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SENATE BILL NO. 766

Offered January 8, 2025

Prefiled December 17, 2024

A BILL to amend and reenact §§ 2.2-208, 2.2-2905, and 23.1-101 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 32 of Title 23.1 an article numbered 8, consisting of sections numbered 23.1-3229 through 23.1-3232, relating to Museum of the Virginia National Guard established.

Patron—Sturtevant

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-208, 2.2-2905, and 23.1-101 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 32 of Title 23.1 an article numbered 8, consisting of sections numbered 23.1-3229 through 23.1-3232, as follows:

§ 2.2-208. Position established; agencies for which responsible; powers and duties.

A. The position of Secretary of Education (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Education, State Council of Higher Education for Virginia, Virginia Museum of Fine Arts, Museum of the Virginia National Guard, The Science Museum of Virginia, Frontier Culture Museum of Virginia, The Library of Virginia, Jamestown-Yorktown Foundation, Board of Regents of Gunston Hall, the Commission for the Arts, and the Board of Visitors of the Virginia School for the Deaf and the Blind. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

B. Unless the Governor expressly reserves such a power to himself, the Secretary may (i) resolve administrative, jurisdictional, or policy conflicts between any agencies or officers for which he is responsible and (ii) provide policy direction for programs involving more than a single agency.

C. The Secretary may direct the preparation of alternative policies, plans, and budgets for education for the Governor and, to that end, may require the assistance of the agencies for which he is responsible.

D. The Secretary shall direct the formulation of a comprehensive program budget for cultural affairs encompassing the programs and activities of the agencies involved in cultural affairs.

E. The Secretary shall consult with the agencies for which he is responsible and biennially report to the General Assembly on the coordination efforts among such agencies.

§ 2.2-2905. Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard;
10. Student employees at institutions of higher education and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees compensated on an hourly or daily basis;
12. County, city, town, and district officers, deputies, assistants, and employees;
13. The employees of the Virginia Workers' Compensation Commission;
14. The officers and employees of the Virginia Retirement System;
15. Employees whose positions are identified by the State Council of Higher Education for Virginia and the boards of the Virginia Museum of Fine Arts, the Museum of the Virginia National Guard, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of the Department of Human Resource

- 59 Management as requiring specialized and professional training;
- 60 16. Employees of the Virginia Lottery;
- 61 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and
- 62 service industries who have a human resources classification of industry worker;
- 63 18. Employees of the Virginia Commonwealth University Health System Authority;
- 64 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such
- 65 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia.
- 66 The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center
- 67 personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State
- 68 Grievance Procedure (§ 2.2-3000 et seq.);
- 69 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy,
- 70 or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy
- 71 or administration. An employee serving in either one of these two positions shall be deemed to serve on an
- 72 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
- 73 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
- 74 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 75 22. Officers and employees of the Virginia Port Authority;
- 76 23. Employees of the Commonwealth Savers Plan;
- 77 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
- 78 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to §
- 79 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-
- 80 3000 et seq.);
- 81 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state
- 82 employees for purposes of participation in the Virginia Retirement System, health insurance, and all other
- 83 employee benefits offered by the Commonwealth to its classified employees;
- 84 26. Employees of the Virginia Indigent Defense Commission;
- 85 27. Any chief of a campus police department that has been designated by the governing body of a public
- 86 institution of higher education as exempt, pursuant to § 23.1-809;
- 87 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage
- 88 Control Authority; and
- 89 29. Officers and employees of the Fort Monroe Authority.

90 **§ 23.1-101. Endowment funds of public institutions of higher education.**

91 It is the public policy of the Commonwealth that:

- 92 1. Each public institution of higher education, the Frontier Culture Museum of Virginia, Gunston Hall, the
- 93 Jamestown-Yorktown Foundation, ~~the~~ *The Science Museum of Virginia, the Museum of the Virginia*
- 94 *National Guard*, and the Virginia Museum of Fine Arts shall be encouraged in their attempts to increase their
- 95 endowment funds and unrestricted gifts from private sources and reduce the hesitation of prospective donors
- 96 to make contributions and unrestricted gifts; and
- 97 2. Consistent with § 10 of Chapter 33 of the Acts of Assembly of 1927, in measuring the extent to which
- 98 the Commonwealth shall finance higher education in the Commonwealth, the availability of the endowment
- 99 funds and unrestricted gifts from private sources received by public institutions of higher education, the
- 100 Frontier Culture Museum of Virginia, Gunston Hall, the Jamestown-Yorktown Foundation, ~~the~~ *The Science*
- 101 *Museum of Virginia, the Museum of the Virginia National Guard*, and the Virginia Museum of Fine Arts
- 102 shall neither be taken into consideration in nor used to reduce state appropriations or payments and shall be
- 103 used in accordance with the wishes of the donors of such funds to strengthen the services rendered by these
- 104 institutions to the people of the Commonwealth.

