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SENATE BILL NO. 148

Offered January 12, 2000

A BILL to amend and reenact §§ 2.1-342.01, 2.1-344, and 9-6.25:2 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 35.2 of Title 2.1 an article numbered 7.2, consisting of a section numbered 2.1-563.35:4; by adding in Title 2.1 a chapter numbered 54, consisting of articles numbered 1 through 5, containing sections numbered 2.1-812 through 2.1-825; and to repeal §§ 56-584.8 through 56-584.11 and § 58.1-3813 of the Code of Virginia, relating to the Virginia Enhanced Emergency Telecommunications Act.

Patrons—Stolle and Norment; Delegate: Woodrum

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-342.01, 2.1-344, and 9-6.25:2 of the Code of Virginia are amended and reenacted; and that the Code of Virginia is amended by adding in Chapter 35.2 of Title 2.1 an article numbered 7.2, consisting of a section number 2.1-563.35:4; by adding in Title 2.1 a chapter numbered 54, consisting of articles numbered 1 through 5, containing sections numbered 2.1-812 through 2.1-825; as follows:

§ 2.1-342.01. Exclusions to application of chapter.

A. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

2. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § 58.1-3.

3. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of eighteen years. For scholastic records of students under the age of eighteen years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

4. Personnel records containing information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of any personnel record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

5. Medical and mental records, except that such records may be personally reviewed by the subject person or a physician of the subject person's choice. However, 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 medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the medical records of a

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person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and copying as provided in § 2.1-342. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a public institution of higher education, the right of access may be asserted by the subject person.

6. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly or the Division of Legislative Services; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education. However, no record which is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor has delegated his authority pursuant to § 2.1-39.1.

7. Written advice of the county, city and town attorneys to their local government clients and any other records protected by the attorney-client privilege.

8. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter which is properly the subject of a closed meeting under § 2.1-344.

9. 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.

10. 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.

11. 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, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "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 the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records 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, the test or examination shall be made available to the public. However, 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.

12. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

13. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.1-344. However, no record which is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

15. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

16. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or § 62.1-134.1.

17. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

18. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

19. Financial statements not publicly available filed with applications for industrial development financings.

20. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

21. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

22. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership, the Virginia Tourism Authority, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

23. Information which was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

24. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

25. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

26. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

27. Fisheries data which would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

28. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

29. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

30. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

31. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.). However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

32. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1. However, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

183 33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development
184 Authority concerning individuals who have applied for or received loans or other housing assistance or
185 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
186 the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the
187 waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and
188 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the
189 waiting list for housing assistance programs funded by local governments or by any such authority.
190 However, access to one's own information shall not be denied.

191 34. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
192 disclosure of them would have a detrimental effect upon the negotiating position of a governing body or
193 on the establishment of the terms, conditions and provisions of the siting agreement.

194 35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior
195 to the completion of such purchase, sale or lease.

196 36. Records containing information on the site specific location of rare, threatened, endangered or
197 otherwise imperiled plant and animal species, natural communities, caves, and significant historic and
198 archaeological sites if, in the opinion of the public body which has the responsibility for such
199 information, disclosure of the information would jeopardize the continued existence or the integrity of
200 the resource. This exemption shall not apply to requests from the owner of the land upon which the
201 resource is located.

202 37. Records, memoranda, working papers, graphics, video or audio tapes, production models, data
203 and information of a proprietary nature produced by or for or collected by or for the State Lottery
204 Department relating to matters of a specific lottery game design, development, production, operation,
205 ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to
206 holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning,
207 advertising, or marketing, where such official records have not been publicly released, published,
208 copyrighted or patented. Whether released, published or copyrighted, all game-related information shall
209 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game
210 to which it pertains.

211 38. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii)
212 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
213 regulations which cause abuses in the administration and operation of the lottery and any evasions of
214 such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling
215 where such official records have not been publicly released, published or copyrighted. All studies and
216 investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon
217 completion of the study or investigation.

218 39. Those portions of engineering and construction drawings and plans submitted for the sole purpose
219 of complying with the Building Code in obtaining a building permit which would identify specific trade
220 secrets or other information the disclosure of which would be harmful to the competitive position of the
221 owner or lessee. However, such information shall be exempt only until the building is completed.
222 Information relating to the safety or environmental soundness of any building shall not be exempt from
223 disclosure.

224 40. Records concerning reserves established in specific claims administered by the Department of
225 General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et
226 seq.) of Chapter 32 of this title, or by any county, city, or town.

