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HOUSE BILL NO. 301

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 4.1-603, 4.1-607, and 4.1-614 of the Code of Virginia, relating to Board of Directors of the Virginia Cannabis Control Authority; Cannabis Public Health Advisory Council; membership criteria; allocation of revenue.

Patron—Freitas

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-603, 4.1-607, and 4.1-614 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings; compensation and expenses; duties.

A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues, trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding health warnings, retail marijuana and retail marijuana products safety and product composition, and public health awareness, programming, and related resource needs.

B. The Advisory Council shall have a total membership of ~~24~~ 25 members that shall consist of ~~14~~ 18 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: ~~four~~ six to be appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, ~~and~~ one of whom shall be a representative from the Virginia Pharmacists Association, *and two of whom shall be persons who have recovered from a substance use disorder and are not employed by a government entity*; ~~six~~ eight to be appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a community services board, one of whom shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with experience in veterans health care, ~~and~~ one of whom shall be a person with a social or health equity background, *and two of whom shall be persons who have recovered from a substance use disorder and are not employed by a government entity*; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative of a local health district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of whom shall be a registered medical cannabis patient.

The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with their terms of office.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts, and state agency representatives.

C. Members shall receive no compensation for the performance of their duties but shall be

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59 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as
60 provided in §§ 2.2-2813 and 2.2-2825.

61 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary
62 to fulfill its purpose as described in subsection A:

63 1. To review multi-agency efforts to support collaboration and a unified approach on public health
64 responses related to marijuana and marijuana legalization in the Commonwealth and to develop
65 recommendations as necessary.

66 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the
67 Commonwealth and the science and medical information relevant to the potential health risks associated
68 with such drug use, and make appropriate recommendations to the Department of Health and the Board.

69 3. Submit an annual report to the Governor and the General Assembly for publication as a report
70 document as provided in the procedures of the Division of Legislative Automated Systems for the
71 processing of legislative documents and reports. The chairman shall submit to the Governor and the
72 General Assembly an annual executive summary of the interim activity and work of the Advisory
73 Council no later than the first day of each regular session of the General Assembly. The executive
74 summary shall be submitted as a report document as provided in the procedures of the Division of
75 Legislative Automated Systems for the processing of legislative documents and reports and shall be
76 posted on the General Assembly's website.

77 **§ 4.1-607. Board membership; terms; compensation.**

78 A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at
79 large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in
80 each house of the General Assembly. Each appointee shall (i) have been a resident of the
81 Commonwealth for a period of at least three years next preceding his appointment, and his continued
82 residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in
83 business or a related field of study; and (iii) possess a minimum of seven years of demonstrated
84 experience or expertise in the direct management, supervision, or control of a business or legal affairs.
85 *At least one appointee shall be a person who has recovered from a substance use disorder and is not*
86 *employed by a government entity.* Appointees shall reflect the racial, ethnic, gender, and geographic
87 diversity of the Commonwealth. Appointees shall be subject to a background check in accordance with
88 § 4.1-609.

89 B. After the initial staggering of terms, members shall be appointed for a term of five years. All
90 members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for
91 the unexpired term. No member appointed by the Governor shall be eligible to serve more than two
92 consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive
93 terms. Members of the Board may be removed from office by the Governor for cause, including the
94 improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty,
95 absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in
96 the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

97 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the
98 membership of the Board. The Board may elect other subordinate officers, who need not be members of
99 the Board. The Board may also form committees and advisory councils, which may include
100 representatives who are not members of the Board, to undertake more extensive study and discussion of
101 the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the
102 Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise
103 the rights and perform all duties of the Authority.

104 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings
105 may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or
106 upon the written request of a majority of the Board members.

107 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of
108 expenses for the performance of their official duties as set forth in the general appropriation act for
109 members of the House of Delegates when the General Assembly is not in session, except that the
110 chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses
111 for the performance of his official duties as set forth in the general appropriation act for a member of
112 the Senate of Virginia when the General Assembly is not in session.

113 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)
114 shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the
115 employees of the Authority.

116 **§ 4.1-614. Disposition of moneys collected by the Board.**

117 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or
118 shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on
119 account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as
120 required by § 2.2-1802.

121 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C,
122 shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i)
123 the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and
124 expenses incurred in the administration of this subtitle.

125 B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller
126 to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as
127 otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from
128 the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million
129 in connection with the administration of this subtitle and to provide for the depreciation on the
130 buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the
131 Authority's expenses as provided in subsection A, net profits shall be appropriated in the general
132 appropriation act as follows:

133 1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;

134 2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;

135 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which
136 shall distribute such appropriated funds to community services boards for the purpose of administering
137 substance use disorder prevention and treatment programs. *At least forty percent of such funds shall be*
138 *distributed to private certified recovery residences, as defined in § 37.2-431.1, that provide low-cost*
139 *evidence-based substance use disorder treatment and recovery services, are staffed by persons with lived*
140 *experience utilizing substance use disorder treatment and recovery services, and follow nationally*
141 *recognized recovery housing standards. Funds distributed to certified recovery residences shall be*
142 *awarded pro-rata based on the number of residents served by the certified recovery residence; and*

143 4. Five percent to public health programs, including public awareness campaigns that are designed to
144 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform
145 the public of other potential risks.

146 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less
147 local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all
148 costs, expenses, and charges authorized by this section.

149 D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided
150 in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under
151 the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the
152 locality in which they were collected. If revenues were collected from a marijuana establishment located
153 in more than one locality by reason of the boundary line or lines passing through the marijuana
154 establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall
155 provide to the Comptroller any records and assistance necessary for the Comptroller to determine the
156 locality to which tax revenues are attributable.

157 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the
158 proper amount in favor of each locality entitled to the return of its tax revenues, and such payments
159 shall be charged to the account of each such locality under the special fund created by this section. If
160 errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to
161 refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the
162 payments for the next quarter.