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SENATE BILL NO. 666

Offered January 24, 2000

A BILL to amend and reenact § 2.1-1.6, as it is currently effective and as it may become effective, and § 9-6.25:3 of the Code of Virginia and to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-393 through 45.1-413, relating to the Virginia Propane Education and Research Act; penalty.

Patrons—Hanger, Bolling, Chichester, Couric, Hawkins, Lambert, Marye, Miller, K.G., Puckett, Rerras, Reynolds, Ticer, Watkins and Whipple; Delegates: Armstrong, Baskerville, Hall, Landes, Morgan and Stump

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-1.6, as it is currently effective and as it may become effective, and § 9-6.25:3 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-393 through 45.1-413, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board of
Agriculture and Consumer Services, Board of
Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board, Virginia
Apple Board, Virginia State
Appomattox State Scenic River Advisory Board
Aquaculture Advisory Board
Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
Art and Architectural Review Board
Athletic Training, Advisory Board on
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Bright Flue-Cured Tobacco Board, Virginia
Building Code Technical Review Board, State
Catoctin Creek State Scenic River Advisory Board
Cattle Industry Board, Virginia
Cave Board
Cemetery Board
Certified Seed Board, State
Charity Food Assistance Advisory Board
Chesapeake Bay Local Assistance Board
Chickahominy State Scenic River Advisory Board
Child Abuse and Neglect, Advisory Board on
Chippokes Plantation Farm Foundation, Board of Trustees
Clinch Scenic River Advisory Board
Coal Mining Examiners, Board of
Coal Research and Development Advisory Board, Virginia
Coal Surface Mining Reclamation Fund Advisory Board
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Corn Board, Virginia
Correctional Education, Board of
Corrections, State Board of

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- 60 Cosmetology, Board for
- 61 Criminal Justice Services Board
- 62 Dark-Fired Tobacco Board, Virginia
- 63 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
- 64 Dentistry, Board of
- 65 Design-Build/Construction Management Review Board
- 66 Education, State Board of
- 67 Egg Board, Virginia
- 68 Emergency Medical Services Advisory Board, State
- 69 Farmers Market Board, Virginia
- 70 Fire Services Board, Virginia
- 71 Forestry, Board of
- 72 Funeral Directors and Embalmers, Board of
- 73 Game and Inland Fisheries, Board of
- 74 Geology, Board for
- 75 Goose Creek Scenic River Advisory Board
- 76 Health Planning Board, Virginia
- 77 Health Professions, Board of
- 78 Health, State Board of
- 79 Hearing Aid Specialists, Board for
- 80 Hemophilia Advisory Board
- 81 Historic Resources, Board of
- 82 Housing and Community Development, Board of
- 83 Irish Potato Board, Virginia
- 84 Juvenile Justice, State Board of
- 85 Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment
- 86 Professionals, Board of
- 87 Litter Control and Recycling Fund Advisory Board
- 88 Marine Products Board, Virginia
- 89 Medical Advisory Board, Department of Motor Vehicles
- 90 Medicare and Medicaid, Advisory Board on
- 91 Medicine, Board of
- 92 Mental Health, Mental Retardation and Substance Abuse Services Board, State
- 93 Migrant and Seasonal Farmworkers Board
- 94 Military Affairs, Board of
- 95 Mineral Mining Examiners, Board of
- 96 Minority Business Enterprise, Interdepartmental Board of the Department of
- 97 Networking Users Advisory Board, State
- 98 Neurotrauma Initiative Advisory Board, Commonwealth
- 99 North Meherrin State Scenic River Advisory Board
- 100 Nottoway State Scenic River Advisory Board
- 101 Nursing, Board of
- 102 Nursing Home Administrators, Board of
- 103 Occupational Therapy, Advisory Board of
- 104 Oil and Gas Conservation Board, Virginia
- 105 Opticians, Board for
- 106 Optometry, Board of
- 107 Peanut Board, Virginia
- 108 Personnel Advisory Board
- 109 Pesticide Control Board
- 110 Pharmacy, Board of
- 111 Physical Therapy to the Board of Medicine, Advisory Board on
- 112 Plant Pollination Advisory Board
- 113 Polygraph Examiners Advisory Board
- 114 Pork Industry Board, Virginia
- 115 Poultry Products Board, Virginia
- 116 Private College Advisory Board
- 117 Private Security Services Advisory Board
- 118 Professional and Occupational Regulation, Board for
- 119 Professional Soil Scientists, Board for
- 120 Psychiatric Advisory Board
- 121 Psychology, Board of