227 41. Information and records collected for the designation and verification of trauma centers and other
228 specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to
229 Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

230 42. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

231 43. Investigative notes, correspondence and information furnished in confidence, and records
232 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i)
233 Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the
234 State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste
235 and Abuse Hotline; or (iv) the committee or the auditor with respect to an investigation or audit
236 conducted pursuant to § 15.2-825. Records of completed investigations shall be disclosed in a form that
237 does not reveal the identity of the complainants or persons supplying information to investigators.
238 Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to,
239 the agency involved, the identity of the person who is the subject of the complaint, the nature of the
240 complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective
241 action, the identity of the person who is the subject of the complaint may be released only with the
242 consent of the subject person.

243 44. Data formerly required to be submitted to the Commissioner of Health relating to the
244 establishment of new or the expansion of existing clinical health services, acquisition of major medical

equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

45. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

46. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

47. In the case of corporations organized by the Virginia Retirement System (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate, the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

48. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

49. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

50. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

51. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

52. Information required to be provided pursuant to § 54.1-2506.1.

53. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

54. All information and records acquired during a review of any child death by the State Child Fatality Review team established pursuant to § 32.1-283.1, during a review of any child death by a local or regional child fatality review team established pursuant to § 32.1-283.2, and all information and records acquired during a review of any death by a family violence fatality review team established pursuant to § 32.1-283.3.

55. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

56. Confidential proprietary records which are voluntarily provided by a private entity pursuant to a proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible public entity for purposes related to the development of a qualifying transportation facility; and memoranda, working papers or other records related to proposals filed under the Public-Private Transportation Act of 1995, where, if such records were made public, the financial interest of the public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this subdivision, the terms "public entity" and "private entity" shall be defined as they are defined in the Public-Private Transportation Act of 1995.

57. Records of law-enforcement agencies, to the extent that such records contain specific tactical

plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public; or records of emergency service agencies to the extent that such records contain specific tactical plans relating to antiterrorist activity.

58. All records of the University of Virginia or the University of Virginia Medical Center which contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center.

59. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

60. Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly released, published, copyrighted or patented.

61. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

62. Confidential proprietary records which are provided by a franchisee under § 15.2-2108 to its franchising authority pursuant to a promise of confidentiality from the franchising authority which relates to the franchisee's potential provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

63. Records of the Intervention Program Committee within the Department of Health Professions, to the extent such records may identify any practitioner who may be, or who is actually, impaired to the extent disclosure is prohibited by § 54.1-2517.

64. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1, to the extent such records contain (i) medical or mental records, or other data identifying individual patients or (ii) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

65. Information which would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

66. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Charitable Gaming Commission pursuant to subsection E of § 18.2-340.34.

67. Personal information, as defined in § 2.1-379, provided to the Board of the Virginia Higher Education Tuition Trust Fund or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit disclosure or publication of information in a statistical or other form which does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

68. Any record copied, recorded or received by the Commissioner of Health in the course of an examination, investigation or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

69. Engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance techniques, personnel deployments, alarm systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would jeopardize the security or employee safety of (i) the Virginia Museum of Fine Arts or any of its warehouses; (ii) any government store or warehouse controlled by the Department of Alcoholic Beverage Control; (iii) any courthouse, jail, detention or law-enforcement facility; or (iv) any correctional or juvenile facility or institution under the supervision of the Department of Corrections or the Department of Juvenile Justice.

70. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to §§ 3.1-622 and 3.1-624.

71. Documents and other information of a proprietary nature submitted by CMRS providers as defined in § 2.1-812 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 2.1-815, relating to the provision of wireless E-911 service.

B. 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 (i) contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 4 of subsection A; (ii) records of the position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subsection, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

C. No provision of this chapter shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.). However, this subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his rights to call for evidence in his favor in a criminal prosecution.

§ 2.1-344. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter which involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters concerning any student of any public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in

429 locating or expanding its facilities in the community.

430 6. The investing of public funds where competition or bargaining is involved, where, if made public
431 initially, the financial interest of the governmental unit would be adversely affected.

432 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
433 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
434 negotiating or litigating posture of the public body; and consultation with legal counsel employed or
435 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
436 counsel. For the purposes of this subdivision

437 , "probable litigation" means litigation which has been specifically threatened or on which the public
438 body or its legal counsel has a reasonable basis to believe will be commenced by or against a known
439 party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because
440 an attorney representing the public body is in attendance or is consulted on a matter.

