cc. 374, 569; 2010, cc. 101, 869.)

§ 2.2-2236. Powers and duties of the Chief Executive Officer.

The Chief Executive Officer shall employ or retain such agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval. Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. The Chief Executive Officer shall also exercise such of the powers and duties relating to the direction of the Commonwealth's economic development efforts conferred upon the Authority as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The Chief Executive Officer shall also exercise and perform such other powers and duties as may be lawfully delegated to him or as may be conferred or imposed upon him by law.

(1995, c. 638, § 2.1-548.32; 1996, cc. 590, 598; 1998, c. 359; 2001, c. 844; 2010, c. 869.)

§ 2.2-2237. Powers of Authority.

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Acquire, purchase, hold, use, lease or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and to lease as lessee, any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board and to lease as lessor to any person, any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority,

whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board, provided that the terms of any conveyance or lease of real property shall be subject to the prior written approval of the Governor;

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

5. 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 article, including agreements with any person or federal agency;

6. Employ, at its discretion, consultants, researchers, architects, 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. The Authority may hire employees within and without the Commonwealth and the United States without regard to whether such employees are citizens of the Commonwealth. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of this title;

7. Receive and accept from any federal or private agency, foundation, corporation, association or person, grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state, and any municipality, county or other political 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. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed; and

11. Do all acts and things necessary or convenient to carry out the powers granted to it by law, and perform any act or carry out any function not inconsistent with state law that may be useful in carrying out the provisions of this article.

(1995, c. 638, §§ 2.1-548.33, 2.1-548.34, 2.1-548.35; 2001, c. 844.)

§ 2.2-2238. Economic development services.

A. 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 to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;
2. 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. 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. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;
5. 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;
6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;
7. Encourage the export of products and services from the Commonwealth to international markets;
8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to § 23-220.4; and
9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce.

B. The Authority shall prepare a specific plan annually that shall serve as the basis for marketing high unemployment areas of Virginia. This plan shall be submitted to the Governor and General

Assembly annually on or before November 1 of each year. The report shall contain the plan and activities conducted by the Authority to market these high unemployment areas. The annual report shall be part of the report required by § 2.2-2242.

(1995, c. 638, § 2.1-548.29; 1996, cc. 590, 598; 1997, cc. 437, 448; 1999, c. 542; 2001, cc. 483, 557, 844; 2004, cc. 650, 872; 2009, cc. 374, 569.)

§ 2.2-2238.1. Special economic development services in rural communities; strategic plan.

A. In order to assist the rural communities of the Commonwealth, the Authority shall develop a program for reviewing existing economic development programs of rural communities, upon request. The program shall include (i) a review and evaluation of existing industrial sites and infrastructure, including existing streets, water and sewer systems, electricity, natural gas and communications facilities that will provide high-speed or broadband Internet access to rural and underserved areas of the Commonwealth; (ii) an assessment of the existing workforce and the provision of information on state and federal programs such as tax incentives that may be available to local or prospective employers to assist in hiring and training in areas of high unemployment; (iii) assistance in identifying community resources and the type of industries that may benefit from locating in a community with such resources; and (iv) marketing assistance to help rural communities improve their visibility to expanding industries looking for new facilities.

B. The Authority, the Center for Rural Virginia, the Virginia Department of Housing and Community Development, the Virginia Resources Authority, the Virginia Department of Business Assistance, the Virginia Tobacco Indemnification and Community Revitalization Commission, the Virginia Employment Commission, the Virginia Tourism Corporation, the Virginia Community College System, institutions of higher education within rural regions of the Commonwealth, and the Department of Agriculture and Consumer Services shall jointly develop and implement a rural economic development strategic plan that at a minimum addresses: (i) education, including pre-kindergarten, primary, secondary and post-graduate resources, and comprehensive workforce development programs, as they may pertain to the Workforce Investment Act; (ii) infrastructure, including capital for water and sewer upgrading, waste management, law enforcement, housing, primary and secondary roads, and telecommunications; (iii) traditional industrial development and industry retention programs, including assistance in financing and in workforce training; (iv) recreational and cultural enhancement and related quality of life measures, including parks, civic centers, and theaters; (v) agribusiness incentives to promote the use of new technologies, and the exploration of new market opportunities; and (vi) a revolving loan fund or loan guarantee program to help start or expand entrepreneurial activities, especially small business activities in rural communities.

(2001, c. 531, § 2.1-548.29:1; 2005, cc. 737, 797; 2006, c. 251.)

§ 2.2-2239. 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 Article 3 (§ 2.2-204 et seq.) of Chapter 2 of this title;

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 deems 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.

(1995, c. 638, § 2.1-548.30; 2001, c. 844.)

§ 2.2-2240. Nonstock corporation to assist economic development.

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

The board of directors of any such corporation shall be composed of the Chief Executive Officer of the Authority and eight members appointed by the Board of the Authority. However, any such corporation established to promote the tourism industry in the Commonwealth shall be composed of the Chief Executive Officer of the Authority, six members appointed by the Board of the Authority, and six members who represent the tourism industry appointed by the Governor. The terms of the members of any corporation established to promote the tourism industry in the Commonwealth appointed by the Governor shall be four years.

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

(1995, c. 638, § 2.1-548.43; 1996, cc. 590, 598; 2001, c. 844; 2010, c. 869.)