- 122 Public Broadcasting Board, Virginia
- 123 Public Buildings Board, Virginia
- 124 Public Guardian and Conservator Advisory Board
- 125 Radiation Advisory Board
- 126 Real Estate Appraiser Board
- 127 Real Estate Board
- 128 Reciprocity Board, Department of Motor Vehicles
- 129 Recreational Fishing Advisory Board, Virginia
- 130 Reforestation Board
- 131 Rehabilitation Providers, Advisory Board on
- 132 Rehabilitative Services, Board of
- 133 Respiratory Care, Advisory Board on
- 134 Rockfish State Scenic River Advisory Board
- 135 Safety and Health Codes Board
- 136 Seed Potato Board, State
- 137 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 138 Shenandoah State Scenic River Advisory Board
- 139 Small Business Advisory Board
- 140 Small Business Environmental Compliance Advisory Board
- 141 Small Grains Board, Virginia
- 142 Social Services, Board of
- 143 Social Work, Board of
- 144 Soil and Water Conservation Board, Virginia
- 145 Soybean Board, Virginia
- 146 State Air Pollution Control Board
- 147 Substance Abuse Certification Board
- 148 Surface Mining Review, Board of
- 149 Sweet Potato Board, Virginia
- 150 T & M Vehicle Dealers' Advisory Board
- 151 Teacher Education and Licensure, Advisory Board on
- 152 Transportation Board, Commonwealth
- 153 Transportation Safety, Board of
- 154 Treasury Board, The, Department of the Treasury
- 155 Veterans' Affairs, Board on
- 156 Veterinary Medicine, Board of
- 157 Virginia Board for Asbestos and Lead
- 158 Virginia Coal Mine Safety Board
- 159 Virginia Correctional Enterprises Advisory Board
- 160 Virginia Cotton Board
- 161 Virginia Employment Commission, State Advisory Board for the
- 162 Virginia Geographic Information Network Advisory Board
- 163 Virginia Horse Industry Board
- 164 Virginia Manufactured Housing Board
- 165 *Virginia Propane Education and Research Board*
- 166 Virginia Retirement System, Board of Trustees
- 167 Virginia Schools for the Deaf and the Blind, Advisory Commission on the
- 168 Virginia Sheep Industry Board
- 169 Virginia Veterans Cemetery Board
- 170 Virginia Waste Management Board
- 171 Visually Handicapped, Virginia Board for the
- 172 Voluntary Formulary Board, Virginia
- 173 War Memorial Foundation, Virginia, Board of Trustees
- 174 Waste Management Facility Operators, Board for
- 175 Water Resources Research Center Statewide Advisory Board, Virginia
- 176 Waterworks and Wastewater Works Operators, Board for
- 177 Well Review Board, Virginia.
- 178 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 179 referred to as boards:
- 180 Compensation Board
- 181 State Board of Elections
- 182 State Water Control Board

183 Virginia Parole Board
184 Virginia Veterans Care Center Board of Trustees.
185 § 2.1-1.6. State boards.
186 A. There shall be, in addition to such others as may be established by law, the following permanent
187 collegial bodies affiliated with a state agency within the executive branch:
188 Accountancy, Board of
189 Agriculture and Consumer Services, Board of
190 Air Pollution, State Advisory Board on
191 Alcoholic Beverage Control Board, Virginia
192 Apple Board, Virginia State
193 Appomattox State Scenic River Advisory Board
194 Aquaculture Advisory Board
195 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape
196 Architects, Board for
197 Art and Architectural Review Board
198 Athletic Training, Advisory Board on
199 Auctioneers Board
200 Audiology and Speech-Language Pathology, Board of
201 Aviation Board, Virginia
202 Barbers, Board for
203 Branch Pilots, Board for
204 Bright Flue-Cured Tobacco Board, Virginia
205 Building Code Technical Review Board, State
206 Catoctin Creek State Scenic River Advisory Board
207 Cattle Industry Board, Virginia
208 Cave Board
209 Cemetery Board
210 Certified Seed Board, State
211 Charity Food Assistance Advisory Board
212 Chesapeake Bay Local Assistance Board
213 Chickahominy State Scenic River Advisory Board
214 Child Abuse and Neglect, Advisory Board on
215 Chippokes Plantation Farm Foundation, Board of Trustees
216 Clinch Scenic River Advisory Board
217 Coal Mining Examiners, Board of
218 Coal Research and Development Advisory Board, Virginia
219 Coal Surface Mining Reclamation Fund Advisory Board
220 Conservation and Development of Public Beaches, Board on
221 Conservation and Recreation, Board of
222 Contractors, Board for
223 Corn Board, Virginia
224 Correctional Education, Board of
225 Corrections, State Board of
226 Cosmetology, Board for
227 Criminal Justice Services Board
228 Dark-Fired Tobacco Board, Virginia
229 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
230 Dentistry, Board of
231 Design-Build/Construction Management Review Board
232 Education, State Board of
233 Egg Board, Virginia
234 Emergency Medical Services Advisory Board, State
235 Farmers Market Board, Virginia
236 Fire Services Board, Virginia
237 Forestry, Board of
238 Funeral Directors and Embalmers, Board of
239 Game and Inland Fisheries, Board of
240 Geology, Board for
241 Goose Creek Scenic River Advisory Board
242 Health Planning Board, Virginia
243 Health Professions, Board of
244 Health, State Board of