441 8. In the case of boards of visitors of public institutions of higher education, discussion or
442 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
443 for services or work to be performed by such institution. However, the terms and conditions of any such
444 gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign
445 person and accepted by a public institution of higher education shall be subject to public disclosure upon
446 written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign
447 government" means any government other than the United States government or the government of a
448 state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the
449 laws of the United States or of any state thereof if a majority of the ownership of the stock of such
450 legal entity is owned by foreign governments or foreign persons or if a majority of the membership of
451 any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under
452 the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen
453 or national of the United States or a trust territory or protectorate thereof.

454 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science
455 Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and
456 grants.

457 10. Discussion or consideration of honorary degrees or special awards.

458 11. Discussion or consideration of tests, examinations or other records excluded from this chapter
459 pursuant to § 2.1-342.01 A 11.

460 12. Discussion, consideration or review by the appropriate House or Senate committees of possible
461 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
462 filed by the member, provided the member may request in writing that the committee meeting not be
463 conducted in a closed meeting.

464 13. Discussion of strategy with respect to the negotiation of a siting agreement or to consider the
465 terms, conditions, and provisions of a siting agreement if the governing body in open meeting finds that
466 an open meeting will have an adverse effect upon the negotiating position of the governing body or the
467 establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions
468 with the applicant or its representatives may be conducted in a closed meeting.

469 14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
470 activity and estimating general and nongeneral fund revenues.

471 15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to
472 § 2.1-342.01 A 5, and those portions of disciplinary proceedings by any regulatory board within the
473 Department of Professional and Occupational Regulation or Department of Health Professions conducted
474 pursuant to § 9-6.14:11 or § 9-6.14:12 during which the board deliberates to reach a decision.

475 16. Discussion, consideration or review of State Lottery Department matters related to proprietary
476 lottery game information and studies or investigations exempted from disclosure under subdivisions 37
477 and 38 of subsection A of § 2.1-342.01.

478 17. Those portions of meetings by local government crime commissions where the identity of, or
479 information tending to identify, individuals providing information about crimes or criminal activities
480 under a promise of anonymity is discussed or disclosed.

481 18. Discussion, consideration, review and deliberations by local community corrections resources
482 boards regarding the placement in community diversion programs of individuals previously sentenced to
483 state correctional facilities.

484 19. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
485 of, or information tending to identify, any prisoner who (i) provides information about crimes or
486 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
487 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
488 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

489 20. Discussion of plans to protect public safety as it relates to terrorist activity.

490 21. In the case of corporations organized by the Virginia Retirement System, discussion or

consideration of (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors and (ii) the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

22. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

23. Those portions of meetings of the University of Virginia Board of Visitors and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center.

24. In the case of the Medical College of Virginia Hospitals Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

25. Those portions of the meetings of the Intervention Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

26. Meetings or portions of meetings of the Board of the Virginia Higher Education Tuition Trust Fund wherein personal information, as defined in § 2.1-379, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

27. *Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 2.1-815, of documents and other proprietary information submitted by CMRS providers as defined in § 2.1-812, related to the provision of wireless E-911 service.*

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation or motion which shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Intervention Program Committee within the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least thirty days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

Article 7.2.

Division of Emergency Telecommunications.

§ 2.1-563.35:4. *Division of Emergency Telecommunications established; appointment of Emergency Telecommunications Systems Coordinator; duties of Division.*

A. *There is hereby established within the Department of Technology Planning, a Division of*

Emergency Telecommunications (the "Division") which shall be headed by a Virginia Emergency Telecommunications Systems Coordinator, appointed by the Director of the Department of Technology Planning with the advice and consent of the Emergency Telecommunications Systems Board. The Division shall consist of no less than three employees, including one attorney, one telecommunications engineer and one analyst, and such other personnel as the Director deems necessary. The salaries of the employees of the Division shall be paid from the Wireline E-911 Fund and the Wireless E-911 Fund created pursuant to §§ 2.1-819 and 2.1-820, respectively.

B. The Division shall provide staff support to the Emergency Telecommunications Systems Board, and encourage, promote and assist in the development and deployment of a statewide enhanced emergency telecommunications system.

CHAPTER 54.

VIRGINIA ENHANCED EMERGENCY TELECOMMUNICATIONS ACT.

Article 1.

Definitions.

§ 2.1-812. Definitions.

As used in this chapter, unless context requires a different meaning:

"Automatic location identification" or "ALI" means a telephone network capability that enables the automatic display of information defining the geographical location of the telephone used to place a 9-1-1 or # 77 call.

"Automatic number identification" or "ANI" means a telephone network capability that enables the automatic display of the telephone number used to place a 9-1-1 or # 77 call.

"Board" means the Virginia Emergency Telecommunications Systems Board established pursuant to § 2.1-813.

