

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.1-342.01, 2.1-344, 8.01-225, 9-6.25:2 as it is currently effective and as it may become effective, 58.1-3812 and 58.1-3814 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 Chapter 15 of Title 56, an article numbered 7, consisting of sections numbered 56-484.12 through 56-484.17; by adding § 58.1-3813.1; and to repeal §§ 56-484.8 through 56-484.11 and § 58.1-3813 of the Code of Virginia, relating to the Enhanced Public Safety Telephone Services Act.

[S 148]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-342.01, 2.1-344, 8.01-225, 9-6.25:2 as it is currently effective and as it may become effective, 58.1-3812 and 58.1-3814 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 numbered 2.1-563.35:4; by adding in Chapter 15 of Title 56 an article numbered 7, consisting of sections numbered 56-484.12 through 56-484.17; and by adding § 58.1-3813.1 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

57 copied by such administrator or chief medical officer. The information in the medical records of a
 58 person so confined shall continue to be confidential and shall not be disclosed by the administrator or
 59 chief medical officer of the facility to any person except the subject or except as provided by law.

60 For the purposes of this chapter, statistical summaries of incidents and statistical data concerning
 61 patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental
 62 Retardation and Substance Abuse Services shall be open to inspection and copying as provided in
 63 § 2.1-342. No such summaries or data shall include any patient-identifying information. Where the
 64 person who is the subject of medical and mental records is under the age of eighteen, his right of access
 65 may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's
 66 parental rights have been terminated or a court of competent jurisdiction has restricted or denied such
 67 access. In instances where the person who is the subject thereof is an emancipated minor or a student in
 68 a public institution of higher education, the right of access may be asserted by the subject person.

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

75 As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

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

114 14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to
 115 § 2.1-344. However, no record which is otherwise open to inspection under this chapter shall be deemed
 116 exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

117 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.

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

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

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

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

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

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

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

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

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

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

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

consent of the subject person.

44. Data formerly required to be submitted to the Commissioner of Health relating to the 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

301 this subdivision, the terms "public entity" and "private entity" shall be defined as they are defined in the
302 Public-Private Transportation Act of 1995.

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

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

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

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

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

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

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

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

359 65. Information which would disclose the security aspects of a system safety program plan adopted
360 pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety
361 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. *Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, 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 locating or expanding its facilities in the community.

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

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation which has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

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

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

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

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

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

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

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

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

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

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

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

19. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or

criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

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 § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12, 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 Public Safety Communications.

§ 2.1-563.35:4. Division of Public Safety Communications established; appointment of Virginia Public Safety Communications Systems Coordinator; duties of Division.

A. There is hereby established within the Department of Technology Planning, a Division of Public Safety Communications (the Division) which shall be headed by a Virginia Public Safety Communications Systems Coordinator, appointed by the Director of the Department of Technology Planning (the Director) with the advice and consent of the Wireless E-911 Services 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 Wireless E-911 Fund created pursuant to § 56-484.17.

B. The Division shall provide staff support to the Wireless E-911 Services Board and encourage, promote and assist in the development and deployment of statewide enhanced emergency telecommunications systems.

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person at the scene of an accident, fire, or any life-threatening emergency, or en route therefrom to any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, administers epinephrine to an individual for whom an insect sting treatment kit has been prescribed shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if he has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste as defined in § 18.2-278.1 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. Has attended and successfully completed a course in cardiopulmonary resuscitation which has been approved by the State Board of Health who, in good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures, and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Provides automated external defibrillation services for emergencies at the scene of an emergency, in compliance with § 32.1-111.14:1, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an automated external defibrillator in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or

willful or wanton misconduct of the person rendering such emergency care.

8. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

B. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a school board is covered by the immunity granted herein, the school board employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

C. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services technician shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 system service, as defined in § 58.1-3813 58.1-3813.1, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

D. Any provider of telecommunication service, as defined in § 58.1-3812, including mobile service, in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct.

E. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

For the purposes of this section, the term "compensation" shall not be construed to include (i) the

667 salaries of police, fire or other public officials or personnel who render such emergency assistance, (ii)
 668 the salaries or wages of employees of a coal producer engaging in emergency medical technician service
 669 or first aid service pursuant to the provisions of §§ 45.1-161.38, 45.1-161.101, 45.1-161.199 or
 670 § 45.1-161.263, or (iii) complimentary lift tickets, food, lodging or other gifts provided as a gratuity to
 671 volunteer members of the National Ski Patrol System, Inc., by any resort, group or agency.

672 For the purposes of this section, an emergency medical care attendant or technician shall be deemed
 673 to include a person licensed or certified as such or its equivalent by any other state when he is
 674 performing services which he is licensed or certified to perform by such other state in caring for a
 675 patient in transit in this Commonwealth, which care originated in such other state.

676 § 9-6.25:2. Policy boards, commissions and councils.

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

679 Apprenticeship Council

680 Auctioneers Board

681 Blue Ridge Regional Education and Training Council

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

684 Board for Barbers

685 Board for Contractors

686 Board for Cosmetology

687 Board for Geology

688 Board for Hearing Aid Specialists

689 Board for Opticians

690 Board for Professional and Occupational Regulation

691 Board for Professional Soil Scientists

692 Board for Waterworks and Wastewater Works Operators

693 Board of Accountancy

694 Board of Agriculture and Consumer Services

695 Board of Audiology and Speech-Language Pathology

696 Board of Coal Mining Examiners

697 Board of Conservation and Recreation

698 Board of Correctional Education

699 Board of Dentistry

700 Board of Funeral Directors and Embalmers

701 Board of Health Professions

702 Board of Historic Resources

703 Board of Housing and Community Development

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

706 Board of Medical Assistance Services

707 Board of Medicine

708 Board of Mineral Mining Examiners

709 Board of Nursing

710 Board of Nursing Home Administrators

711 Board of Optometry

712 Board of Pharmacy

713 Board of Psychology

714 Board of Social Services

715 Board of Social Work

716 Board of Surface Mining Review

717 Board of Veterinary Medicine

718 Board on Conservation and Development of Public Beaches

719 Cemetery Board

720 Chesapeake Bay Local Assistance Board

721 Child Day-Care Council

722 Commission on Local Government

723 Commonwealth Transportation Board

724 Council on Human Rights

725 Criminal Justice Services Board

726 Design-Build/Construction Management Review Board

727 Disability Services Council

728 Farmers Market Board, Virginia
 729 Interdepartmental Council on Rate-setting for Children's Facilities
 730 Library Board, The Library of Virginia
 731 Marine Resources Commission
 732 Milk Commission
 733 Pesticide Control Board
 734 Real Estate Appraiser Board
 735 Real Estate Board
 736 Reciprocity Board, Department of Motor Vehicles
 737 Safety and Health Codes Board
 738 Specialized Transportation Council
 739 State Air Pollution Control Board
 740 State Board of Corrections
 741 State Board of Elections
 742 State Board of Health
 743 State Board of Juvenile Justice
 744 State Health Department, Sewage Handling and Disposal Appeal Review Board
 745 State Mental Health, Mental Retardation and Substance Abuse Services Board
 746 State Seed Potato Board
 747 State Water Control Board
 748 Substance Abuse Certification Board
 749 Treasury Board, The, Department of the Treasury
 750 Virginia Aviation Board
 751 Virginia Board for Asbestos and Lead
 752 Virginia Fire Services Board
 753 Virginia Gas and Oil Board
 754 Virginia Health Planning Board
 755 Virginia Manufactured Housing Board
 756 Virginia Parole Board
 757 Virginia Public Broadcasting Board
 758 Virginia Soil and Water Conservation Board
 759 Virginia Voluntary Formulary Board
 760 Virginia Waste Management Board
 761 Virginia Workforce Council
 762 (Contingent effective date) Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board
 763 Waste Management Facility Operators, Board for
 764 *Wireless E-911 Services Board.*