§ 2.2-2240.1. Grants paid to the Authority to promote research, development, and commercialization of products.

A. The General Assembly may appropriate grants to the Authority for use by a nonprofit, public benefit research institute that (i) conducts research and development for government agencies, commercial businesses, foundations, and other organizations and (ii) commercializes technology.

B. The Authority is hereby authorized to create a nonprofit, nonstock corporation to receive such grants and to oversee the administration of the payment of the grants. As a condition to the payment of any grants to the Authority under this section, the General Assembly may require that such nonprofit, nonstock corporation be created.

C. Notwithstanding the provisions of § 2.2-2240, the Board of Directors of the nonprofit, nonstock corporation shall consist of nine voting members as follows: (i) the president of the University of Virginia, or his designee, (ii) the president of Virginia Polytechnic Institute and State University, or his designee, (iii) the president of James Madison University, or his designee, (iv) the president (or the designee of such president) of Virginia Commonwealth University, Christopher Newport University, the University of Mary Washington, Radford University, Virginia State University, Norfolk State University, Old Dominion University, George Mason University, or Longwood University, as appointed by the Governor, with appointments to this position rotated equally among such universities, (v) one citizen member who shall have substantial experience in research and development in the fields of pharmaceuticals, engineering, energy, or similar sciences, appointed by the Governor, (vi) a representative of a nonprofit, public benefit research institute that has entered into a Memorandum of Agreement with the Commonwealth, (vii) the Secretary of Commerce and Trade, or his designee, (viii) the Secretary of Technology, or his designee, and (ix) a representative of a local government that has concluded a Memorandum of Agreement with such research institute. Citizen members appointed by the Governor shall serve for four-year terms, but no citizen member shall serve for more than two full successive terms. A vacancy for a citizen member shall be filled by the Governor for the unexpired term.

D. The Board is authorized to make grant payments only to those nonprofit, public benefit research institutes described in subsection A that have entered into a Memorandum of Agreement (MOA) with the Commonwealth. The MOA shall, at a minimum, (i) require the research institute to perform research, development, and commercialization activities that improve society and facilitate economic growth; (ii) require research to be conducted collaboratively with Virginia public and private institutions and that such collaborative research benefit the capabilities, facilities, and staff of all organizations involved; (iii) require the research institute to develop protocols for the commercialization efforts of the institute, including protocols addressing intellectual property rights; (iv) require the Board to evaluate fulfillment of key milestones for the research institute, which shall include but not be limited to milestones relating to job creation, research institute reinvestment goals, research proposals submissions, and royalties, and to annually evaluate the Commonwealth's investment in the research institute by reporting on the institute's progress in meeting such milestones; and (v) establish relationships and expectations between the research institutes and Virginia colleges and universities, including opportunities for principal investigators to serve as adjunct faculty and the creation of internships for students and postdoctoral appointees.

E. The maximum amount of grants awarded by the Board shall not exceed a total of \$22 million per recipient through June 30, 2013.

F. The Board of any nonprofit, nonstock corporation created under this section shall be established in the executive branch of state government. The records of the corporation, its Board

members, and employees that are deemed confidential or proprietary shall be exempt from disclosure pursuant to subdivision 3 of § 2.2-3705.6 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

(2007, c. 693.)

§ 2.2-2240.2. (For contingent expiration - see Editor's note) Major Employment and Investment Project Site Planning Grant Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the MEI Site Planning Grant Fund, hereafter referred to as "the Fund," to be administered by the Authority. The Fund shall consist of such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Authority.

B. Moneys in the Fund shall be used for the sole purpose of awarding grants on a competitive basis to political subdivisions to assist in the performance of site and site development work for prospective MEI projects, subject to the approval by the Governor. The Authority shall establish guidelines for awarding site planning grants that give consideration in order to (i) ensure geographical representation of awards, (ii) limit the amount of annual recipients, (iii) identify strategic targets and select sites that are compatible with the strategic targets, and (iv) promote regional revenue sharing.

C. For the purposes of this section:

"Local government" means the same as that term is defined in § 62.1-199.

"Major Employment and Investment project" or "MEI project" means the same as that term is defined in § 2.2-2260.

(2010, cc. 487, 536.)

§ 2.2-2241. 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 persons as the Authority may authorize to execute such warrants or orders.

(1995, c. 638, § 2.1-548.39; 2001, c. 844.)

§ 2.2-2242. 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 a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or 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. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30.

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. Notwithstanding other provisions of this article, 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 determined by the Director of the Department of Planning and Budget.

(1995, c. 638, § 2.1-548.40; 2001, c. 844; 2004, c. 650.)

§ 2.2-2243. Exemptions from taxes or assessments.

The exercise of the powers granted by this article shall 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 constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

(1995, c. 638, § 2.1-548.41; 2001, c. 844.)

§ 2.2-2244. Exemption of Authority from personnel and procurement procedures.

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) of and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of this title shall not apply to the Authority in the exercise of any power conferred under this article.

(1995, c. 638, § 2.1-548.38; 2001, c. 844.)

§ 2.2-2245. 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.

(1995, c. 638, § 2.1-548.36; 2001, c. 844.)

§ 2.2-2246. 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 article 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.

(1995, c. 638, § 2.1-548.37; 2001, c. 844.)