"CMRS" means "commercial mobile radio service" as defined in Sections 3 (27) and 332 (d) of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, 107 U.S.C. § 312, including the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service or personal communications service.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS service within the Commonwealth of Virginia.

"Coordinator" means the Virginia Emergency Telecommunications Systems Coordinator employed by the Division.

"Director" means the Director of the Department of Technology Planning.

"Division" means Division of Emergency Telecommunications established pursuant to § 2.1-563.35:4.

"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1". Such service directs 9-1-1 calls to appropriate PSAPs by selective routing based on the geographical location from which the call originated and provides the capability for ANI and ALI features.

"FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.

"Local exchange carrier" means any public service company granted a certificate to furnish public utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Public safety answering point" or "PSAP" means a state agency or division thereof, or county, city or town that operates a facility equipped and staffed on a twenty-four-hour basis to receive and process emergency telephone calls, or has notified CMRS providers in its jurisdiction that it intends to operate such a facility.

"Wireless E-911 CMRS costs" means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by CMRS providers in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service, which have been sworn to by an authorized agent of a CMRS provider.

"Wireless E-911 Fund" means the fund established in accordance with this chapter.

"Wireless E-911 PSAP costs" means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by a PSAP in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service and direct personnel costs incurred in receiving and dispatching wireless E-911 calls, which have been sworn to by an authorized agent of the PSAP.

"Wireless # 77 PSAP costs" means all reasonable direct nonrecurring capital costs incurred by a state agency or state agency division PSAP in designing, upgrading, purchasing, programming,

installing, testing, or maintaining all necessary data, hardware, and software required to provide ALI and ANI capability in answering wireless # 77 calls, which have been sworn to by an authorized agent of the state agency or state agency division PSAP.

"Wireline E-911 PSAP costs" means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by a PSAP in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireline E-911 service and direct personnel costs incurred in receiving and dispatching wireline E-911 calls, which have been sworn to by an authorized agent of the PSAP.

"Wireless E-911 service" means the E-911 service required to be provided by CMRS providers pursuant to the FCC order.

"Wireless E-911 surcharge" means a monthly fee of seventy-five cents assessed upon each CMRS telephone number assigned by a CMRS provider.

"Wireline E-911 Fund" means the fund established in accordance with this chapter.

"Wireline E-911 surcharge" means a monthly fee of seventy-five cents assessed upon each billable hardwire telephone access line assigned by a local exchange carrier.

Article 2.

Emergency Telecommunications Systems Board.

§ 2.1-813. Board established; purpose; membership; terms; quorum; compensation.

A. There is hereby established within the Department of Technology Planning, an Emergency Telecommunications Systems Board, which shall be responsible for formulating, directing, and promulgating policies, standards, specifications and guidelines for developing and maintaining a statewide enhanced emergency telecommunications system. The Board shall exercise the powers and duties conferred in this chapter.

B. The Board shall consist of fourteen members as follows: the Director of the Department of Technology Planning, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; and the following twelve members to be appointed by the Governor: one member representing the Geographic Information Network Division, one member representing the Virginia Department of Emergency Services, one member representing the Virginia Department of Transportation, one member representing the Virginia State Police, one member representing a local exchange carrier providing E-911 service in Virginia, one member representing CMRS providers authorized to do business in Virginia, two county, city or town PSAP directors or managers, one Virginia sheriff, one chief of police, one fire chief, and one emergency medical services manager.

C. Initial appointments to the Board shall be for the following terms: four members shall serve five-year terms, four members shall serve four-year terms, and four members shall serve three-year terms. Thereafter, all members appointed by the Governor shall serve five-year terms. The Director of the Department of Technology Planning and the Comptroller shall serve terms coincident with their terms of office. No gubernatorial appointee shall serve more than two consecutive terms.

D. A majority of the Board shall constitute a quorum. The Board shall hold its first meeting on or before July 30, 2000, and shall meet at least monthly through June of 2002, and at least quarterly thereafter, or at the call of its chairman.

E. Members of the Board shall receive no compensation for their service, but shall be reimbursed for all reasonable and necessary expenses in the discharge of their duties as provided in § 2.1-20.8.

§ 2.1-814. Powers and duties of the Board.

A. The Board shall have the power and duty to:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including purchase agreements payable from the Wireline E-911 Fund and the Wireless E-911 Fund.

2. Perform all acts necessary, convenient or desirable to carrying out the purposes of this chapter.

3. Pursue all legal remedies to enforce any provision of this chapter, or any contract entered into pursuant to this chapter.