765 *Article 7.*

766 *Enhanced Public Safety Telephone Services Act.*

767 *§ 56-484.12. Definitions.*

768 *As used in this article, unless the context requires a different meaning:*

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

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

774 *"Board" means the Wireless E-911 Services Board created pursuant to this article.*

775 *"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by*
 776 *the Division.*

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

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

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

785 *"Division" means the Division of Public Safety Communications Systems.*

786 *"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and*
 787 *PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the*
 788 *digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate*

789 PSAPs by selective routing based on the geographical location from which the emergency call
790 originated and provides the capability for ANI and ALI features.

791 "FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register
792 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.

793 "Local exchange carrier" means any public service company granted a certificate to furnish public
794 utility service for the provision of local exchange telephone service pursuant to Chapter 10.1
795 (§ 56-265.1 et seq.) of Title 56.

796 "Public safety answering point" (PSAP) means a facility (i) equipped and staffed on a
797 twenty-four-hour basis to receive and process E-911 calls or (ii) that intends to receive and process
798 E-911 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process
799 such calls.

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

805 "Wireless E-911 fund" means a dedicated fund consisting of all moneys collected pursuant to the
806 wireless E-911 surcharge, as well as any additional funds otherwise allocated or donated to the wireless
807 E-911 fund.

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

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

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

818 § 56-484.13. Wireless E-911 Services Board; membership; terms; compensation.

819 A. The Wireless E-911 Services Board is hereby created, which shall promote and assist in the
820 statewide development, deployment, and maintenance of enhanced wireless emergency
821 telecommunications services and technologies. The Board shall similarly promote and assist in the
822 development and deployment of enhanced wireline emergency telecommunications services and
823 technologies only in specific local jurisdictions that are not currently wireline E-911 capable. The Board
824 shall exercise the powers and duties conferred in this article.

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

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

838 D. A majority of the Board shall constitute a quorum. The Board shall hold its first meeting on or
839 before October 1, 2000, and shall meet at least monthly through June 2002, and at least quarterly
840 thereafter, or at the call of its chairman.

841 E. Members of the Board shall serve without compensation; however, members of the Board shall be
842 reimbursed for expenses as provided in Chapter 2.1 (§ 2.1-20.2 et seq.) of Title 2.1.

843 F. The Geographic Information Network Division and the Virginia Department of Transportation
844 shall provide such technical advice as the Board requires.

845 § 56-484.14. Powers and duties of Wireless E-911 Services Board.

846 The Board shall have the power and duty to:

847 1. Make and enter into all contracts and agreements necessary or incidental to the performance of
848 its duties and the execution of its powers, including purchase agreements payable from (i) the Wireless
849 E-911 Fund and (ii) other moneys appropriated for the provision of enhanced wireline emergency

telecommunications services only in specific local jurisdictions that are not wireline E-911 capable as of July 1, 2000.

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

3. Develop a comprehensive, enhanced wireless emergency telecommunications plan for implementing statewide enhanced wireless emergency telecommunications services. In constructing and periodically updating this plan as appropriate, the Board shall monitor trends and advances in enhanced wireless emergency telecommunications technology, plan and forecast future needs for enhanced wireless emergency telecommunications technology, and formulate strategies for the efficient and effective delivery of enhanced wireless emergency telecommunications services.

4. Develop and adopt regulations, in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.), for funding enhanced wireless emergency telecommunication services in the Commonwealth.

5. Grant such extensions of time for compliance with the provisions of § 56-484.16 as the Board deems appropriate.

6. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated emergency telephone number and the use of the digits "#-7-7" as a designated nonemergency telephone number.

