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**HOUSE BILL NO. 326**

Offered January 12, 2022

Prefiled January 11, 2022

*A BILL to amend and reenact §§ 2.2-2367 and 2.2-2374 of the Code of Virginia, relating to Opioid Abatement Authority and Fund; board of directors; allocation of funds.*

Patron—Freitas

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2367 and 2.2-2374 of the Code of Virginia are amended and reenacted as follows:  
§ 2.2-2367. Board of directors; members.**

A. The Authority shall be governed by a board of directors consisting of ~~14~~ 15 members as follows: (i) the Secretary of Health and Human Resources or his designee; (ii) the Chair of the Senate Committee on Finance and Appropriations or his designee and the Chair of the House Committee on Appropriations or his designee; (iii) an elected member of the governing body of a participating locality, to be selected from a list of three submitted jointly by the Virginia Association of Counties and the Virginia Municipal League; (iv) one representative of a community services board or behavioral health authority serving an urban or suburban region containing participating localities and one representative of a community services board or behavioral health authority serving a rural region containing participating localities, each to be selected from lists of three submitted by the Virginia Association of Community Services Boards; (v) one sheriff of a participating locality, to be selected from a list of three submitted by the Virginia Sheriffs' Association; (vi) one licensed, practicing county or city attorney of a participating locality, to be selected from a list of three submitted by the Local Government Attorneys of Virginia; (vii) two medical professionals with expertise in public and behavioral health administration or opioid use disorders and their treatment; and (viii) ~~one representative~~ five representatives of the addiction and recovery community. *Of the five members appointed pursuant to clause (viii), none shall be employed by the state or local governments of the Commonwealth, and at least three of the members shall be residents of localities with different population densities, as determined by the Governor.*

The member appointed pursuant to clause (i) shall serve ex officio, and the members appointed pursuant to clauses (iii) through (viii) shall be appointed by the Governor. If the term of the office to which a member appointed pursuant to clause (iii) or (v) was elected expires prior to the expiration of his term as a member of the board, the Governor may authorize such member to complete the remainder of his term as a member or may appoint a new member who satisfies the criteria of clause (iii) or (v), as applicable, to complete the remainder of the term.

B. 1. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms.

2. Ex officio members shall serve terms coincident with their terms of office.

C. The Board shall elect annually a chairman and vice-chairman from among its membership. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board.

D. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business.

E. The Board shall meet annually or more frequently at the call of the chairman.

**§ 2.2-2374. Opioid Abatement Fund.**

A. There is hereby created in the state treasury a special, nonreverting fund to be known as the Opioid Abatement Fund, referred to in this section as "the Fund," to be administered by the Authority. All funds appropriated to the Fund, all funds designated by the Attorney General under § 2.2-507.3 from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be authorized by majority vote of the Board.

B. Moneys in the Fund shall be used to provide grants and loans to any agency of the Commonwealth or participating locality for the purposes determined by the Authority in accordance with

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59 this article and in consultation with the Office of the Attorney General. The Authority shall develop  
60 guidelines, procedures, and criteria for the application for and award of grants or loans in consultation  
61 with the Office of the Attorney General. Such guidelines, procedures, and criteria shall comply with the  
62 terms of any applicable settlement, judgment, verdict, or other court order, or any agreement related  
63 thereto between the Attorney General and participating localities.

64 C. The Authority shall fund all staffing and administrative costs from the Fund. Its expenditures for  
65 staffing and administration shall be limited to those that are reasonable for carrying out the purposes of  
66 this article.

67 D. For every deposit to the Fund, the Authority shall allocate a portion to the following purposes:

68 1. Fifteen percent shall be restricted for use by state agencies;

69 2. Fifteen percent shall be restricted for use by participating localities, provided that if the terms of a  
70 settlement, judgment, verdict, or other court order, or any agreement related thereto between the  
71 Attorney General and participating localities, require this portion to be distributed according to a local  
72 apportionment formula, this portion shall be distributed in accordance with such formula;

73 3. Thirty-five percent shall be restricted for use for regional efforts; and

74 4. Thirty-five percent shall be unrestricted. ~~Unrestricted~~ *Of the 35 percent of unrestricted funds:*

75 *a. At least 15 percent shall be allocated to the Department of Behavioral Health and Developmental*  
76 *Services' (DBHDS) Office of Recovery Services for distribution on a pro rata basis to certified housing*  
77 *operators that follow the nationally recognized recovery housing standards of a state credentialing entity*  
78 *to be used for indigent recovery housing fees and evidence-based substance use disorder recovery*  
79 *support services.*

80 *b. Up to 15 percent may be used to fund the Authority's staffing and administrative costs;*

81 *c. Up to five percent may be used to fund Department of Behavioral Health and Developmental*  
82 *Services administrative costs; and*

83 *d. Any undistributed funds may be distributed for use by state agencies, by participating localities, or*  
84 *for regional efforts in addition to the amounts set forth in subdivisions 1, 2, and 3, provided that the*  
85 *Authority shall ensure that such funds are used to accomplish the purposes of this article or invested*  
86 *under subsection F.*

87 E. In distributing money from the Fund under subsection D, the Authority shall balance immediate  
88 and anticipated needs with projected receipts of funds to best accomplish the purposes for which the  
89 Authority is established.

90 F. The Board may designate any amount from the Fund to be invested, reinvested, and managed by  
91 the Board of the Virginia Retirement System as provided in § 51.1-124.40. The State Treasurer is not  
92 liable for losses suffered by the Virginia Retirement System on investments made under the authority of  
93 this section.