4. Develop a comprehensive, statewide, five-year E-911 plan no later than July 1, 2001.

5. Monitor trends and advances in emergency telecommunication technology, and plan for the management and future use of such technology.

6. Plan and forecast future needs for emergency telecommunication technology and conduct studies and surveys of organizational structures and best management practices of emergency telecommunication technology systems and procedures.

7. Develop statewide standards for the efficient and effective use of emergency telecommunication technology, including standards for infrastructure between the public and private sectors of the Commonwealth.

8. Develop and adopt regulations, in accordance with the Administrative Process Act (§ 9-6.14:1 et

675 *seq.), for managing emergency telecommunication technology in the Commonwealth.*

676 9. Assist the Secretary of Technology in the development of statewide policies affecting emergency
677 telecommunication technology.

678 10. Monitor the implementation of emergency telecommunication technology in the Commonwealth
679 and periodically report its findings to the Secretary of Technology.

680 11. Develop and implement a standard system for maintaining accurate call volume counts and call
681 processing times for all PSAPs in the Commonwealth.

682 12. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated
683 emergency telephone number.

684 13. Report annually to the Governor, the Public Safety Subcommittees of the Senate Committee on
685 Finance and the House Committee on Appropriations, and the Virginia State Crime Commission on the
686 state of emergency telecommunication technology in the Commonwealth, on the impact of, or need for,
687 legislation affecting emergency telecommunication technology in the Commonwealth, and on the need
688 for changes in E-911 funding mechanisms as appropriate.

689 15. Provide advisory technical assistance to PSAPs upon request.

690 16. Provide technical emergency telecommunications assistance to state and local police, and fire
691 and emergency medical service agencies.

692 17. Collect, distribute, and withhold moneys from the Wireline E-911 Fund and the Wireless E-911
693 Fund as provided in this chapter.

694 § 2.1-815. Wireless Carrier E-911 Cost Recovery Subcommittee established.

695 A. There is hereby established a Wireless Carrier E-911 Cost Recovery Subcommittee of the Board.
696 The Subcommittee shall (i) meet only to determine whether costs submitted by CMRS providers are
697 reasonable and direct to the provision of wireless E-911 service, and (ii) review only those documents
698 necessary to determine whether costs submitted by CMRS providers are reasonable and direct to the
699 provision of wireless E-911 service.

700 B. The Subcommittee shall consist of the following five members from the Board: the representative
701 of the Virginia State Police; the two PSAP directors or managers; the Director of the Department of
702 Technology Planning, who shall serve as the Subcommittee's chairman; and the Comptroller.

703 C. Staff to the Subcommittee shall be provided by the Division of Emergency Telecommunications
704 created pursuant to § 2.1-563.35:4.

705 § 2.1-816. Release of certain documents prohibited.

706 Unless otherwise ordered by a court of competent jurisdiction, no member or staff of the
707 Subcommittee shall release or disclose the contents of documents used to determine whether costs
708 submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service.

709 Article 3.

710 Emergency Telecommunications.

711 § 2.1-817. Designated emergency telephone number; 9-1-1.

712 The digits "9-1-1" shall be the designated emergency telephone number in Virginia. No public safety
713 agency shall advertise or otherwise promote the use of any telephone number for emergency response
714 services other than "9-1-1".

715 § 2.1-818. Local emergency telecommunication requirements.

716 A. On or before January 1, 2002, every county, city or town in the Commonwealth shall be
717 operating a wireline E-911 system.

718 B. All county, city or town PSAPs that as of July 1, 2000, are operating a wireline E-911 system and
719 capable of receiving wireless 911 calls directly shall begin answering wireless 911 and E-911 calls no
720 later than January 1, 2001. All other county, city or town PSAPs shall begin answering and responding
721 to wireless 911 and E-911 calls no later than January 1, 2002.

722 Article 4.

723 Wireline E-911 and Wireless E-911 Funds

724 § 2.1-819. Wireline E-911 Fund established; uses of Fund.

725 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
726 Wireline E-911 Fund (the "Fund"). The Fund shall be established on the books of the Comptroller.
727 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys
728 remaining the Fund, including interest thereon, at the end of each fiscal year shall not revert to the
729 general fund but shall remain in the Fund. Except as provided in § 2.1-563.35:4, moneys in the Fund
730 shall be used solely for the purposes stated in subsections C through F. Expenditures and disbursements
731 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written
732 request signed by the Director.

