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SENATE BILL NO. 148

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 10, 2000)

Senate Amendments in [] — February 15, 2000

A BILL 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.

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 copied by such administrator or chief medical officer. The information in the medical records of a

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SB148ES1

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

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

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

As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership, the Virginia Tourism Authority, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected. 23. Information which was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

71. *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

429 locating or expanding its facilities in the community.

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

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

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

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

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

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

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

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

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

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

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

478 17. Those portions of meetings by local government crime commissions where the identity of, or
479 information tending to identify, individuals providing information about crimes or criminal activities
480 under a promise of anonymity is discussed or disclosed. 18. Discussion, consideration, review and
481 deliberations by local community corrections resources boards regarding the placement in community
482 diversion programs of individuals previously sentenced to state correctional facilities.

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

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

489 21. In the case of corporations organized by the Virginia Retirement System, discussion or
490 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 Emergency Public Safety Communications Systems Coordinator; duties of Division.*

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

552 *Safety Communications (the "Division") which shall be headed by a Virginia Public Safety*
553 *Communications Systems Coordinator, appointed by the Director of the Department of Technology*
554 *Planning (the "Director") with the advice and consent of the Wireless E-911 Services Board. The*
555 *Division shall consist of no less than three employees, including one attorney, one telecommunications*
556 *engineer and one analyst, and such other personnel as the Director deems necessary. The salaries of the*
557 *employees of the Division shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.*

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

561 § 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

562 A. Any person who:

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

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

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

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

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

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

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

608 8. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol
609 System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any
610 injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue or any other
611 place or while transporting such injured or ill person to a place accessible for transfer to any available
612 emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by
613 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 § 58.1-3813.1-3813.1, 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 salaries of police, fire or other public officials or personnel who render such emergency assistance, (ii) the salaries or wages of employees of a coal producer engaging in emergency medical technician service or first aid service pursuant to the provisions of §§ 45.1-161.38, 45.1-161.101, 45.1-161.199 or § 45.1-161.263, or (iii) complimentary lift tickets, food, lodging or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group or agency.

For the purposes of this section, an emergency medical care attendant or technician shall be deemed to include a person licensed or certified as such or its equivalent by any other state when he is

675 performing services which he is licensed or certified to perform by such other state in caring for a
676 patient in transit in this Commonwealth, which care originated in such other state.

677 § 9-6.25:2. Policy boards, commissions and councils.

