

REPORT OF THE
VIRGINIA PORTS AND PORT
AUTHORITY STUDY COMMISSION
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA



SENATE DOCUMENT NO. 11

COMMONWEALTH OF VIRGINIA
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EXECUTIVE SUMMARY

The Virginia Ports and Port Authority Study Commission was created in 1978 (Senate Joint Resolution No. 6) to make a comprehensive study of Virginia's ports and the Virginia Port Authority (VPA). Based both on public testimony before the commission and also on the report of the commission's consultants (Booz, Allen and Hamilton), the commission finds that the efficient operation of Virginia's ports requires that:

1. The operations of state-owned port facilities should be changed from the current decentralized form of management to a centralized form of operating management under the direct administration of the Virginia Port Authority (VPA);
2. The composition of the Board of Commissioners of the VPA should be changed both to provide for a shortened 5-year term for commissioners and also to ensure a greater geographic representation of the whole Commonwealth in the makeup of the board;
3. The executive director of the VPA should be appointed by and served at the pleasure of the Board of Commissioners, not the Governor.

In order to improve the security of VPA's facilities and the cargoes handled there:

4. The Criminal Justice Services Commission should permit the use of a training curriculum for port police which would be more closely tailored to their specialized tasks.
5. Several changes in the structure and operation of the VPA's police force should be made in order better to ensure the security of port facilities and cargoes handled there.

Legislation intended to implement recommendations 1 through 4 is attached (see Appendix C).

INTRODUCTION

The ports of Virginia, particularly Hampton Roads, constitute one of the Commonwealth's most valuable assets. Virginia's ports - Hampton Roads, Richmond, Alexandria, Yorktown, and Hopewell - are within 500 miles of nearly one-half of the nation's population. These ports are among the most versatile in the nation and have the capability of handling almost every category of cargo in large volume. One out of every six employed persons in Virginia holds a job that is either directly or indirectly related to the activities associated with the Commonwealth's ports and harbors. Recent figures show that the total impact of Virginia's ports on employment in both direct and supporting occupations was 356,264 jobs, which generated more than three billion dollars in wages. The Commonwealth receives approximately one hundred fifty million dollars annually in taxes generated from port activities.

Virginia's Hampton Roads, located midway along the Atlantic seaboard, is one of the finest natural harbors in the world. The port complex covers an area of 25 square miles and is only 18 miles from the open sea. Hampton Roads handles more coal tonnage than any other United States port. In 1976 more than 31 million tons were exported through the Hampton Roads coal terminals.

Although blessed with many natural and economic advantages, the growth of ports of Virginia in recent years has been slowed by several situations including, among others: Lack of short and long term financing to support the operation and expansion of the ports; inability of the Virginia Port Authority to organize a viable agency to properly develop and administer the ports; wasteful competition among the individual ports for export and import cargoes; disorganized and ineffective trade development efforts being conducted without benefit of an in-depth marketing study; and lack of regional planning approaches to environmental and coastal zone management programs. In addition to the aforementioned situations, competition from neighboring Atlantic and Gulf Coast ports has intensified in the past few years. The ports of Charleston and Baltimore, in particular, have siphoned off substantial quantities of the highly desirable general cargo which previously had moved through the Virginia ports.

Being aware of the tremendous importance of the ports of Virginia to the Commonwealth's economy and experiencing deep concern for their future development, the 1977 Session of the General Assembly adopted Senate Resolution No. 129, directing the Virginia Advisory Legislative Council (VALC) to undertake a comprehensive study of the Virginia Port Authority (VPA) and related matters. The resolution provided in part that:

"...Such study shall include, but not necessarily be limited to, the Port Authority's sources of and disbursement of financial revenues, its internal organization, decision-making procedures, policies and programs and financial ability to support the issuance of bonds..."

Senator Peter K. Babalas, of Norfolk, a member of the VALC, was selected to chair the committee. A large Committee was approved, which was divided into five subcommittees: Port Funding, Port Unification, Port Terminal Operations, VPA Organization, and Port Costs and Port Competition. The subcommittees functioned independently, with coordination being provided by the committee's staff. Public hearings were held at which testimony was received from, among others: representatives of the VPA; local governments; civic groups; commercial organizations; and several from Virginia's ports and maritime community. The findings and recommendations of the committee were presented in Senate Document No. 13 of 1978.

The 1977 VALC committee found its task truly enormous. Its studies merely exposed the many existing port associated problem areas. Following the 1977 VALC committee study, and in accordance with its general recommendations, the 1978 Session of the General Assembly adopted Senate Joint Resolution No. 6, which created the present independent Virginia Ports and Port Authority Study Commission

This commission, under terms of the resolution, was charged with conducting:

"... a comprehensive investigation of all matters relating to the Ports of Virginia, the Virginia Port Authority and, in particular, the many questions raised about the relationship of the ports to the Port Authority by the Virginia Advisory Legislative Council in its recent report to the Governor and General Assembly on the Virginia Port Authority..."

Fifteen members were appointed to the commission: Senator Peter K. Babalas of Norfolk (Chairman), Speaker of the House of Delegates A. L. Philpott of Bassett (Vice Chairman), Senator Hunter B. Andrews of Hampton, Delegate L. Ray Ashworth of Wakefield, Delegate Alan A. Diamonstein of Newport News, Senator Dudley J. Emick, Jr. of Fincastle, Mr. E. R. English of Altavista, Delegate Evelyn M. Hailey of Norfolk, Mr. W. Wright Harrison of Norfolk, Delegate George H. Heilig, Jr. of Norfolk, Delegate L. Cleaves Manning of Portsmouth, Delegate Donald A. McGlothlin, Sr. of Grundy, Senator Willard J. Moody of Portsmouth, Mr. Robert H. Spilman of Bassett, and Senator Edward E. Willey of Richmond. To assist the commission, an advisory committee of eight members was appointed by the commission's chairman: Mr. Edwin J. Adams of Norfolk, Mr. Myles E. Billups, Sr. of Norfolk, Delegate Archibald A. Campbell of Wytheville, Mr. Gene Dixon, Jr. of Dillwyn, Delegate C. Hardaway Marks of Hopewell, Senator William B. Hopkins of Roanoke, Senator William Parker of Chesapeake, and Mr. J. Warren White of Norfolk.