733 B. Each local exchange carrier shall collect a wireline E-911 surcharge from each of its customers
734 whose billing address is within the Commonwealth. All wireline E-911 surcharges shall be remitted
735 within thirty days to the Board for deposit in the Fund. Each local exchange carrier shall reduce
736 collected surcharge amounts to the minimum amount necessary to defray costs of collecting the

surcharges, not to exceed one percent of the amount collected. Any reduction amount in excess of that necessary to defray the costs of collecting the surcharge shall be remitted within thirty days to the Board for deposit in the Fund. State and local taxes shall not apply to the wireline E-911 surcharge.

C. The Board shall provide full payment to PSAP operators for all wireline E-911 PSAP costs. For that purpose, each PSAP operator shall submit to the Board on or before October 1 of each year, an estimate of wireline E-911 PSAP costs it expects to incur during its next fiscal year. The Board shall review such estimates and advise each PSAP operator on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireline E-911 Fund is expected to be sufficient for such payment during said fiscal year. Each PSAP operator shall notify the Board promptly of any material change in its plans to provide wireline E-911 service.

D. The Board shall make such qualifying payments to each PSAP in four equal payments at the beginning of each calendar quarter of such fiscal year. If the Wireline E-911 Fund is insufficient during any calendar quarter to make all such qualifying payments, the Board shall prorate payments equally among all PSAP operators during such calendar quarter. Unpaid amounts shall be carried forward for payment during the next calendar quarter. Such carry-forward process shall continue until all qualifying payments have been made.

E. During the period July 1 through September 30 of each year the Board shall determine whether qualifying payments to PSAP operators during the preceding fiscal year exceeded or were less than the actual wireline E-911 PSAP costs of any PSAP operator. Each PSAP operator shall provide verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to qualifying payments during the then current fiscal year, on such schedule as the Board shall determine.

F. Any estimate of wireline E-911 PSAP costs submitted to the Board after October 1 of any year shall be reviewed by the Board as described in subsection A to the extent practicable as determined by the Board; however, qualifying payments based on estimates submitted in accordance with the schedule set forth in subsection A shall have priority for payment.

§ 2.1-820. Wireless E-911 Fund established; uses of Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the "Fund"). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.1-563.35:4, moneys in the Fund shall be used solely for the purposes stated in subsections C through F. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

B. Each CMRS provider shall collect a wireless E-911 surcharge from each of its customers whose billing address is within the Commonwealth. All wireless E-911 surcharges shall be remitted within thirty days to the Board for deposit in the Fund. Each CMRS provider shall reduce collected surcharge amounts to the minimum amount necessary to defray costs of collecting the surcharges, not to exceed one percent of the amount collected. Any reduction amount in excess of that necessary to defray the costs of collecting the surcharge shall be remitted within thirty days to the Board for deposit in the Fund. State and local taxes shall not apply to the wireless E-911 surcharge.

C. The Board shall provide full payment to PSAP operators for all wireless E-911 PSAP costs and to CMRS providers of all wireless E-911 CMRS costs. The Board shall also provide full payment to state agency or state agency division PSAP operators for all wireless # 77 PSAP costs. For these purposes (i) each PSAP operator shall submit to the Board on or before October 1 of each year, an estimate of wireless E-911 PSAP costs it expects to incur during its next fiscal year; (ii) each state agency or agency division PSAP operator shall submit to the Board on or before October 1 of each year, an estimate of wireless # 77 costs it expects to incur during its next fiscal year; and (iii) each CMRS provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each PSAP operator and CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. Each PSAP operator and CMRS provider shall notify the Board promptly of any material change in its plans to provide wireless E-911 service.

D. The Board shall make such qualifying payments to each PSAP operator and CMRS provider in four equal payments at the beginning of each calendar quarter of such fiscal year. If the Wireless E-911 Fund is insufficient during any calendar quarter to make all such qualifying payments, the Board shall prorate payments equally among all PSAP operators and CMRS providers during such calendar quarter. Unpaid amounts shall be carried forward for payment during the next calendar quarter. Such

800 carry-forward process shall continue until all qualifying payments have been made.

801 E. During the period July 1 through September 30 of each year, the Board shall determine whether
802 qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded
803 or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP
804 operator or CMRS provider. Each PSAP operator or CMRS provider shall provide such verification of
805 such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or
806 credited to qualifying payments during the then current fiscal year, on such schedule as the Board shall
807 determine.

808 F. Any estimate of wireless E-911 PSAP costs submitted to the Board after October 1 and any
809 estimate of wireless E-911 CMRS costs submitted to the Board after December 31 of any year shall be
810 reviewed by the Board as described in subsection A to the extent practicable as determined by the
811 Board; however, qualifying payments based on estimates submitted in accordance with the schedule set
812 forth in subsection A shall have priority for payment.

