

**THE STATE'S ROLE IN CONTROL AND DEVELOPMENT
OF RADIATION AND NUCLEAR ENERGY**

**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, January 9, 1962

TO:

HONORABLE ALBERTIS S. HARRISON, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The use of nuclear energy for peaceful purposes and the possible effect thereof on the health and safety of the public have been under study by the Virginia Advisory Legislative Council since 1956. In that year the General Assembly directed the Council to consider what legislation, if any, should be adopted in this field. The Council determined, and so reported to the 1958 Session of the General Assembly, that legislation was premature at that time; but recommended that the study be continued. This was done, and in its report to the 1960 Session of the General Assembly the Council recommended legislation, which was enacted, requiring registration of sources of ionizing radiation, other than those under license by the Atomic Energy Commission. The Council also recommended to the 1960 Session of the General Assembly a continuation of the study; the General Assembly, pursuant to the recommendation, adopted the following resolution:

SENATE JOINT RESOLUTION NO. 3

Directing the Virginia Advisory Legislative Council to continue its study of the peaceful uses of atomic energy.

Whereas, the Virginia Advisory Legislative Council has, pursuant to the direction of the General Assembly, been studying the peaceful uses of atomic energy, and has reached the conclusion that no action to impose State regulation in this field should be taken at this time but that developments in the future should be carefully studied; and

Whereas, there has been proposed for adoption by this Commonwealth an interstate compact with certain other Southern states looking toward joint action to develop, utilize and regulate peaceful uses of atomic energy in this region, which compact is the product of long study by a distinguished group of scientists and which compact has many features which would prove advantageous to this State; now, therefore,

Resolved by the Senate of Virginia, the House of Delegates concurring, That the Virginia Advisory Legislative Council is directed to continue its study of the peaceful uses of atomic energy for scientific, industrial and medical purposes, and what legislation, if any, should be adopted to encourage participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with security and the health and safety of the public. In connection with its study the Council shall consider the desirability of entry by Virginia into the proposed Southern Interstate Nuclear Compact, either in its present form or with

modifications. Agencies of the State government shall assist the Council on request. The Council shall complete its study and make its report to the Governor and the General Assembly not later than November 1, 1961.

The Council selected Mosby G. Perrow, Jr., member of the Senate of Virginia and member of the Council, as Chairman of a Committee to make the initial study and report to it. The following served as members of the Committee: Robert F. Baldwin, member of the Senate of Virginia, Norfolk; Lloyd C. Bird, member of the Senate of Virginia, Chesterfield County; George D. Capito, Appalachian Power Company, Lynchburg; George M. Cochran, member of the House of Delegates, Staunton; Rollin F. Conaway, E. I. duPont de Nemours & Company, Richmond; Frank A. Ernst, former manager, Allied Chemical & Dye Corporation, Petersburg; M. C. Edlund, Babcock & Wilcox, Lynchburg; Charles R. Fenwick, member of the Senate of Virginia, Arlington; Guy L. Furr, Appalachian Electric & Power Company, Roanoke; Edward S. Harlow, Research Laboratory, American Tobacco Company, Richmond; H. Lester Hooker, State Corporation Commission, Richmond; Ralph O. Hutchison, American Machine & Foundry Company, Washington, D. C.; and J. B. Woodward, Jr., Chairman of the Board, Newport News Shipbuilding and Dry Dock Company, Newport News. During the course of the study Messrs. Conaway and Hutchison moved away from Virginia, and resigned from the Committee.

The Committee organized by electing Senator Fenwick Vice-Chairman. John B. Boatwright, Jr. and G. M. Lapsley served as Secretary and Recording Secretary, respectively, to the Committee.

The composition of the Committee was such that it represented a cross section of the industries most directly concerned with the development and use of atomic energy in Virginia, as well as the General Assembly, and the public. Information was secured concerning developments in the field and activities in other states were considered and evaluated. Consultations were had with individuals and groups concerned with particular phases of the problem. The Committee after careful consideration of the information before it, made its report to the Council. The Council has reviewed the report of the Committee, and makes the following recommendation, for the reasons hereinafter set forth.

RECOMMENDATION

Virginia should participate with other Southern states in the regional development of nuclear energy for nonmilitary purposes, and to this end should enter the Southern Interstate Nuclear Compact.

THE SOUTHERN INTERSTATE NUCLEAR COMPACT

Nuclear fission was first achieved as the result of the pooling of the scientific talents of citizens of the United States and friendly nations during World War II. The federal government had an initial monopoly, insofar as this country was concerned, and it continued to maintain sole responsibility and control throughout the 1940's.

The initial use of nuclear fission was of course military but with scientific development the potential for other purposes—chiefly industrial and medical—of this source of energy and of the radioactive materials developed in connection with its production became more apparent. By the beginning of the 1950's many private organizations and government agencies were making use for peaceful purposes of the discoveries which had resulted from the development of the atom bomb. With this widespread

use of nuclear energy and nuclear material it became apparent that the federal monopoly in the field was no longer desirable or practical. During the 1950's the states began to consider the adoption of measures looking both toward development of atomic energy for industrial purposes and to what if anything needed to be done to protect the public from possible hazards in connection therewith.