245 Hearing Aid Specialists, Board for
 246 Hemophilia Advisory Board
 247 Historic Resources, Board of
 248 Housing and Community Development, Board of
 249 Irish Potato Board, Virginia
 250 Juvenile Justice, State Board of
 251 Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment
 252 Professionals, Board of
 253 Litter Control and Recycling Fund Advisory Board
 254 Marine Products Board, Virginia
 255 Medical Advisory Board, Department of Motor Vehicles
 256 Medicare and Medicaid, Advisory Board on
 257 Medicine, Board of
 258 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 259 Migrant and Seasonal Farmworkers Board
 260 Military Affairs, Board of
 261 Mineral Mining Examiners, Board of
 262 Minority Business Enterprise, Interdepartmental Board of the Department of
 263 Networking Users Advisory Board, State
 264 Neurotrauma Initiative Advisory Board, Commonwealth
 265 North Meherrin State Scenic River Advisory Board
 266 Nottoway State Scenic River Advisory Board
 267 Nursing, Board of
 268 Nursing Home Administrators, Board of
 269 Occupational Therapy, Advisory Board of
 270 Oil and Gas Conservation Board, Virginia
 271 Opticians, Board for
 272 Optometry, Board of
 273 Peanut Board, Virginia
 274 Personnel Advisory Board
 275 Pesticide Control Board
 276 Pharmacy, Board of
 277 Physical Therapy to the Board of Medicine, Advisory Board on
 278 Plant Pollination Advisory Board
 279 Polygraph Examiners Advisory Board
 280 Pork Industry Board, Virginia
 281 Poultry Products Board, Virginia
 282 Private College Advisory Board
 283 Private Security Services Advisory Board
 284 Professional and Occupational Regulation, Board for
 285 Professional Soil Scientists, Board for
 286 Psychiatric Advisory Board
 287 Psychology, Board of
 288 Public Broadcasting Board, Virginia
 289 Public Buildings Board, Virginia
 290 Public Guardian and Conservator Advisory Board
 291 Radiation Advisory Board
 292 Real Estate Appraiser Board
 293 Real Estate Board
 294 Reciprocity Board, Department of Motor Vehicles
 295 Recreational Fishing Advisory Board, Virginia
 296 Reforestation Board
 297 Rehabilitation Providers, Advisory Board on
 298 Rehabilitative Services, Board of
 299 Respiratory Care, Advisory Board on
 300 Rockfish State Scenic River Advisory Board
 301 Safety and Health Codes Board
 302 Seed Potato Board, State
 303 Sewage Handling and Disposal Appeal Review Board, State Health Department
 304 Shenandoah State Scenic River Advisory Board
 305 Small Business Advisory Board