813 § 2.1-821. Enforcement.

814 PSAPs found by the Board to be using Wireline E-911 Fund or Wireless E-911 Fund moneys for
815 purposes other than those authorized by the Board shall be provided with written notice by the Board of
816 such unauthorized expenditures. Upon receipt of the notice, the named PSAP shall cease making any
817 expenditure identified by the Board as unauthorized. The PSAP may petition and shall receive a hearing
818 before the Board within a reasonable time. At the Board's discretion, the PSAP shall be required to
819 refund within ninety days any amount spent on unauthorized expenditures to the Board for deposit into
820 the appropriate E-911 fund. PSAPs who fail to cease making unauthorized expenditures or fail to
821 comply with a request to refund such moneys shall be subject to a suspension of future funding by the
822 Board until such time as they comply with all provisions of this chapter. Any action of the Board made
823 pursuant to this section shall be subject to appeal to the circuit court in which the PSAP is located, or
824 to the Circuit Court for the City of Richmond.

825 § 2.1-822. Local exchange carriers; requirement of cost affidavit.

826 All local exchange carriers and vendors of telecommunication technology that sell or lease goods
827 and/or services to PSAPs shall provide such PSAPs with a sworn affidavit that the costs of the goods
828 and/or services sold or leased to the PSAP are reasonable and direct to the provision of wireless 911 or
829 E-911 service. All PSAPs shall maintain copies of such affidavits, and produce them upon request of the
830 Board or the Division.

831 § 2.1-823. Audit required.

832 The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the
833 Wireline E-911 Fund and the Wireless E-911 Fund. The cost of such audit shall be borne by the Board
834 and be payable from the Wireline E-911 Fund or the Wireless E-911 Fund, as appropriate. The Board
835 shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate
836 Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime
837 Commission.

838 Article 5.

839 Local Taxes.

840 § 2.1-824. Local tax for enhanced emergency telephone service.

841 A. Any county, city or town which has, singly or by joint agreement, established or will establish an
842 enhanced 911 emergency telephone system may impose a special tax on the consumers of telephone
843 service or services provided by a local exchange carrier, however: (i) prior to January 1, 2001, such
844 tax shall not exceed a monthly fee of one dollar and seventy-five cents assessed upon each billable
845 hardwire telephone access line, the billing address of which is located within the jurisdictional
846 boundaries of the authority authorized to impose such tax; (ii) after January 1, 2001, such tax shall not
847 exceed a monthly fee of one dollar assessed upon each billable hardwire telephone access line, the
848 billing address of which is located within the jurisdictional boundaries of the authority authorized to
849 impose such; and (iii) no such taxes shall be imposed on federal, state and local government agencies.

850 The governing body of any county, city or town may exempt from payment of the tax any subscriber
851 to individual telephone service who resides in a nursing home or similar adult care facility.

852 Such tax shall be subject to the notification and jurisdictional provisions of § 58.1-3812.

853 B. Prior to imposing such tax, the governing body of any city, town or county shall find that an
854 E-911 emergency telephone system has been or will be installed in its respective locality and that the
855 telephone company has central office equipment which will permit such system to be established.

856 C. Any such taxes imposed by this section shall be utilized solely for reasonable direct recurring and
857 nonrecurring capital costs and operating expenses incurred by a PSAP in designing, upgrading, leasing,
858 purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary
859 data, hardware, software and local exchange telephone service required to provide wireline E-911
860 service and direct personnel costs incurred in receiving and dispatching wireline E-911 calls that have
861 been sworn to by an authorized agent of the PSAP.

D. For the purpose of compensating a telephone utility for accounting for and remitting the tax levied by this section, such telephone utility shall be allowed three percent of the amount of tax due and accounted for in the form of a deduction in submitting the return and paying the amount due by it.

E. The provisions of the section shall expire on July 1, 2001.

§ 2.1-825. Tax for enhanced emergency telephone service; prohibition on localities.

Notwithstanding any other provision of law, special or general, no county, city or town shall require a local exchange carrier or CMRS provider to collect a tax for the provision of wireline or wireless 911 or E-911 service through such carrier's or provider's billing process.