At the Southern Governor's Conference in 1956 a resolution was adopted looking toward joint action by the member states for the development of nuclear energy for the advancement of the region. In 1959 the Conference approved the proposed Southern Interstate Nuclear Compact, which was presented to the sixteen States for their consideration. In its present form the Compact has been modified to include some suggestions which were made by the Advisory Committee on Nuclear Energy to the Virginia Department of Conservation and Economic Development.

The Compact provides for a Board, designated as the "Southern Interstate Nuclear Board" which is composed of one member from each party state, (at the present time the states of Alabama, Arkansas, Florida, Kentucky, Louisiana, South Carolina, Tennessee and Texas have ratified the Compact). The activities of the Board are financed by contributions made by the party states according to a formula set forth in Article III of the Compact. The Board can establish and utilize advisory committees and accept services from public officials, industry representatives and private citizens.

The general purposes of the Southern Interstate Nuclear Compact and the powers given the Board to accomplish these are set forth in Article V. These generally relate to information services, training programs, nuclear safety services, the encouragement of nuclear industrial development and similar functions. Provisions are also made for some research and investigation and mutual assistance between the states in emergency situations. The Board also can serve as a liaison agency between the member states and the Atomic Energy Commission. It should be emphasized that the functions of the Board are not in any sense regulatory.

The use of nuclear energy and by-product materials has grown to such an extent in Virginia that there are currently ninety-seven licensees of the Atomic Energy Commission in the State. The possibilities inherent in such uses for the industrial development of the State can, at the present time, be only partially envisioned. The services which the Southern Interstate Nuclear Board and its staff can render to State agencies concerned with these matters and to industry in the State can be of inestimable value.

During the six-year period in which this subject has been under study by the Council, the underlying principle which has guided our deliberations has been that the Commonwealth should not be prematurely committed to action not justified by conditions existing in this State regardless of what may have been done elsewhere. At this time we feel that the point has been reached where Virginia should take advantage of the opportunities which will be presented to the people of the State through cooperation with the other Southern states in the Southern Interstate Nuclear Compact. We are sure that future events will amply demonstrate the wisdom of the adoption of the attached measure.

ACKNOWLEDGMENT

We express our appreciation to all those who have assisted us in the years during which this subject has been under study by the Council. We

acknowledge especially the contribution made by the various individuals who have contributed their time to service on this and former Committees and have thereby rendered notable service both to the Council and to the Commonwealth.

Respectfully submitted,

CHARLES K. HUTCHENS, Vice-Chairman

C. W. CLEATON

JOHN WARREN COOKE

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A BILL to provide for the entry of the Commonwealth of Virginia into the Southern Interstate Nuclear Compact; to provide for the selection and term of office of Virginia's representative on the Southern Interstate Nuclear Board; to limit the effect of certain agreements under the Compact; to provide for cooperation with the Board by agencies of this State; and to make an appropriation.

Be it enacted by the General Assembly of Virginia:

1. § 1. The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Southern Interstate Nuclear Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

SOUTHERN INTERSTATE NUCLEAR COMPACT

ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment of nuclear energy, facilities, materials, and products can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from and acquisition of nuclear resources and facilities requires systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well being of the region's people.

ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Southern Interstate Nuclear Board" (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provision therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for

the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

The Board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize and dispose of the same.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES

(a) The Board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial federal census; and one quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency.

Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II (h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection.

ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS

The Board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the South with respect to nuclear and related industries.

(b) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(c) Collect, correlate, and disseminate information relating to civilian uses of nuclear energy, materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of

(1) Nuclear industry, medicine, or education or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, installations, or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of nuclear product, material, or equipment use

and disposal and of proper techniques or processes for the application of nuclear resources to the civilian economy or general welfare.

(f) Undertake such non-regulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(h) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstance which may justify variations to meet local conditions.

(i) Prepare, publish and distribute, (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the Atomic Energy Commission or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interests.

(k) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(l) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents. The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

ARTICLE VI. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the

provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

ARTICLE VII. OTHER LAWS AND RELATIONSHIPS

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

ARTICLE VIII. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: provided that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

ARTICLE IX. SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United

States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

§ 2. The Governor shall appoint one member of the Southern Interstate Nuclear Board as established by Article II of the Compact, to serve at the pleasure of the Governor for a term of four years. If such member be the head of a department or agency of this State, he may designate a subordinate officer or employee of his department or agency to serve in his stead as permitted by Article II (a) of the Compact and in conformity with any applicable by-laws of the Board.

§ 3. No supplementary agreement entered into pursuant to Article VI of the Compact and requiring the expenditure of funds or the assumption of an obligation to expend funds in addition to those already appropriated shall become effective as to this State unless funds therefor are or have been appropriated therefor as provided by law.

§ 4. All departments, agencies and officers of this State and its political subdivisions are hereby authorized to cooperate with the Southern Interstate Nuclear Board in the furtherance of any of its activities pursuant to the Compact.

2. To carry out the purposes of this act there is hereby appropriated from the general fund in the State treasury the sum of five thousand dollars for each year of the biennium ending June thirty, nineteen hundred sixty-four.