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

680 Apprenticeship Council

681 Auctioneers Board

682 Blue Ridge Regional Education and Training Council

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

685 Board for Barbers

686 Board for Contractors

687 Board for Cosmetology

688 Board for Geology

689 Board for Hearing Aid Specialists

690 Board for Opticians

691 Board for Professional and Occupational Regulation

692 Board for Professional Soil Scientists

693 Board for Waterworks and Wastewater Works Operators

694 Board of Accountancy

695 Board of Agriculture and Consumer Services

696 Board of Audiology and Speech-Language Pathology

697 Board of Coal Mining Examiners

698 Board of Conservation and Recreation

699 Board of Correctional Education

700 Board of Dentistry

701 Board of Funeral Directors and Embalmers

702 Board of Health Professions

703 Board of Historic Resources

704 Board of Housing and Community Development

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

707 Board of Medical Assistance Services

708 Board of Medicine

709 Board of Mineral Mining Examiners

710 Board of Nursing

711 Board of Nursing Home Administrators

712 Board of Optometry

713 Board of Pharmacy

714 Board of Psychology

715 Board of Social Services

716 Board of Social Work

717 Board of Surface Mining Review

718 Board of Veterinary Medicine

719 Board on Conservation and Development of Public Beaches

720 Cemetery Board

721 Chesapeake Bay Local Assistance Board

722 Child Day-Care Council

723 Commission on Local Government

724 Commonwealth Transportation Board

725 Council on Human Rights

726 Criminal Justice Services Board

727 Design-Build/Construction Management Review Board

728 Disability Services Council

729 Farmers Market Board, Virginia

730 Interdepartmental Council on Rate-setting for Children's Facilities

731 Library Board, The Library of Virginia

732 Marine Resources Commission

733 Milk Commission

734 Pesticide Control Board

735 Real Estate Appraiser Board

736 Real Estate Board

737 Reciprocity Board, Department of Motor Vehicles
 738 Safety and Health Codes Board
 739 Specialized Transportation Council
 740 State Air Pollution Control Board
 741 State Board of Corrections
 742 State Board of Elections
 743 State Board of Health
 744 State Board of Juvenile Justice
 745 State Health Department, Sewage Handling and Disposal Appeal Review Board
 746 State Mental Health, Mental Retardation and Substance Abuse Services Board
 747 State Seed Potato Board
 748 State Water Control Board
 749 Substance Abuse Certification Board
 750 Treasury Board, The, Department of the Treasury
 751 Virginia Aviation Board
 752 Virginia Board for Asbestos and Lead
 753 Virginia Fire Services Board
 754 Virginia Gas and Oil Board
 755 Virginia Health Planning Board
 756 Virginia Manufactured Housing Board
 757 Virginia Parole Board
 758 Virginia Public Broadcasting Board
 759 Virginia Soil and Water Conservation Board
 760 Virginia Voluntary Formulary Board
 761 Virginia Waste Management Board
 762 Virginia Workforce Council
 763 (For effective date, see Editor's note) Volunteer Firefighters' and Rescue Squad Workers' Pension
 764 Fund Board
 765 Waste Management Facility Operators, Board for
 766 Wireless E-911 Services Board.

767 Article 7.

768 *Enhanced Public Safety Telephone Services Act.*

769 § 56-484.12. *Definitions.*

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

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

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

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

777 "Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by
 778 the Division.

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

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

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

787 "Division" means the Division of Public Safety Communications Systems.

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

793 "FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register
 794 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.

795 "Local exchange carrier" means any public service company granted a certificate to furnish public
 796 utility service for the provision of local exchange telephone service pursuant to Chapter 10.1
 797 (§ 56-265.1 et seq.) of Title 56.

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

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

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

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

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

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

820 § 56-484.13. Wireless E-911 Services Board; membership; terms; compensation.

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

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

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

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

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

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

847 § 56.-484.14. Powers and duties of Wireless E-911 Services Board.

848 The Board shall have the power and duty to:

849 1. Make and enter into all contracts and agreements necessary or incidental to the performance of
850 its duties and the execution of its powers, including purchase agreements payable from (i) the Wireless
851 E-911 Fund and (ii) other moneys appropriated for the provision of enhanced wireline emergency
852 telecommunications services only in specific local jurisdictions that are not wireline E-911 capable as of
853 July 1, 2000.

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

856 3. Develop a comprehensive, enhanced wireless emergency telecommunications plan for implementing
857 statewide enhanced wireless emergency telecommunications services. In constructing and periodically
858 updating this plan as appropriate, the Board shall monitor trends and advances in enhanced wireless
859 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 non-emergency 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

921 billing address is within the Commonwealth. All wireless E-911 surcharges shall be remitted within 30
922 days to the Board for deposit in the Fund. Each CMRS provider shall reduce collected surcharge
923 amounts to the minimum amount necessary to defray costs of collecting the surcharges, not to exceed
924 three percent of the amount collected. State and local taxes shall not apply to the wireless E-911
925 surcharge.

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

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

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

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

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

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

973 § 58.1-3812. Telegraph and telephone companies.

974 A. Any county, city or town may impose a tax on a taxable purchase by a consumer of local
975 telecommunication service if the consumer's service address is located in such county, city or town.
976 Except as otherwise provided, the tax shall not be imposed at a rate in excess of twenty percent of the
977 monthly gross charge to a consumer and shall not be applicable to any amount so charged in excess of
978 fifteen dollars per month for a residential consumer; however, any county, city or town that on July 1,
979 1972, imposed a tax in excess of limits specified herein may continue to impose such a tax in excess of
980 such limits, but no more. Notwithstanding the foregoing, the tax may be imposed only at a rate equal to
981 ten percent of the monthly gross charge to a consumer of mobile local telecommunication and shall not
982 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 § 58.1-3813.1.

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,

1044 or permittees, makes a taxable purchase of local telecommunication services.

1045 "Enhanced services" means services that employ computer processing applications to act on the
1046 format, code, or protocol or similar aspects of the information transmitted; provide additional, different,
1047 or restructured information; or involve interaction with stored information.

1048 "Gross charges" means, subject to the exclusions of this section, the amount charged or paid for the
1049 taxable purchase of local telecommunication services. However, "gross charges" shall not include the
1050 following:

1051 1. Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the
1052 communication that are separately stated on the consumer's bill or invoice.

1053 2. Charges or amounts paid for customer equipment, including such equipment that is leased or
1054 rented by the customer from any source, if such charges or amounts paid are separately identifiable from
1055 other amounts charged or paid for the provision of local telecommunication services on the service
1056 provider's books and records.