7. Report annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission on (i) the state of enhanced wireless emergency telecommunications services in the Commonwealth, (ii) the impact of, or need for, legislation affecting enhanced wireless emergency telecommunications services in the Commonwealth, (iii) the need for changes in the Wireless E-911 funding mechanism as appropriate, and (iv) the sufficiency of other moneys appropriated for the provision of enhanced wireline emergency telecommunications services only in those local jurisdictions not wireline capable as of July 1, 2000.

8. Provide advisory technical assistance to PSAPs and state and local law enforcement, and fire and emergency medical service agencies, upon request.

9. Collect, distribute, and withhold moneys from the Wireless E-911 Fund as provided in this article.

10. Manage other moneys appropriated for the provision of enhanced wireline emergency telecommunications services only in specific local jurisdictions that are not wireline E-911 capable as of July 1, 2000.

11. Perform all acts necessary, convenient or desirable to carrying out the purposes of this article. § 56-484.15. Wireless Carrier E-911 Cost Recovery Subcommittee established.

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

B. The Subcommittee shall consist of the following six members from the Board: the representative of the Virginia State Police; the two PSAP directors or managers; the finance officer of a county, city or town; the Director of the Department of Technology Planning, who shall serve as the Subcommittee's chairman; and the Comptroller.

C. Staff to the Subcommittee shall be provided by the Division of Public Safety Communications created pursuant to § 2.1-563.35:4.

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

§ 56-484.16. Local emergency telecommunications requirements; use of digits "9-1-1."

A. All county, city or town PSAPs that as of July 1, 2000, are operating a wireline E-911 system and capable of receiving wireless 911 calls directly shall begin answering wireless 911 and E-911 calls no later than July 1, 2002, unless an extension of time has been granted by the Board. All other county, city or town PSAPs shall begin answering and responding to wireless 911 and E-911 calls no later than July 1, 2003, unless an extension of time has been granted by the Board. The digits "9-1-1" shall be the designated wireless emergency telephone number in Virginia. No public safety agency shall advertise or otherwise promote the use of any telephone number for emergency response services other than "9-1-1."

B. On or before July 1, 2003, every county, city or town in the Commonwealth shall be operating a wireline E-911 system, unless an extension of time has been granted by the Board.

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

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

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 30 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 three percent of the amount collected. 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. 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 and (ii) 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 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 and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each PSAP operator or CMRS provider shall provide such 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 wireless E-911 PSAP costs submitted to the Board after October 1 and any estimate of wireless E-911 CMRS costs submitted to the Board after December 31 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.

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

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

§ 58.1-3812. Telegraph and telephone companies.

A. Any county, city or town may impose a tax on a taxable purchase by a consumer of local telecommunication service if the consumer's service address is located in such county, city or town. Except as otherwise provided, the tax shall not be imposed at a rate in excess of twenty percent of the monthly gross charge to a consumer and shall not be applicable to any amount so charged in excess of fifteen dollars per month for a residential consumer; however, any county, city or town that on July 1, 1972, imposed a tax in excess of limits specified herein may continue to impose such a tax in excess of such limits, but no more. Notwithstanding the foregoing, the tax may be imposed only at a rate equal to ten percent of the monthly gross charge to a consumer of mobile local telecommunication and shall not be applicable to any amount so charged in excess of thirty dollars per month for each mobile service consumer. No county, city or town that currently is not collecting the tax on mobile local telecommunication service shall begin to collect the tax on mobile local telecommunication service before September 1, 1994, for bills sent to consumers on and after that date. However, any county with a population of at least 68,000 but not more than 69,000, any city with a population of at least 40,000 but not more than 41,000, and any city with a population of at least 66,000 but not more than 67,000 shall conform with the provisions of this section in accordance with the following schedule:

| Fiscal Year | Rate | Cap |
|--------------------------------|------|-----------------|
| 1994-95 | 10% | None |
| 1995-96 | 10% | \$100 |
| 1996-97 | 10% | \$50 |
| July 1, 1997 and thereafter | | Full Conformity |

B. Any tax enacted pursuant to the provisions of this section or any change in a tax or structure already in existence shall not be effective until 120 days subsequent to written notice by certified mail from the county, city or town imposing such tax or change thereto, being received by the registered agent of the service provider that is required to collect the tax.