306 Small Business Environmental Compliance Advisory Board
 307 Small Grains Board, Virginia
 308 Social Services, Board of
 309 Social Work, Board of
 310 Soil and Water Conservation Board, Virginia
 311 Soybean Board, Virginia
 312 State Air Pollution Control Board
 313 Substance Abuse Certification Board
 314 Surface Mining Review, Board of
 315 Sweet Potato Board, Virginia
 316 T & M Vehicle Dealers' Advisory Board
 317 Teacher Education and Licensure, Advisory Board on
 318 Transportation Board, Commonwealth
 319 Transportation Safety, Board of
 320 Treasury Board, The, Department of the Treasury
 321 Veterans' Affairs, Board on
 322 Veterinary Medicine, Board of
 323 Virginia Board for Asbestos and Lead
 324 Virginia Coal Mine Safety Board
 325 Virginia Correctional Enterprises Advisory Board
 326 Virginia Cotton Board
 327 Virginia Employment Commission, State Advisory Board for the
 328 Virginia Geographic Information Network Advisory Board
 329 Virginia Horse Industry Board
 330 Virginia Manufactured Housing Board
 331 *Virginia Propane Education and Research Board*
 332 Virginia Retirement System, Board of Trustees
 333 Virginia Schools for the Deaf and the Blind, Advisory Commission on the
 334 Virginia Sheep Industry Board
 335 Virginia Veterans Cemetery Board
 336 Virginia Waste Management Board
 337 Visually Handicapped, Virginia Board for the
 338 (For effective date - See notes) Volunteer Firefighters' and Rescue Squad Workers' Pension Fund
 339 Board
 340 Voluntary Formulary Board, Virginia
 341 War Memorial Foundation, Virginia, Board of Trustees
 342 Waste Management Facility Operators, Board for
 343 Water Resources Research Center Statewide Advisory Board, Virginia
 344 Waterworks and Wastewater Works Operators, Board for
 345 Well Review Board, Virginia.
 346 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
 347 referred to as boards:
 348 Compensation Board
 349 State Board of Elections
 350 State Water Control Board
 351 Virginia Parole Board
 352 Virginia Veterans Care Center Board of Trustees.
 353 § 9-6.25:3. Supervisory boards, commissions, and councils.
 354 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the
 355 following supervisory boards, commissions, and councils:
 356 Alcoholic Beverage Control Board
 357 Board for Branch Pilots
 358 Board of Commissioners, Virginia Port Authority
 359 Board of Game and Inland Fisheries
 360 Board of Regents, Gunston Hall Plantation
 361 Board of Regents, James Monroe Memorial Law Office and Library
 362 Board of Trustees, Chippokes Plantation Farm Foundation
 363 Board of Trustees, Frontier Culture Museum of Virginia
 364 Board of Trustees, Jamestown-Yorktown Foundation
 365 Board of Trustees, the Science Museum of Virginia
 366 Board of Trustees, Virginia Museum of Fine Arts
 367 Board of Trustees, Virginia Retirement System

368 Board of Trustees, Virginia Veterans Care Center
 369 Board of Trustees, Virginia War Memorial Foundation
 370 Board of Visitors, Christopher Newport University
 371 Board of Visitors, George Mason University
 372 Board of Visitors, James Madison University
 373 Board of Visitors, Longwood College
 374 Board of Visitors, Mary Washington College
 375 Board of Visitors, Norfolk State University
 376 Board of Visitors, Old Dominion University
 377 Board of Visitors, Radford University
 378 Board of Visitors, The College of William and Mary in Virginia
 379 Board of Visitors, University of Virginia
 380 Board of Visitors, Virginia Commonwealth University
 381 Board of Visitors, Virginia Military Institute
 382 Board of Visitors, Virginia Polytechnic Institute and State University
 383 Board of Visitors, Virginia State University
 384 Charitable Gaming Commission
 385 Commonwealth's Attorneys' Services Council
 386 Compensation Board
 387 Governing Board, Virginia College Building Authority
 388 Governing Board, Virginia Public School Authority
 389 Motor Vehicle Dealer Board
 390 State Board for Community Colleges, Virginia Community College System
 391 State Board of Education
 392 State Certified Seed Board
 393 State Council of Higher Education for Virginia
 394 Virginia Agricultural Council
 395 Virginia Bright Flue-Cured Tobacco Board
 396 Virginia Board for People with Disabilities
 397 Virginia Cattle Industry Board
 398 Virginia Corn Board
 399 Virginia Cotton Board
 400 Virginia Dark-Fired Tobacco Board
 401 Virginia Egg Board
 402 Virginia Horse Industry Board
 403 Virginia Marine Products Board
 404 Virginia Peanut Board
 405 Virginia Pork Industry Board
 406 Virginia Propane Education and Research Board
 407 Virginia Soybean Board
 408 Virginia State Apple Board
 409 Virginia Sweet Potato Board.