§ 9-6.25:2. Policy boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following policy boards, commissions and councils:

Apprenticeship Council

Auctioneers Board

Blue Ridge Regional Education and Training Council

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and

Landscape Architects

Board for Barbers

Board for Contractors

Board for Cosmetology

Board for Geology

Board for Hearing Aid Specialists

Board for Opticians

Board for Professional and Occupational Regulation

Board for Professional Soil Scientists

Board for Waterworks and Wastewater Works Operators

Board of Accountancy

Board of Agriculture and Consumer Services

Board of Audiology and Speech-Language Pathology

Board of Coal Mining Examiners

Board of Conservation and Recreation

Board of Correctional Education

Board of Dentistry

Board of Funeral Directors and Embalmers

Board of Health Professions

Board of Historic Resources

Board of Housing and Community Development

Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals

Board of Medical Assistance Services

Board of Medicine

Board of Mineral Mining Examiners

Board of Nursing

Board of Nursing Home Administrators

Board of Optometry

Board of Pharmacy

Board of Psychology

Board of Social Services

Board of Social Work

Board of Surface Mining Review

Board of Veterinary Medicine

Board on Conservation and Development of Public Beaches

Cemetery Board

Chesapeake Bay Local Assistance Board

Child Day-Care Council

Commission on Local Government

Commonwealth Transportation Board

Council on Human Rights

Criminal Justice Services Board

Design-Build/Construction Management Review Board

Disability Services Council

Farmers Market Board, Virginia

921 Interdepartmental Council on Rate-setting for Children's Facilities
 922 Library Board, The Library of Virginia
 923 Marine Resources Commission
 924 Milk Commission
 925 Pesticide Control Board
 926 Real Estate Appraiser Board
 927 Real Estate Board
 928 Reciprocity Board, Department of Motor Vehicles
 929 Safety and Health Codes Board
 930 Specialized Transportation Council
 931 State Air Pollution Control Board
 932 State Board of Corrections
 933 State Board of Elections
 934 State Board of Health
 935 State Board of Juvenile Justice
 936 State Health Department, Sewage Handling and Disposal Appeal Review Board
 937 State Mental Health, Mental Retardation and Substance Abuse Services Board
 938 State Seed Potato Board
 939 State Water Control Board
 940 Substance Abuse Certification Board
 941 Treasury Board, The, Department of the Treasury
 942 Virginia Aviation Board
 943 Virginia Board for Asbestos and Lead
 944 *Virginia Emergency Telecommunications Systems Board*
 945 Virginia Fire Services Board
 946 Virginia Gas and Oil Board
 947 Virginia Health Planning Board
 948 Virginia Manufactured Housing Board
 949 Virginia Parole Board
 950 Virginia Public Broadcasting Board
 951 Virginia Soil and Water Conservation Board
 952 Virginia Voluntary Formulary Board
 953 Virginia Waste Management Board
 954 Virginia Workforce Council
 955 (For effective date, see Editor's note) Volunteer Firefighters' and Rescue Squad Workers' Pension
 956 Fund Board
 957 Waste Management Facility Operators, Board for.
 958 **2. That § 58.1-3813 is repealed.**
 959 **3. That the provisions of the first and second enactments of this act shall become effective on July**
 960 **1, 2000, except that (i) §§ 2.1-819 through 2.1-823 shall become effective on January 1, 2001; (ii)**
 961 **§ 2.1-825 shall become effective on July 1, 2001; and (iii) § 56-484.9 of the Code of Virginia is**
 962 **repealed effective October 1, 2000.**
 963 **4. That §§ 56-484.8, 56-484.10 and 56-484.11 are repealed effective January 1, 2001 .**
 964 **5. That until October 1, 2000, the Wireless E-911 Board shall continue to administer the**
 965 **provisions of the Wireless Enhanced Public Safety Telephone Service Act, including the receipt**
 966 **and deposit of wireless E-911 surcharges, notwithstanding the creation of the Virginia Emergency**
 967 **Telecommunications Systems Board. On October 1, 2000, the responsibility for the administration**
 968 **of the Wireless Enhanced Public Safety Telephone Service Act or any successor statute shall be**
 969 **transferred to the Virginia Emergency Telecommunications Systems Board in accordance with the**
 970 **provisions of this act. The Virginia Emergency Telecommunications Systems Board shall honor all**
 971 **agreements to which the Wireless E-911 Board is a party.**
 972 **6. That until October 1, 2000, the Virginia Emergency Telecommunications Systems Board shall**
 973 **not exercise any powers and duties granted pursuant to § 2.1-815, except the adoption of**
 974 **regulations necessary for managing emergency telecommunication technology in the**
 975 **Commonwealth.**
 976 **7. That on January 1, 2001, all moneys contained in the Wireless E-911 fund created pursuant to**
 977 **§ 56-484.10 shall be transferred to the Wireless E-911 Fund created pursuant to § 2.1-820 of this**
 978 **act.**