C. Any county tax imposed hereunder shall not apply within the limits of any incorporated town located within such county which town imposes a town tax authorized by this section, provided that such town (i) provides police or fire protection, and water or sewer services, provided that any such town served by a sanitary district or any such town with a population between 250 and 350 people which formerly provided its own water and sewer and is now served by a water and sewer service authority providing water or sewer services or any such town which formerly provided water and sewer services and is now served by the county in which it is located pursuant to an agreement between the town and the county shall be deemed to be providing such water or sewer services itself, or (ii) constitutes a special school district and is operated as a special school district under a town school board of three members appointed by the town council.

D. Any county, city or town may provide for an exemption from the tax for any public safety agency answering point as defined in § 58.1-3813 § 58.1-3813.1.

E. Any city with a population of not less than 27,000 and not more than 28,500 may provide an exemption from the tax for any church or religious body entitled to an exemption pursuant to Article 4 (§ 58.1-3650 et seq.) of Chapter 36. Any city providing such exemption shall provide the telephone account numbers of all exempted churches and religious bodies to all service providers required to collect the tax as part of the notice required pursuant to subsection B.

F. A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the county, city or town. If any consumer refuses to pay the tax, the service provider shall notify the county, city or town. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the county, city or town.

G. A service provider shall remit monthly to each county, city or town the amount of tax billed during the preceding month to consumers with a service address in that county, city or town, less any discount allowed under § 58.1-3816.1.

H. No county, city or town may impose the tax on consumers of mobile local telecommunication service unless it also imposes the tax on the consumers of the other forms of local telecommunication services.

I. Any consumer shall be entitled to a refund from the county, city or town imposing the tax equal to the amount of any tax the consumer paid to a jurisdiction outside of the Commonwealth if such tax was legally imposed in such other jurisdiction; however, the amount of credit or refund shall not exceed the tax paid to the county, city or town on such purchase.

J. As used in this article, unless the context clearly requires otherwise:

"Affiliated group" shall have the same meaning ascribed to it in subdivision C 10 of § 58.1-3703, except, for purposes of this article, the word "entity" shall be substituted for the word "corporation" whenever it is used in that section.

"Bad debts" means any portion of a debt related to a sale of local telecommunication services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and pay the tax on that portion during the reporting period in which the payment is made.

"Consumer" means a person who, individually or through agents, employees, officers, representatives, or permittees, makes a taxable purchase of local telecommunication services.

"Enhanced services" means services that employ computer processing applications to act on the format, code, or protocol or similar aspects of the information transmitted; provide additional, different, or restructured information; or involve interaction with stored information.

"Gross charges" means, subject to the exclusions of this section, the amount charged or paid for the taxable purchase of local telecommunication services. However, "gross charges" shall not include the following:

1. Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.

2. Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.

3. Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments, and roamer daily surcharges.

4. Charges or amounts paid for special features that are not subject to taxation under § 4251 of the Internal Revenue Code of 1986, as amended.

5. Charges or amounts paid that are (i) the tax imposed by § 4251 of the Internal Revenue Code of 1986, as amended, or (ii) any other tax or surcharge imposed by statute, ordinance or regulatory authority.

6. Bad debts.

"Local telecommunication service," subject to the exclusions stated in this section, includes, without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.

"Local telephone service," subject to the exclusions stated in this section, includes any service subject to federal taxation as local telephone service as that term is defined in § 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute.

"Mobile local telecommunication service" means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.

"Mobile service consumer" means a person having a telephone number for mobile local telecommunication service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

"Mobile service provider" means every person engaged in the business of selling mobile local telecommunication services to consumers.

"Residential consumer" shall not include any consumer of mobile local telecommunication service.

"Service address" means the location of the telecommunication equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-ground systems and the like, service address shall mean the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer's primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer's billing address, service address, or telephone number within the licensed service area.