CHAPTER 27.

VIRGINIA PROPANE EDUCATION AND RESEARCH ACT.

412 § 45.1-393. Declaration of public policy.

413 *The General Assembly finds and declares that propane is a vital source of energy for many citizens*
 414 *of the Commonwealth, providing them with heat, hot water, cooking fuel and motor fuel, among its*
 415 *many uses; that educating members of the propane industry and consumers about propane and the*
 416 *mechanical, technical and safety practices related to propane and propane utilization equipment will*
 417 *further the public interest and welfare by reducing accidents and improving safety; and that improving*
 418 *and increasing marketing and research on propane and its uses will increase the consumption of*
 419 *propane, thereby furthering the public interest and welfare by creating additional employment*
 420 *opportunities in the Commonwealth and by expanding revenue.*

421 § 45.1-394. Definitions.

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

423 *"Board" means the Virginia Propane Education and Research Board created under this chapter.*

424 *"Department" means the Department of Mines, Minerals and Energy.*

425 *"Director" means the Director of the Department of Mines, Minerals and Energy.*

426 *"Education" means any action to provide information to consumers and members of the propane*
 427 *industry concerning propane, propane uses, propane equipment, and mechanical and technical practices*
 428 *relating to the use of propane.*

429 *"Fund" means the Virginia Propane Education and Research Fund.*

430 *"Handler" means any person who is the owner of propane at the time of its odorization in the*
431 *Commonwealth or, if already odorized, at the time of its import into the Commonwealth.*

432 *"Industry" means the production, transportation, and sale of propane, and the manufacture and*
433 *distribution of propane utilization equipment.*

434 *"Odorized propane" means propane to which an odorant has been added.*

435 *"Person" means any individual, partnership, association, corporation, limited liability company,*
436 *cooperative, firm or other entity.*

437 *"Produce" means the recovery of propane at a gas processing plant or refinery, regardless of the*
438 *state where production occurs.*

439 *"Producer" means the owner of propane at the time it is recovered at a gas processing plant or*
440 *refinery, regardless of the state where production occurs.*

441 *"Propane" means a hydrocarbon whose chemical composition is predominately C3H8, whether*
442 *recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures thereof.*

443 *"Public member" means a member of the Board who represents significant users of propane, public*
444 *safety officials, state regulatory officials, or other groups knowledgeable about propane.*

445 *"Qualified industry trade association" means the Virginia Propane Gas Association, the National*
446 *Propane Gas Association, and any successor organization of those associations.*

447 *"Research" means any type of study, investigation or other activity designed to advance the image,*
448 *desirability, usage, marketability, efficiency, or safety of propane or propane utilization equipment and*
449 *to further the development of such information.*

450 *"Retail marketer" means a person engaged primarily in the sale of odorized propane to the ultimate*
451 *consumer or to retail propane dispensers.*

452 *"Retail propane dispenser" means a person who sells odorized propane to the ultimate consumer but*
453 *is not engaged primarily in the business of such sales.*

454 *"Supplier" means a person, other than a producer, who is engaged primarily in the sale of propane*
455 *or odorized propane to retail marketers.*

456 *§ 45.1-395. Petition for referendum on question of assessment for education, research and market*
457 *development; action of Department and Director.*

458 *The Department, upon a petition being filed with it by an industry trade association requesting a*
459 *referendum, and upon finding that sufficient interest exists among the members of the propane industry*
460 *in the Commonwealth to justify a referendum, shall authorize the holding of a referendum as provided*
461 *in this chapter. The Director or his designee shall then be empowered and directed to conduct a*
462 *referendum on the question of whether or not the members of Virginia's propane industry are of the*
463 *opinion that additional programs of education, research, and market development to increase the*
464 *consumption, safe use, sale and markets for propane in Virginia are required.*

465 *§ 45.1-396. Persons eligible to vote; voting rights.*

466 *A. Each producer, supplier and retail marketer that produces or sells odorized propane in Virginia*
467 *shall be eligible to vote in the referendum. A person eligible to vote may be a natural person,*
468 *partnership, limited liability company, or corporation. The vote of a partnership shall be cast by one of*
469 *the general partners. The vote of a limited liability company shall be cast by one of the members. A*
470 *corporation shall vote by its president, general manager or such other person as may be authorized by*
471 *the corporation to cast its vote.*