EMPLOYMENT OF CONSULTANTS

Senate Joint Resolution No. 6 provided for the submission of an interim report to the 1979 Session of the General Assembly of Virginia. In view of this limitation, the commission moved forward with a first phase of its study, concentrating primarily on the financing of Virginia's ports. Accordingly, 22 well-known consulting firms were requested to submit their proposals for Phase I and to include therein the studies to be performed and their recommendations for resolving the following issues:

Short and long-term plans for financing the operation and development of Virginia's ports based on current system and present operations of the terminals and VPA's capital outlay and growth projections;

Methods of financing the operations of the VPA based on its projected requirements; and

Sources of funds, including continuing revenues, if required, to support port development and the VPA organization.

In carrying out Phase I of the study, the invitation for proposals prepared by the commission's executive director provided that the consultants, at a minimum, would:

Analyze present methods of financing port operations and port development in Virginia and compare with financing programs of states with competing ports;

Examine current method of financing the VPA and compare with methods of financing port authorities of other states;

Examine present lease and unification agreements, and any other contractual arrangements between the VPA and the terminal operators and identify and tabulate the outstanding indebtedness related to each terminal;

Analyze tonnages handled and revenues generated at each of the state-owned terminals with those of terminals at competing ports and with accepted norms;

Identify and tabulate the total investment and present value of the state-owned terminals;

Analyze and compare levels of charges assessed at the state-owned terminals with charges for similar services at terminals of competing ports;

Analyze funds invested by the Commonwealth in port facilities and compare with funds invested by states in facilities of competing ports;

Review operations of the state-owned terminals and assess from standpoint of their ability to generate profits and operate on a self-supporting basis; and

Explore and identify present sources of funding of port operations in Virginia and delineate possible sources of future funding, including a source of continuing revenue predicated on some form of tax base, if required.

Nine proposals were submitted by consultants in response to the invitation. Representatives from eight of these firms gave oral presentations to the commission members at a meeting held in Norfolk, Virginia on July 28, 1978. After reviewing the proposals and weighing many factors, the commission selected the firm of Booz, Allen and Hamilton, Inc., of Bethesda, Maryland, to conduct Phase I.

While a good deal of the commission's first year's work involved organization, setting of study goals, and formulation of proposals on the basis of which to select consultants, Phase II, the second year of the Commission's study, built upon work already done or underway. Booz, Allen and Hamilton, Inc. was again selected as the commission's consultants. In Phase II the commission focused on:

Short and long-term financing programs which will support the operation and any required

expansion of the ports of the Commonwealth and their terminal facilities including sources of funds for these programs;

The most desirable method of operating state-owned terminal facilities, i.e. as public or private entities;

The role of the VPA in Virginia's overall port program and a delineation of its organizational structure, budgetary requirements and methods of financing its operation;

Methods of increasing Virginia's port commerce with identification of areas of concentration for development of new business;

Realistic requirements for new facilities and equipment for the Commonwealth's marine terminals through the year 2000;

Possible unifications of the system of port operations and port development to be pursued by the Commonwealth, including, possibly, methods of implementing a unification program;

Adjustments in levels of rates and charges ~~assessed~~ by the operators of the marine terminals;

and

Modifications to existing leases and unification agreements executed by the VPA to eliminate any inequities involving, among other items, terminal rates, charges and operating practices and procedures.

COMMISSION'S ACTIVITIES

Unforeseen difficulties in obtaining data necessary to complete certain Phase II requirements delayed the presentation of the consultant's final report. A preliminary version was presented to the commission in January, and a definitive version in May, 1980.

This delay prompted the General Assembly in, Senate Joint Resolution No. 30 to extend the mandate of the commission into 1980, both to permit a thorough review of the consultants' findings and also to allow it to study security at the ports. In order to make maximum use of the time available to complete these twin tasks, Senator Babalas divided the commission and its advisory committee into two subcommittees: the first to deal generally with the consultants' report and the subject of port unification, and the second to take up the question of port security. The port unification subcommittee was chaired by Senator Willey and included Speaker Philpott (vice chairman), Senator Andrews, Delegate Campbell, Delegate Diamonstein, Mr. Dixon, Senator Emick, Mr. English, Delegate Heilig, Senator Hopkins, Delegate Manning, and Mr. Spilman. The port security subcommittee was chaired by Delegate Ashworth, and included Mr. Adams, Mr. Billups, Delegate Hailey, Mr. Harrison, Delegate Marks, Delegate McGlothlin, Senator Moody, Senator Parker, and Mr. White.

The port unification subcommittee met on several occasions to discuss the consultants' report, evaluate recommendations contained therein, and shape legislative recommendations based thereon. The port security subcommittee held two public hearings, at which it received extensive testimony both from members of the VPA police department and administration and also from law enforcement official in the port cities. The full commission then met to consider reports from the two subcommittees and frame its own findings and recommendations.

FINDINGS AND RECOMMENDATIONS

The ports of Virginia constitute one of the Commonwealth's most valuable assets. One out of every six persons employed in Virginia holds a job that is either directly or indirectly related to activities associated with the Commonwealth's ports and harbors. Recent figures show that the total impact of Virginia's ports on employment in both direct and supporting occupations was 356,264 jobs which generated more than \$3 billion in wages. The Commonwealth receives approximately \$150 million annually in taxes generated by port and port-related activities. The commission's consultants have found that commercial cargo operators at the ports of Hampton Roads alone contributed nearly \$1 billion to the economy of Virginia in 1978. The economic importance of Virginia's ports was one of the major reasons for the creation in 1970 of the VPA. Since the creation of the VPA, the Commonwealth has invested over \$135 million in the ports of Hampton Roads. Nevertheless, in spite of VPA's efforts to date, and in spite of the considerable investment of state funds in the ports of Hampton Roads, the performance of these ports in the market place has been disappointing.

The total general cargo handled at the state-owned facilities at Hampton Roads has grown only at an annual rate of 2.09% from 1973 to 1978. This compares to an annual growth rate of 8.53% at the south Atlantic ports of Charleston, Savannah, Wilmington, and Morehead City, North Carolina, and a 3.31% growth rate at Baltimore during the same period. Virginia's market share of containerized cargo among the ports between Philadelphia and Savannah has declined from 23% in 1973 to 18% in 1978. During this same period, growth in this specialized and rapidly growing sector of the general cargo market has been only 4.22% per year in Virginia compared to 8.5% per year for all the ports between Philadelphia and Savannah.