105 *Article 8.*

106 *Museum of the Virginia National Guard.*

107 **§ 23.1-3229. Museum of the Virginia National Guard established.**

108 *The Museum of the Virginia National Guard (the Museum) is established as a state agency and*

109 *educational institution for the dissemination of education concerning the history of the Virginia National*

110 *Guard. The exercise by the Museum of the powers conferred by this article is the performance of an essential*

111 *governmental function.*

112 **§ 23.1-3230. Board of trustees.**

113 A. *The Museum shall be administered by a board of trustees (the Board) consisting of 15 nonlegislative*

114 *citizen members who shall be appointed by the Governor, subject to confirmation by the General Assembly.*

115 *At least one member shall be a veteran of the Virginia National Guard.*

116 B. *Members shall be appointed for terms of four years. Appointments to fill vacancies, other than by*

117 *expiration of a term, shall be for unexpired terms. All members may be reappointed.*

118 C. *The Board shall elect a chairman, vice-chairman, and such other officers as it deems necessary. The*

119 *meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so*

120 request. A majority of the members shall constitute a quorum. The Board may appoint an executive
121 committee consisting of at least seven members for the transaction of business in the recess of the Board.

122 D. Members shall receive no compensation for their services. Members shall be reimbursed for all
123 reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813
124 and 2.2-2825. Funding for the expenses of the members shall be provided by the Museum.

125 **§ 23.1-3231. Duties of the Board.**

126 A. The Board shall:

127 1. Establish, operate, and maintain the Museum to educate the public about the history of the Virginia
128 National Guard;

129 2. Employ an executive director and such assistants as may be required and confer such duties and
130 responsibilities as deemed necessary;

131 3. Adopt a flag, seal, and other emblems for use in connection with the Museum;

132 4. Establish or partner with a nonprofit corporation to develop and maintain public awareness of the
133 Museum;

134 5. Receive and expend gifts, grants, and donations of any kind from whatever sources determined,
135 including donations accepted by a nonprofit corporation on behalf of the Museum;

136 6. Adopt regulations and set fees concerning the use and visitation of properties under its control;

137 7. With the consent of the Governor, acquire by purchase, lease, gift, devise, or condemnation
138 proceedings lands, property, and structures deemed necessary for the purpose of the Museum. The title to
139 such acquired land and property shall be in the name of the Commonwealth. In the exercise of the power of
140 eminent domain granted under this section, the Museum may proceed in the manner provided by Chapter 3
141 (§ 25.1-300 et seq.) of Title 25.1;

142 8. With the consent of the Governor, convey by lease land and structures to any person, association, firm,
143 or corporation for such terms and on such conditions as the Museum may determine; and

144 9. Enter into contracts to further the purpose of the Museum.

145 B. Donations to the Museum of any funds, securities, and any other property, real or personal, for use in
146 accordance with its purpose and mission shall constitute endowments or unrestricted gifts for the purposes of
147 § 23.1-101. The Board may change the form of investment of any such funds, securities, or other property,
148 real or personal, if the change in such form is not inconsistent with the terms of the instrument under which
149 such property was acquired and may sell, grant, or convey any such property, except that any such transfers
150 of real property shall be made only with the consent of the Governor.

151 **§ 23.1-3232. Annual report.**

152 The Board shall submit an annual report to the Governor and General Assembly on or before November 1
153 of each year. Such report shall be submitted as a report document as provided in the procedures of the
154 Division of Legislative Automated Systems for the processing of legislative documents and reports and shall
155 be posted on the General Assembly's website. Such report shall contain, at a minimum, the annual financial
156 statements of the Museum for the fiscal year ending the preceding June 30.

157 **2. That the board of trustees of the Museum of the Virginia National Guard (the Museum) established**
158 **pursuant to Article 8 (§ 23.1-3229 et seq.) of Chapter 32 of Title 23.1 of the Code of Virginia, as created**
159 **by this act, may enter into an agreement with an existing nonprofit corporation for the operation of the**
160 **Museum, including the purchasing, leasing, or borrowing of any real property or assets of such**
161 **nonprofit corporation that are related to the history of the Virginia National Guard.**