"Service provider" means every person engaged in the business of selling local telecommunication services to consumers.

"Taxable purchase" means the acquisition of telecommunication services for consumption or use; however, taxable purchase does not include (i) the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and (ii) the purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges, and charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.

§ 58.1-3813.1. Local tax for enhanced 911 service; definitions.

A. As used in this section and § 58.1-3813.2, 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 wireline 9-1-1 call.

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

"Board" means the Wireless E-911 Services Board established pursuant to § 56-484.13.

"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 automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

"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 communications facility equipped and staffed on a twenty-four-hour basis to receive and process 911 calls.

B. Any county, city or town which has, singly or by joint agreement, established or will establish an enhanced 911 service may impose a special tax on the consumers of the telephone service or services provided by any corporation subject to the provisions of Chapter 26 (§ 58.1-2600 et seq.) of this title, not to exceed a monthly fee of three dollars. However, no such tax shall be imposed on federal, state and local government agencies. Such tax shall be subject to the notification and jurisdictional provisions of the § 58.1-3812.

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

D. Prior to imposing such tax, the governing body of any city, town or county shall find that an enhanced 911 service, as defined in subsection A, has been or will be installed in its respective locality and that the telephone company has central office equipment which will permit such system to be established.

E. 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.

F. Any such taxes imposed by this section shall be accounted for in a separate special revenue fund or accounted for using a cost center and revenue accounting system acceptable to the Auditor of Public Accounts. The locality shall report revenues, expenditures, and balances of the E-911 special revenue fund or cost center in accordance with the specifications set forth in section § 15.2-2510. Amounts collected from the tax shall be used solely to pay for reasonable, direct recurring and nonrecurring capital costs, and operating expenses incurred by a public safety answering point in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware and software required to receive and process emergency telephone calls through an E-911 system, including salaries and fringe benefits of dispatchers and direct call-takers of an E-911 system and costs incurred in training dispatchers and direct call-takers in receiving and dispatching emergency telephone calls, and the salary and fringe benefits of the public safety answering point director or coordinator so long as such person has no other duties other than the responsibility for the public safety answering point.

G. Localities shall ensure that the audit contract with their independent certified public accountant

includes audit procedures, in accordance with the specifications set forth in § 15.2-2511, of the separate special revenue fund or cost center required to be established for receiving and accounting for amounts collected under the tax authorized by this section. The specifications shall require an annual audit, beginning July 1, 2000, of such fund or cost center so as to ensure that the amounts collected from such tax are expended solely to pay wireline PSAP cost as defined in this article. The independent certified public accountants shall report any findings to the Auditor of Public Accounts by November 30 following the fiscal year end. The Auditor of Public Accounts shall summarize findings from all localities and report those findings annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission by February 1 of the next year.

§ 58.1-3814. Water or heat, light and power companies.

A. Any county, city or town may impose a tax on the consumers of the utility service or services provided by any water or heat, light and power company or other corporations coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.), which tax shall not be imposed at a rate in excess of twenty percent of the monthly amount charged to consumers of the utility service and shall not be applicable to any amount so charged in excess of fifteen dollars per month for residential customers. Any city, town or county that on July 1, 1972, imposed a utility consumer tax in excess of limits specified herein may continue to impose such a tax in excess of such limits, but no more.

B. Any tax enacted pursuant to the provisions of this section, or any change in a tax or structure already in existence, shall not be effective until sixty days subsequent to written notice by certified mail from the county, city or town imposing such tax or change thereto, to the registered agent of the utility corporation that is required to collect the tax.