The reaction of the Virginia Port Authority to this decline in the market share of Virginia ports has been undramatic. While responsibility for administration of the ports has been shifting from the port cities of Norfolk, Portsmouth, and Newport News to the VPA over the past ten years, the role of the VPA has been, and remains, inconsistent between several terminals. This slow evolutionary process governing the administration of the ports system has led to a situation where there exists a serious void in consistent integrated policy-making and overall management of marine terminals in the Hampton Roads area by the Commonwealth. While the Virginia Port Authority has moved to increase its role in port administration over the past 18 months, its ability to effectively manage the Commonwealth's port system remains limited.

The commission considered five possible methods of dealing with this situation:

1. The application of the existing non-stock/non-profit terminal operation presently employed at Norfolk International Terminals to all terminals and similar facilities;
2. The leasing of all terminal facilities to private terminal operators in a manner similar to the present situation at Portsmouth Marine Terminals, but under uniform lease terms;
3. The creation of a non-stock/non-profit type operation with legal responsibility directly to the VPA and reporting through its executive director (this concept would enable the VPA effectively to operate the terminals with the principal purpose of a non-stock corporation being to negotiate with and employ organized labor);
4. A change to an operation whereby the VPA operates the terminals, but employs a private contractor to negotiate with and employ organized labor (this system is presently employed in Boston, Massachusetts, and Pensacola, Florida);
5. Maintain the status quo

The commission was persuaded that either alternative 3 or alternative 4 would produce, in long run, substantial benefits for Virginia's ports and Virginia's economy.

While the attached draft legislation does provide for centralized operations of the ports of Hampton Roads under the direction of the VPA, the legislation would leave to the discretion of the VPA the choice of whether to proceed under alternative 3 or under alternative 4. The commission is convinced that the VPA should proceed as rapidly as possible with consolidating the operation of the ports while minimizing any economic dislocations that might result therefrom. There appears to be no cogent reason why the uniform centrally controlled operation of the ports of Hampton Roads can

not be achieved by the end of 1984.

In order for the VPA to be effective in its role of centralized management of our state-owned facilities the authority must control all terminal revenue earned by authority owned facilities. The authority must likewise have the freedom to establish a central non-profit, non-stock operator, if it so chooses, for the consolidated operation of its facilities. To this end, the VPA should move immediately to amend contractual agreements with the cities of Norfolk and Portsmouth which currently restrict the VPA in the pooling of terminal revenue so that the VPA may expend terminal revenue unrestricted by these current city agreements. Further, the VPA should amend its purchase agreement with the city of Norfolk so that the city no longer has any participation with the VPA in creating a non-profit, non-stock operating company and specifically the VPA is to avoid permitting city participation in appointing directors to the board of a central non-stock, non-profit operating company.

These changes are necessary and desirable and we recommend their adoption. The cities of Norfolk and Portsmouth are urged and encouraged to cooperate with the VPA in accomplishing these amendments to their respective contracts. We do not find the Newport News City agreement to sale poses any obstacles to the expenditure of terminal revenue or to the establishment of a centralized operation.

If the VPA is to exercise greater management and control of the port facilities of Hampton Roads, its organization must be somewhat altered in order to maximize its effectiveness. The terms of the members of the VPA Board of commissioners should be shortened from 6 years to 5 years. (commissioners would be eligible for reappointment for second 5-year terms.) The importance of the ports to the economy of the Commonwealth as a whole requires that greater representation of non-Tidewater Virginia be made on the Board of Commissioners. The commission feels it would be inconsistent with the role of the VPA, as the agency responsible for centralized control of port operation, to continue to have the VPA's executive director appointed by and responsible to the Governor. Accordingly, the commission has recommended that the executive director be appointed by and serve at the pleasure of the Board of Commissioners.

On the basis of testimony before its port security subcommittee the commission has concluded that the Port Authority Police Department is performing well in its assigned duties which focus on the protection of property at the various terminal facilities. One should, however, note that the Port Police are not trained and do not function as criminal investigators of white-collar crime. This responsibility rests upon investigative units attached to the Virginia State Police and the Federal Bureau of Investigation with whom the Port Police have established a good working relationship.

Currently, the police officers on the port security staff work under a rotating shift system: individuals work five days and have two days off. Testimony has indicated that a rotating platoon system would save VPA money for overtime pay, bring about more consistent supervisors of police officers, and permit better planning. Therefore the commission recommends that the VPA's police department institute a four-platoon system and authorize the creation of two new sergeant positions to make the proposed system workable. Under the suggested platoon system, police officers would rotate duty as platoons (each platoon being commanded by a sergeant) rather than as individuals.

The VPA chief of police now functions not only as chief of the total force but also as captain for the security forces at Lambert's Point docks. The commission feels that his time and effort could be more effectively utilized by having him devote his full time to his duties as chief of police. Accordingly, the commission recommends that an additional police captain be employed by VPA to serve as the head of security forces at Lambert's Point.

Presently the VPA chief of police reports to the VPA's assistant director of administration who, in turn, reports to the comptroller who, then reports to the VPA's executive director. The commission is of the opinion that the chief of police should have more direct access to the executive director. It is the commission's recommendation that the chief of police should report either to the VPA comptroller or directly to the VPA executive director.

The training curriculum for the port police is prescribed by the Criminal Justice Services Commission. VPA officials and police officials agree that present training devotes insufficient time to specialized areas of port security while placing inappropriate emphasis on duties extraneous to port security operations. The Virginia Criminal Justice Services Commission should be directed by statute

to allow the VPA's police department more flexibility in their training curriculum.

Draft legislation to carry out the recommended changes is attached (see Appendix C).

Respectfully submitted,

Peter K. Babalas (chairman)

A. L. Philpott

Hunter B. Andrews

Alan A. Diamonstein

Dudley J. Emick, Jr.

E. R. English

Evelyn M. Hailey

George H. Heilig, Jr.

W. Wright Harrison

Donald A. McGlothlin, Sr.