1057 3. Charges or amounts paid for administrative services, including, without limitation, service
1058 connection and reconnection, late payments, and roamer daily surcharges.

1059 4. Charges or amounts paid for special features that are not subject to taxation under § 4251 of the
1060 Internal Revenue Code of 1986, as amended.

1061 5. Charges or amounts paid that are (i) the tax imposed by § 4251 of the Internal Revenue Code of
1062 1986, as amended, or (ii) any other tax or surcharge imposed by statute, ordinance or regulatory
1063 authority.

1064 6. Bad debts.

1065 "Local telecommunication service," subject to the exclusions stated in this section, includes, without
1066 limitation, the two-way local transmission of messages through use of switched local telephone services;
1067 telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized
1068 mobile radio; stationary two-way radio; or any other form of two-way mobile and portable
1069 communications.

1070 "Local telephone service," subject to the exclusions stated in this section, includes any service subject
1071 to federal taxation as local telephone service as that term is defined in § 4252 of the Internal Revenue
1072 Code of 1986, as amended, or any successor statute.

1073 "Mobile local telecommunication service" means any two-way mobile or portable local
1074 telecommunication service, including cellular mobile radio telecommunication service and specialized
1075 mobile radio.

1076 "Mobile service consumer" means a person having a telephone number for mobile local
1077 telecommunication service who has made a taxable purchase of such service or on whose behalf another
1078 person has made a taxable purchase of such service.

1079 "Mobile service provider" means every person engaged in the business of selling mobile local
1080 telecommunication services to consumers.

1081 "Residential consumer" shall not include any consumer of mobile local telecommunication service.

1082 "Service address" means the location of the telecommunication equipment from which the
1083 telecommunication is originated or at which the telecommunication is received by a consumer. However,
1084 if the service address is not a defined location, as in the case of mobile telephones, maritime systems,
1085 air-to-ground systems and the like, service address shall mean the location of the subscriber's primary
1086 use of the telecommunication equipment within the licensed service area. A mobile service provider may
1087 obtain a signed statement from a consumer indicating which county, city or town within the licensed
1088 service area is the location of the consumer's primary use of the telecommunication equipment. A
1089 mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall
1090 remit the taxes collected to the county, city or town identified by the consumer. In the absence of a
1091 signed statement by a consumer, a mobile service provider shall identify the county, city or town of the
1092 consumer's primary use and shall remit the tax to such county, city or town based on any other
1093 reasonable method, including, without limitation, the consumer's billing address, service address, or
1094 telephone number within the licensed service area.

1095 "Service provider" means every person engaged in the business of selling local telecommunication
1096 services to consumers.

1097 "Taxable purchase" means the acquisition of telecommunication services for consumption or use;
1098 however, taxable purchase does not include (i) the provision of telecommunications among members of
1099 an affiliated group of entities by a member of the group for their own exclusive use and consumption
1100 and (ii) the purchase of telecommunications for resale in the subsequent provision of
1101 telecommunications, including, without limitation, carrier access charges, right of access charges, and
1102 charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider
1103 of enhanced services is not the purchase of telecommunications for resale, even when the cost of the
1104 telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary
1105 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 [~~prior to December 31, 2000. On or after January 1, 2001, such tax shall not exceed two 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 § 58.1-3813.1.

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 be 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

1229 taxes shall be deemed to be held in trust by such service provider until remitted to the localities.
 1230 2. That until October 1, 2000, the Wireless E-911 Board, created pursuant to § 56-484.9, shall
 1231 continue to administer the provisions of the Wireless Enhanced Public Safety Telephone Service
 1232 Act, including the receipt and deposit of wireless E-911 surcharges, notwithstanding the creation of
 1233 the Wireless E-911 Services Board in this act. On October 1, 2000, the responsibility for the
 1234 administration of the Wireless Enhanced Public Safety Telephone Service Act or any successor
 1235 statute shall be transferred to the Wireless E-911 Services Board, created by this act, in
 1236 accordance with the provisions of this act. The Wireless E-911 Services Board created by this act
 1237 shall honor all agreements to which the Wireless E-911 Board, created pursuant to § 56-484.9, is a
 1238 party.
 1239 3. That §§ 56-484.8 through 56-484.11 are repealed.
 1240 4. That § 58.1-3813 is repealed.

ENGROSSED

SB148ES1