C. Any county, city or town may impose a tax on the consumers of services provided within its jurisdiction by any electric light and power, water or gas company owned by another municipality; provided, that no county shall be authorized under this section to impose a tax within a municipality on consumers of services provided by an electric light and power, water or gas company owned by that municipality. Any county tax imposed hereunder shall not apply within the limits of any incorporated town located within such county which town imposes a town tax on consumers of utility service or services provided by any corporation coming within the provisions of Chapter 26, provided that such town (i) provides police or fire protection, and water or sewer services, provided that any such town served by a sanitary district or service authority providing water or sewer services or served by the county in which the town is located when such service or services are provided pursuant to an agreement between the town and county shall be deemed to be providing such water and sewer services itself, or (ii) constitutes a special school district and is operated as a special school district under a town school board of three members appointed by the town council.

Any county, city or town may provide for an exemption from the tax for any public safety agency answering point as defined in § 58.1-3813 § 58.1-3813.1.

Any city with a population of not less than 27,000 and not more than 28,500 may provide an exemption from the tax for any church or religious body entitled to an exemption pursuant to Article 4 (§ 58.1-3650 et seq.) of Chapter 36.

Any municipality required to collect a tax imposed under authority of this section for another city or county or town shall be entitled to a reasonable fee for such collection.

D. In a consolidated county wherein a tier-city exists, any county tax imposed hereunder shall apply within the limits of any tier-city located in such county, as may be provided in the agreement or plan of consolidation, and such tier-city may impose a tier-city tax on the same consumers of utility service or services, provided that the combined county and tier-city rates do not exceed the maximum permitted by state law.

E. The tax authorized by this section shall not apply to utility sales of products used as motor vehicle fuels.

F. For taxable years beginning on and after January 1, 2001, any county, city or town may impose a tax on consumers of electricity provided by electric suppliers as defined in § 58.1-400.2 which shall not be imposed at a rate in excess of \$.015 (1 1/2 cent) per kWh billed monthly to consumers of electricity and shall not be applicable to any kilowatt hours billed in excess of 200 kWh per month for residential customers. In any county, city or town that imposes a consumer utility tax immediately prior to January 1, 2001, (i) on residential customers at a higher rate than the maximum rate on residential customers under this section because the rate of consumer utility tax it imposed on July 1, 1972, exceeded the limits specified in subsection A or (ii) on other consumers not subject to the maximum rate set by this section, the service provider shall convert the dollar amount rate to a kWh rate of tax based on the monthly tax that is being collected immediately prior to January 1, 2001. However, nothing in this section shall be construed to prohibit or limit any county, city or town, after completion of the transition period on January 1, 2004, from imposing a consumer utility tax on nonresidential customers (as

converted to a per kWh rate basis) in any amounts authorized by this section immediately prior to July 1, 1999. The service provider shall bill the tax to all users to whom it delivers electricity, and shall remit such tax to the appropriate locality in accordance with § 58.1-2901. The provisions of this subsection shall be applicable without the necessity of the locality amending or reenacting its existing ordinance imposing such tax.

Subsection B shall apply to any tax on the consumers of electricity enacted or amended pursuant to this section, except that the notice provided therein shall be given to the registered agent of the service provider that is required to collect the tax.

G. Until the consumer pays the tax to such service provider, the tax shall constitute a debt to the locality. If any consumer refuses to pay the tax, the service provider shall notify the localities of the names and addresses of such consumers. After the consumer pays the tax to the service provider, the taxes shall be deemed to be held in trust by such service provider until remitted to the localities.

2. That until October 1, 2000, the Wireless E-911 Board, created pursuant to § 56-484.9, shall continue to administer the provisions of the Wireless Enhanced Public Safety Telephone Service Act, including the receipt and deposit of wireless E-911 surcharges, notwithstanding the creation of the Wireless E-911 Services Board in this act. On October 1, 2000, the responsibility for the administration of the Wireless Enhanced Public Safety Telephone Service Act or any successor statute shall be transferred to the Wireless E-911 Services Board, created by this act, in accordance with the provisions of this act. The Wireless E-911 Services Board created by this act shall honor all agreements to which the Wireless E-911 Board, created pursuant to § 56-484.9, is a party.

3. That §§ 56-484.8 through 56-484.11 and 58.1-3813 of the Code of Virginia are repealed.