Robert H. Spilman

Edward E. Willey

DISSENTING REMARKS OF DELEGATE L. CLEAVES MANNING

AND SENATOR WILLARD J. MOODY

We believe that some of the conclusions set forth in the report of the commission, although honestly arrived at, are none the less inappropriate.

It has been shown that the operation of the port at Portsmouth has resulted in the highest return for each dollar invested therein. Accordingly, we cannot concur that alternative 3 or 4 [of the recommendation on centralized management of the port by VPA] will produce, in the long run, substantial benefits for Virginia's Ports and Virginia's economy.

As much as we, in government at all levels, hate to admit it: GOVERNMENT SIMPLY CANNOT PRODUCE THOSE RESULTS WHICH ARE EFFECTED THROUGH PRIVATE ENTERPRISE AND THE PROFIT MOTIVE ASSOCIATED THEREWITH.#eu

While we do not advocate that the Norfolk and Newport News operations be diverted from their present direction, we must voice our opposition to the subcommittee's recommendations. A shibboleth often noted before the General Assembly is "if it ain't broke don't fix it." The Portsmouth port operation is in good order; it works well; it is effective and efficient. We see the commission's report, if effected, as potentially suppressing the potential of Portsmouth's port. We are appalled by this prospect and we will oppose its implementation.

Our personal assessment of the data in the report of the consultants indicates to us that, in the absence of massive state funding#eu massive state funding of the type now present in Maryland, the private operation of terminals with appropriate state assistance in procuring and maintaining long-term clientele for the ports - offers the best potential for the continuing development of the ports of the Commonwealth.

As members of the General Assembly, we must admit that in this era of demand for less government spending at all levels, we foresee no massive state assistance for port development beyond that dictated by federal energy policies.

Accordingly, the commission's report is inappropriate and to effect its findings would not be in the best interests of the Commonwealth.

As to those recommendations relative to the make-up of the VPA, we concur that a wide geographic dispersion of the commissioners is desirable. The method of appointment of the executive director is of minimal importance.

L. Cleaves Manning

Willard J. Moody

DISSENTING REMARKS OF DELEGATE L. RAY ASHWORTH

TO THE REPORT OF THE

VIRGINIA PORTS AND PORT

AUTHORITY STUDY COMMISSION

Although I have not had the opportunity to hear the full public testimony and the discussions of the members of the ports unification subcommittee I disagree with the commission's recommended action concerning the appointment of the VPA executive director:

The executive director of the VPA should be appointed by and served at the pleasure of the Board of Commissioners, not the Governor.

The citizens, as well as the General Assembly, of the Commonwealth hold the Governor accountable for the actions of agencies within the executive branch. However, he cannot be held accountable unless he is given clear responsibility and adequate authority to oversee and direct the agencies. Since under our system of government, agency heads are responsible for the activities of their agencies, the only way in which the Governor can exercise his own authority is by having a clear line of responsibility between the agency head to him.

The General Assembly, in 1977, adopted in §2.1-41.2 the general principle that the administrative heads of each agency in the executive branch of state government should be appointed by the Governor, subject to confirmation by the General Assembly. The law establishing this principle also provided that the heads serve at the pleasure of the Governor.

The 1977 action by the General Assembly recognizes that the Governor as chief executive must have agency heads who are responsive and responsible to him, and that the process of appointment and removal assures this situation. If this were not the case, he could not be held accountable for the efficiency and effectiveness of State operations.

While there was some concern that the Governor might abuse this privilege by appointing political hacks, the requirement that each be confirmed by the General Assembly provides a safeguard against this possibility. The laws also provides that each administrative head shall have such professional qualifications as the General Assembly may prescribe - an additional safeguard. In addition, experience has shown that the Governor's appointments have been qualified to hold the jobs to which they were appointed.

The requirement that the General Assembly confirm the Governor's appointments also strengthens the hand of the General Assembly. In the past, when boards were responsible for appointing the administrative heads of their agencies, elected officials like the Governor and members of the General Assembly, had no say in the process.

Now you are asking us to add the executive director of the VPA to the very exclusive list that the Governor does not appoint. This list appears in 2.1-41.2 of the Code of Virginia. Perhaps a better word to describe them would be the "untouchables".

The citizens of the Commonwealth who pay the taxes to operate the several agencies hold the Governor accountable for the efficient and effective operations of the agencies. They expect the Governor to resolve any and all problems, not the Commissioners of the Port Authority. Can you imagine the frustration of citizens trying to handle a problem if the commissioners appoint the executive director, especially since we are asking they come from the entire Commonwealth. In my opinion this proposal not only removes the executive director from direct supervision of the secretary and the Governor, but also from the General Assembly.

L. Ray Ashworth

APPENDIX A.

SENATE JOINT RESOLUTION NO. 6

Creating the Virginia Ports and Port Authority Study Commission; allocating funds therefor.

Agreed to by the Senate, March 8, 1978

Agreed to by the House of Delegates, March 6, 1978

WHEREAS, the effective and efficient operation of the ports of Virginia, particularly the ports of Hampton Roads, is vital to the economic well-being of the Commonwealth; and

WHEREAS, insofar as more than 356,264 Virginians - nearly one in every six - are directly or indirectly dependent on Virginia's ports for their livelihoods; and

WHEREAS, Virginia's ports yearly generate a total of three billion dollars in wages and salaries, and contribute annually approximately one hundred fifty million dollars in taxes to the Commonwealth; and

WHEREAS, absent the most efficient management of these ports, in the interest of all the people of Virginia, this business is in danger of being lost to competing ports in Baltimore, Wilmington, Charleston, and elsewhere; and

WHEREAS, in nineteen hundred seventy-seven, the General Assembly directed the Virginia Advisory Legislative Council to undertake a thorough study of the ports and of the Virginia Port Authority; and

WHEREAS, such study by the VALC uncovered a host of problems and raised numerous vital questions which proved beyond the capability of a VALC committee to deal with; and

WHEREAS, investment of modest amounts of time, personnel, and financial resources in improving the situation of Virginia's ports is capable of yielding handsome returns; and

WHEREAS, interest has been expressed by the Federal Maritime Administration in the conduct of a detailed, professional study of Virginia's ports, and has indicated a possibility of federal financial participation in such a study; now, therefore, be it

RESOLVED by the Senate of Virginia, the House of Delegates concurring, That there is hereby created a legislative study commission to be known as the Virginia Ports and Port Authority Study Commission. The Commission is charged with a comprehensive investigation of all matters relating to the ports of Virginia, the Virginia Port Authority, and, in particular, the many questions raised about the relationship of the ports to the Port Authority by the Virginia Advisory Legislative Council in its recent report to the Governor and the General Assembly on the Virginia Port Authority. The Commission shall consist of fifteen members, five of whom shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate, seven of whom shall be appointed by the Speaker of the House of Delegates from the membership of the House, and three of whom shall be appointed by the Governor from the citizenry of the Commonwealth at large. Members of the Commission shall receive such compensation as is provided for members of legislative committees in §14.1-18 of the Code of Virginia, and shall be reimbursed for their actual and necessary expenses incurred in the performance of their duty, for which, and for such professional, consultative, and secretarial services as may be requisite, there is hereby allocated from the contingent fund of the General Assembly a sum sufficient not to exceed one hundred fifty thousand dollars. The Commission may apply for any funds available for assisting the Commission in its study hereunder and is hereby authorized to expend any such funds granted for such purpose as are not inconsistent with the intent of this resolution.

The Commission shall complete its study and report its findings and recommendations to the Governor and the General Assembly during the nineteen hundred eighty session of the General

Assembly. The Commission shall submit an interim report during the nineteen hundred seventy-nine Session of the General Assembly, which shall, among other subjects, address the mode by which Virginia's ports should be financed; and, be it

RESOLVED FURTHER, That it is the sense of the General Assembly that the Virginia Port Authority exercise its fullest possible caution in assuring that, during the course of the study of the ports, such leases as are necessary to the smooth functioning of the ports be negotiated and maintained.

APPENDIX B.

SENATE JOINT RESOLUTION NO. 30

Continuing the Virginia Ports and Port Authority Study Commission; allocating funds therefor.

Agreed to by the Senate, March 8, 1980

Agreed to by the House of Delegates, March 8, 1980

WHEREAS, by approving Senate Joint Resolution No. 6, the nineteen hundred seventy-eight session of the Virginia General Assembly created the Virginia Ports and Port Authority Study Commission to conduct a comprehensive study of the ports of Virginia and the Virginia Port Authority; and

WHEREAS, the Commission has retained the services of consultants who have laid before the Commission a great deal of information of potentially crucial importance not only to the prudent management of Virginia's ports, but also to the economic prosperity of the Commonwealth as a whole; and

WHEREAS, the acquisition of truly useful and complete data has required more time than originally anticipated either by the Commission or by its consultants; and

WHEREAS, this data gathered, it is now imperative that sufficient time and resources be made available to the Commission to enable it to evaluate this information and formulate findings and recommendations based thereon; and

WHEREAS, in the course of its work, the Commission has encountered certain questions regarding security of Virginia's port facilities which demand the Commission's attention; now, therefore, be it

RESOLVED by the Senate of Virginia, the House of Delegates concurring, That the Virginia Ports and Port Authority Study Commission created by the nineteen hundred seventy-eight session of the Virginia General Assembly is hereby continued for the purposes of: (i) receiving and analysing the report of the Commission's consultants; (ii) studying security at Virginia's ports; and (iii) formulating findings and recommendations for presentation to the Governor and the General Assembly on or before September one, nineteen hundred eighty and shall terminate at that time; and, be it

RESOLVED FURTHER, That for such clerical, staff, consultants' and other services as the Commission may require, there is hereby allocated from the contingent fund of the General Assembly, in addition to any funds heretofore allocated, a sum not to exceed twenty-five thousand dollars; and, be it

RESOLVED FURTHER, That any persons appointed either as members of the Commission or as members of the Commission's Advisory Committee shall remain members until such time as the Commission shall have completed its work, except that any vacancies which may occur by reason of resignation or disability of any member shall be filled in the same manner as the original appointments.

APPENDIX C.

RECOMMENDED LEGISLATION

A BILL to amend and reenact §§ 2.1-41.2, 2.1-342, 2.1-384, 9-109, and 62.1-128 through 62.1-132 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 62.1-132.1 through 62.1-132.19, and to repeal §§ 62.1-133, 62.1-134, 62.1-135, and 62.1-137 of the Code of Virginia to provide for the powers and duties of the Virginia Port Authority, the selection of its executive director, the appointment and terms of the members of its Board of Commissioners, the training of its police force, and the confidentiality of certain proprietary information.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-41.2, 2.1-342, 2.1-384, 9-109, and 62.1-128 through 62.1-132 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 62.1-132.1 through 62.1-132.19 as follows:

§ 2.1-41.2. Appointment of agency heads.—Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the following: the director of the State Council of Higher Education for Virginia, the executive director of the Commission of Game and Inland Fisheries, *the executive director of the Virginia Port Authority*, and the director of the Virginia Supplemental Retirement System; provided, however, that the manner of selection of those heads of agencies chosen by election as of January 1, 1976, or as set forth in the Constitution of Virginia shall continue without change. Each administrative head appointed by the Governor pursuant to this section shall be subject to confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor. For the purpose of this section, “agency” shall include all administrative units established by law or by executive order which are not arms of the legislative or judicial branches of government, which are not educational institutions as classified under §§ ~~9-63-14, 9-84, 23-14~~, ~~and 23-181-1~~ 23-252, and 23-254, which are not regional planning districts, regional transportation authorities or districts, or regional sanitation districts and which are not assigned by law to other departments or agencies, not including assignments to secretaries under Chapter 5.1 (§ 2.1-51.7 et seq.) of this title.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.—(a) Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of this Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to any such citizen of this Commonwealth, nor to representatives of newspapers and magazines with circulation in this Commonwealth, and representatives of radio and television stations broadcasting in or into this Commonwealth; provided, that the custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within 14 calendar days from the receipt of the request by the public body. Such citizen request shall designate the requested records with reasonable specificity. If the requested records or public body are excluded from the provisions of this chapter, the public body to which the request is directed shall within 14 calendar days from the receipt of the request tender a written explanation as to why the records are not available to the requestor. Such explanation shall make specific reference to the applicable provisions of this chapter or other Code sections which make the requested records unavailable. In the event a determination of the availability of the requested records may not be made within the 14-calendar-day period, the public body to which the request is directed shall inform the requestor as such, and shall have an additional 10 calendar days in which to make a determination of availability. A specific reference to this chapter by the requesting citizen in his records request shall not be necessary to invoke the time limits for response by the public body. The public body may make reasonable charges for the copying and search time expended in the supplying of such records; however, in no event shall such charges exceed the actual cost of the public body in supplying such records. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

(b) The following records are excluded from the provisions of this chapter:

(1) Memoranda, correspondence, evidence and complaints related to criminal investigations, reports submitted to the State and local police in confidence, and all records of persons imprisoned in a penal institution in this Commonwealth provided such records relate to the said imprisonment; provided, however, that information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge of arrest, shall not be excluded from the provisions of this chapter.

(2) Confidential records of all investigations of applications for licenses and all licensees made by or submitted to the Alcoholic Beverage Control Commission.

(3) State income tax returns, scholastic records and personnel records, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; provided, however, that the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being. Where the person who is the subject of scholastic or medical and mental records is under the age of 18, his right of access may be asserted only by his parent or guardian, except in instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education.

(4) Memoranda, working papers and correspondence held or requested by members of the General Assembly or by the office of the Governor or lieutenant governor, attorney general or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institutions of higher education.

(5) Memoranda, working papers and records compiled specifically for use in litigation and material furnished in confidence with respect thereto.

(6) Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

(7) Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

(8) Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, (iii) qualifications for any license or certificate issued by any public body.

As used in this subsection (8), "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subsection (8) shall prohibit the release of test scores or results as provided by law, or to limit access to individual records as is provided by law, provided, however, that the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public; provided, however, that minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

(9) Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Regulatory Boards or any board in that department on individual licensees or applicants; provided, however, that such material may be made available during normal working hours for copying, at the requestor's expense, by the individual who is subject thereof, in the offices of the Department of Health Regulatory Boards or in the offices of any health regulatory

board, whichever may possess the material.

(10) Records of active investigations being conducted by the Department of Health Regulatory Boards or by any health regulatory board in the state.

(11) Memoranda, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

(12) Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4.

(c) Neither any provision of this chapter nor any provision of chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any public officer, official or employee at any level of state, local or regional government in this Commonwealth whatsoever; provided, however, that the provisions of this subsection shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

§ 2.1-384. Systems to which chapter inapplicable.—The provisions of this chapter shall not be applicable to personal information systems:

1. Maintained by any court of this Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9-111.3 through 9-111.14;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required to be licensed by law in this state to engage in the practice of any professional occupation, in which case the names and addresses of persons applying for or possessing any such license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing such licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided such disseminating agency is reasonably assured that the use of such information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, and the Department of Alcoholic Beverage Control; ~~and~~
7. Maintained by the police departments of cities, counties, and towns and which deal with investigations and intelligence gathering relating to criminal activity - ; *and*
8. *Maintained by the Virginia Port Authority as provided in § 62.1-132.4.*

§ 9-109. Powers.—In addition to powers conferred upon the Commission elsewhere in this chapter, the Commission shall have power to:

(1) Promulgate rules and regulations, pursuant to Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, for the administration of this chapter including the authority to require the submission of reports and information by police officers within this state. Any proposed rules and regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof.

(2) Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer, (a) in permanent positions, and (b) in temporary or probationary status, and establish the time required for completion of such training.

(3) Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers, *provided that the Virginia Port Authority Police Department shall be empowered to prescribe for port security personnel a different curriculum more suitable to specialized training needs.*

(3a) Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in (2) hereof, prior to assignment of any such officers to undercover investigation work; provided, that failure to complete such training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation.

(4) Consult and cooperate with counties, municipalities, agencies of this state, other federal and state governmental agencies, and with universities, colleges, junior colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction.

(5) Approve institutions, curriculum and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not.

(5a) Establish compulsory minimum qualifications of certification and recertification for individuals instructing in criminal justice training schools approved by the Commission.

(6) Make or encourage studies of any aspect of law-enforcement administration.

(7) Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement.

(8) Make recommendations concerning any matter within its purview pursuant to this chapter.

(9) [Repealed.]

(10) Adopt and amend rules and regulations, consistent with law, for its internal management and control.

(11) Enter into contracts or do such things as may be necessary and incidental to the administration of its authority pursuant to this chapter.

(12) Coordinate its activities with those of any interstate system for the exchange of criminal history record information, to nominate one or more of its members to serve upon the council or committee of any such system, and to participate when and as deemed appropriate in any such system's activities and programs.

(13) Conduct such inquiries and investigations as it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, the Commission shall have the authority to require any criminal justice agency to submit to the Commission information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit to the Commission such information, reports, and data as are reasonably required.

(14) Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information.

(15) Conduct audits as required by § 9-111.5.

(16) Advise criminal justice agencies and to initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information.

(17) Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof.

(18) Issue regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, federal regulations, and court orders.

(19) The Department of State Police shall be the control terminal agency for the Commonwealth and perform all functions required of a control terminal agency by the rules and regulations of the National Crime Information Center. Notwithstanding anything to the contrary in this article, the Central Criminal Records Exchange and the Department of State Police shall remain the central repository for criminal history record information in the Commonwealth and the Department shall continue to be responsible for the management and operation of such exchange.

§ 62.1-128. Authority created.— ~~The Division of Ports of the Department of Conservation and Development is hereby abolished. The Virginia State Ports Port Authority, hereinafter referred to as the Authority, is created as a body corporate and as such shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter which Authority, on and after July one, nineteen hundred seventy, shall be known and designated as the Virginia Port Authority~~

§ 62.1-129. Board of Commissioners; members and officers; executive director; agents and employees.—All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as Board or Board of Commissioners. The Board shall consist of 11 members to be appointed by the Governor, subject to confirmation by the General Assembly, and who shall serve at the pleasure of the Governor. ~~for terms as follows: Three appointments made in nineteen hundred seventy to increase the size of the Board shall be for terms of four years and one such appointment shall be for a term of six years; one of the current terms ending in nineteen hundred seventy shall be filled by an appointment for a term of four years and the other shall be filled by an appointment for a term of six years; the appointment made to fill the current term ending in nineteen hundred seventythree shall be for a term of three years; one of the terms ending in nineteen hundred seventyfour shall be filled by an appointment for a term of two years and the other shall be filled by an appointment for a term of four years; the appointments made to fill the current terms ending in nineteen hundred seventy five shall be for terms of three years; and all subsequent appointments shall be for terms of six years, except appointments to fill vacancies, which shall be made for the unexpired term. The terms of all members of the Board of Commissioners appointed or reappointed on or after January 1, 1981, shall be for five years. Any appointment to fill a vacancy shall be for the unexpired term. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.1-20.3 of the Code of Virginia for each day spent on business of the Board. No person shall be eligible to serve more than two successive terms; provided that a person heretofore or hereafter appointed to fill a vacancy may be appointed to serve two additional terms. Incumbency during the current term when this amendment takes effect shall constitute the first or second, as the case may be, of the two successive terms with respect to eligibility for appointment. Beginning with those members of the Board of Commissioners appointed or reappointed on or after January 1, 1981: (i) appointments shall be made by the Governor in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth, and (ii) no resident of the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, or Virginia Beach shall be eligible for appointment or reappointment to the Board of Commissioners if his appointment or reappointment would increase or maintain the number of members of the Board of Commissioners residing in such cities above the number of three.~~

The Board shall elect from its membership a chairman and vice-chairman and may also elect from its membership, or appoint from its staff, a secretary and treasurer and prescribe their powers and duties.

The chief executive officer of the Authority, who shall not be a member of the Board, shall be known as the executive director. The executive director shall be appointed by the Governor, ~~subject to confirmation by the General Assembly,~~ Board of Commissioners and shall serve at the pleasure of the Governor Board of Commissioners. The executive director's compensation from the state shall

be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable executive director. ~~The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary subject to the Board's approval. The Board shall elect from its membership the chairman and the vice chairman and may elect from its membership or appoint from its staff a secretary and a treasurer, and prescribe their powers and duties.~~

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, ~~discharge~~ such functions of the secretary and treasurer, respectively, as may be directed by the Board.

§ 62.1-130. Powers and duties of executive director.—The executive director shall *employ or retain such other agents or employees subordinate to the executive director as may be necessary, subject to the Board's approval. The executive director shall also exercise such of the powers and duties relating to ports conferred upon the Board as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The executive director shall also exercise and perform such other powers and duties as may be lawfully delegated to him, and such powers and duties as may be conferred or imposed upon him by law.*

§ 62.1-131. Office and branch offices; title to property. The Authority shall, in the Hampton Roads Area, have and maintain its principal office, at which all of its records shall be kept, and from which its business shall be transacted. It may, if necessary, establish a branch office or offices within or without ~~this State~~ *the Commonwealth or the United States*. The title to all property of every kind belonging to the former Hampton Roads Port Commission or the former State Port Authority of Virginia or the former Division of Ports Department of Conservation and Development, shall be vested in the Commonwealth of Virginia for the Virginia Port Authority.

§ 62.1-132. Local authorities subordinate to Authority.— ~~In order to promote the development and the physical and administrative coordination and unification of the port facilities within the cities and towns of this State, located upon any of the navigable tidal waters therein, and the proper cooperation between such cities and towns with respect to such facilities located within the State, boards of municipal dock commissioners heretofore existing shall continue in effect in accordance with the laws creating them, the only effects of this section on such laws being that the boards shall henceforth be known as boards of municipal port commissioners and that the exercise of their authority shall be in subordination to the authority conferred upon the Board of Commissioners by this chapter, and Any conflict between the any authority granted to the several port cities and towns or other entity entities of this State Commonwealth, or the exercise of that authority, and the exercise of the authority granted to such the Board of Commissioners under this chapter shall be resolved in favor of the exercise of such authority by the Board of Commissioners.~~

~~There is hereby created an Executive Council of the several local municipal port authorities. The membership of the Executive Council shall consist of the chief executive officer or his designee and the chairman of the Board or his designee of the local port authority of each of Virginia's municipal port cities. The Executive Council shall assist in achieving an orderly and efficient unification of Virginia's port facilities by meeting quarterly or more frequently, as desired with the Executive Director of the Authority and from time to time with the Board of Commissioners of said Authority, and advising on port matters generally and especially with respect to the following:~~

- ~~(1) Uniformity of port rates, practices and maximum utilization of all facilities and promoting a spirit of cooperation among the port cities in the interest of Virginia as a whole;~~
- ~~(2) The development of the ports of Virginia and keeping the Executive Director of the Authority informed as to present and future needs of the ports of Virginia;~~
- ~~(3) The location and scope of new terminal facilities; and~~
- ~~(4) A unified program of trade development, statistical research and public relations.~~

~~The powers and functions of the Executive Council shall be advisory only.~~

§ 62.1-132.1. General powers.—~~The Authority is vested with the powers of a body corporate. It may sue and be sued, make contracts, adopt and use a common seal, and alter such seal at its~~

pleasure.

§ 62.1-132.2. Bylaws and organization.—*The Authority shall have the power to 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. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary or expedient.*

§ 62.1-132.3. Stimulation of commerce.—*It shall be the duty of the Authority, on behalf of the Commonwealth, to foster and stimulate the commerce of the ports of the Commonwealth, to promote the shipment of goods and cargoes through the ports, to seek to secure necessary improvements of navigable tidal waters within the Commonwealth, and in general to perform any act or function which may be useful in developing, improving, or increasing the commerce, both foreign and domestic, of the ports of the Commonwealth.*

§ 62.1-132.4. Rates and rate structures.—*The Authority shall have power to establish a traffic bureau or other office to investigate and seek improvement in any rates, rate structures, practices, and charges affecting or tending to affect the commerce of the ports of the Commonwealth. Notwithstanding any provision of law to the contrary, the Authority shall not disclose proprietary information and data furnished to it in confidence, including but not limited to ship tally sheets, ship manifests, and other information relating to tonnages and cargoes.*

§ 62.1-132.5. Planning.—*The Authority shall initiate and further plans for the development of the ports of the Commonwealth, and, to this end, shall keep informed as to the present requirements and likely future needs of those ports.*

§ 62.1-132.6. Powers not restrictive.—*The Authority shall have the power to perform any act or carry out any function not inconsistent with state law, whether or not included in the provisions of this chapter, which may be, or tend to be, useful in carrying out the provisions of this Chapter.*

§ 62.1-132.7. Employment of personnel and legal counsel.—*A. Subject to the provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 of the Code of Virginia, the Authority may appoint, employ, dismiss, fix and pay compensation of employees within and without the Commonwealth and the United States without regard to whether such employees are citizens of the United States.*

B. The Authority may retain legal counsel, subject to the approval of the attorney general, to represent the Authority in rate cases and all other hearings, controversies, or matters involving the interests of the Authority.

§ 62.1-132.8. Consolidation of terminal operations.—*The Authority shall effect consolidation of the water terminals of the several cities within the ports of the Commonwealth. It shall, specifically, bring about the centrally directed operation of all state-owned port facilities at Hampton Roads by such means as may prove necessary or desirable, not inconsistent with state law.*

§ 62.1-132.9. Foreign trade zones. *The Authority is empowered to develop, maintain, and operate foreign trade zones under such terms and conditions as are or may be prescribed by law.*

§ 62.1-132.10. Publications of Authority.—*A. The Authority may issue periodicals and carry and charge for advertising therein.*

B. The Authority may compile and disseminate in a single publication all port charges, rules, and practices in effect at the several ports in the Commonwealth.

§ 62.1-132.11. Police powers; penalties.—*The Authority is empowered to adopt and enforce reasonable rules and regulations governing (i) the maximum and minimum speed limits of motor vehicles using Authority property, (ii) the kinds and sizes of vehicles which may be operated upon Authority property, (iii) materials which shall not be transported through or over Authority property, and (iv) other matters affecting the safety and security of Authority property. Such rules and regulations shall have the force and effect of law (i) after publication one time in full in a newspaper of general circulation in the city or county where the affected property is located, and (ii) when posted where the public using such property may conveniently see them. Violation of any rule or regulation which would have been a violation of law or ordinance if committed on a public*

street or highway shall be tried and punished as if it had been committed on a public street or highway. Any other violation of such rules and regulations shall be punishable as a Class 1 misdemeanor.

§ 62.1-132.12. Employment, jurisdiction, and power of special police officers.—A. The Authority may appoint and employ special police officers to enforce the laws of the Commonwealth and rules and regulations adopted pursuant to § 62.1-132.11 on Authority property. Such special police officers shall have the powers vested in police officers under §§ 15.1-138 and 52-8 of the Code of Virginia. Such special police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before the court of the city or county of competent jurisdiction any person violating, upon property under the control of the Authority, any rule or regulation of the Authority, any law of the Commonwealth, or any ordinance or regulation of any political subdivision of the Commonwealth.

B. The court or courts having jurisdiction for the trial of criminal offenses of the city or county wherein the offense was committed shall have jurisdiction to try persons charged with violating any such laws, ordinances, rules, or regulations. Fines and costs assessed or collected for violation of any such law, ordinance, rule, or regulation shall be paid into the Literary Fund.

§ 62.1-132.13. Cooperation with federal agencies.—The Authority is empowered to cooperate with, and to act as an agent for, the United States of America or any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement, and use of harbors and seaports of the Commonwealth, and in any other matter within the purposes, duties, and powers of the Authority.

§ 62.1-132.14. Agreement of local cooperation with Corps of Engineers.—The Authority is empowered, on behalf of and as an agent for the Commonwealth, with the approval of the Governor and after review by the attorney general, to enter into contractual agreements, known as agreements of local cooperation, developed and tendered by the United States Army Corps of Engineers for signature by local nonfederal interests.

§ 62.1-132.15. Grants and loans from federal agencies.—The Authority may apply for and accept grants or loans of money or property from any federal agency for any purpose authorized in this chapter. It may expend or use such money or property in accordance with any directions, requirements, or conditions which may be imposed by the agency.

§ 62.1-132.16. Fees and charges.—Under such terms and conditions as may be prescribed by law, the Authority may fix, alter, charge, and collect tolls, fees, rentals, and any other charges for the use of, or for services rendered by, any Authority facility. The Authority may impose, levy, and collect such other fees and charges as may assist in defraying the expenses of administration, maintenance, development, or improvement of the ports of the Commonwealth, their cargo handling facilities, and harbors.

§ 62.1-132.17. Grants of funds and property.—Persons, counties, cities, and towns are hereby authorized to grant, and the Authority is empowered to accept, funds and property to use, within the scope of other powers and duties of the Authority, as stipulated by the grantor.

§ 62.1-132.18. Acquisition of property.—A. The Authority is authorized to acquire, construct, maintain, equip, and operate marine terminals, port facilities, wharves, docks, ships, piers, quays, elevators, compressors, refrigeration storage plants, warehouses, and other structures necessary for the convenient use of the same in the aid of commerce. The Authority is further authorized to undertake or make arrangements for the dredging of approaches to each facility and the construction of shipping facilities and transportation facilities incident thereto. The Authority shall have the power to issue revenue bonds for such acquisitions and purposes.

B. When such facilities or equipment is acquired from any political subdivision of the Commonwealth, the Authority is authorized to give written assurances, including agreements to reconvey properties to such political subdivision, for the installment payments for any terminals, facility, or equipment thus acquired.

§ 62.1-132.19. Acquisition and lease of property.—A. The Authority is empowered to rent, lease, buy, own, acquire, construct, reconstruct, and dispose of harbors, seaports, port facilities, and such

property, whether real or personal, as it may find necessary or convenient and issue revenue bonds therefor without pledging the faith and credit of the Commonwealth.

B. The Authority may lease to another such part or all of its real or personal property for such period and upon such terms and conditions as the Authority may determine.

C. The Authority shall neither expend funds nor incur any indebtedness for any improvement, repair, maintenance, or addition to any real or personal property owned by anyone other than the Authority, the Commonwealth, or a political subdivision of the Commonwealth, unless either (i) the use of such property is guaranteed to the Authority or the Commonwealth by a lease extending beyond the useful life of the improvement, repair, maintenance, addition, or new facility, or (ii) such expenditure or indebtedness is approved in writing by the Governor.

2. That §§ 62.1-133, 62.1-134, 62.1-135, and 62.1-137 of the Code of Virginia are repealed.