472 *B. Voting rights in the referendum shall be based on the total volume of propane produced or*
473 *odorized propane sold in the Commonwealth according to the most recent data then available compiled*
474 *by the American Petroleum Institute or successor organization, or such other source as is deemed*
475 *reliable by the Director. The number of votes allocated to each producer, supplier or retail marketer*
476 *shall be in proportion to the gallons of propane produced or gallons of odorized propane sold during*
477 *the previous calendar year in the Commonwealth by each such producer, supplier or retail marketer.*
478 *For purposes of the referendum, retail marketers shall be considered a single class and producers and*
479 *suppliers shall be considered a single class.*

480 *C. All persons voting in the referendum shall certify to the Director the volume of propane, in*
481 *gallons, represented by their vote. The information provided under this subsection shall be considered*
482 *proprietary and shall be held in confidence by the Director. The Director may request additional*
483 *information for any person voting in the referendum to verify the volume of propane represented by*
484 *their vote.*

485 *§ 45.1-397. Rules governing ballots, conduct of referendum, canvassing, etc.*

486 *The Department shall adopt rules governing the ballots to be used in the referendum, the conduct of*
487 *the referendum, the canvassing of the results thereof, and the declaration of the results of the*
488 *referendum. The Department shall fix the date, areas, hours, and voting places with respect to the*
489 *holding of the referendum and may provide for voting by mail if it deems advisable.*

490 *§ 45.1-398. Management of referendum; notice.*

The Director shall manage any referendum conducted under this chapter. The Director shall, sixty days before the date upon which a referendum is to be held, mail notice to the clerk of the circuit court in each county where those eligible to vote in the referendum reside. The clerk of the circuit court shall post the notice and rules on the front door or public bulletin board of the courthouse and certify the posting to the Director. The Director shall also give general notice of the referendum in a newspaper of general circulation in Richmond, Virginia, and shall send a notice of the referendum to a newspaper of general circulation in each area of the Commonwealth in which members of the propane industry reside, at least sixty days prior to the holding of any referendum under this chapter. Such posted and published notices shall contain the date, hours and methods of voting in the referendum; the amount of assessment to be collected, the means by which such assessment will be collected, and the general purposes for which the assessments will be used; and the rules adopted by the Department pursuant to § 45.1-397.

§ 45.1-399. Distribution of ballots; canvass; declaration and certification of results.

The Director shall prepare and distribute in advance of the referendum all necessary ballots, certificates and supplies required for the referendum and shall, under rules adopted and promulgated by the Department, arrange for the use of polling places, if necessary. He shall, within ten days after the referendum, canvass and publicly declare the results thereof and certify the results to the Governor and the Department.

§ 45.1-400. Referendum results; action of Governor.

If the Governor finds the referendum in order and that at least two-thirds of the votes cast in the retail marketer class and at least two-thirds of the votes cast in the producer and supplier class are in favor of creation of the Board and the assessment for the purpose of conducting programs of education, research and market development concerning propane, then he shall so proclaim and the Virginia Propane Education and Research Board within the Virginia Department of Mines, Minerals and Energy shall be established. If he does not so find, the Board shall not be established.

§ 45.1-401. Subsequent referendum.

If the Governor issues a proclamation under § 45.1-400 and the Board is established, then no other referendum shall be held on the creation of the Virginia Propane Education and Research Board and assessment, except that the Department, upon petition by persons representing at least one-third of the votes cast in the preceding referendum, may provide for a referendum on the continuation of the Board and the assessment. The Department shall not act on such a petition to conduct such a referendum until at least five years have passed since the establishment of the Board. The cost of conducting such referendum shall be from funds paid into the Virginia Propane Education and Research Fund established under § 45.1-406. Such referendum shall be conducted in the manner provided in §§ 45.1-396 through 45.1-399.

§ 45.1-402. Subsequent referendum results; action of Governor.

If the Governor finds any referendum held pursuant to § 45.1-401 in order and that those persons representing a majority of the votes cast in the retail marketer class and a majority of the votes in the producer and supplier class are in opposition to the continuation of the Board and the assessment, then he shall so proclaim and upon such proclamation the Board and the assessment under this chapter will be discontinued.

§ 45.1-403. Question to be printed on ballots.

A. The question to be printed on the ballots used in any referendum held under this chapter, except the referendum authorized in § 45.1-401, shall be as follows:

"Do you favor additional education about, research on, and market development and promotion of the use of propane in Virginia, the creation of a Virginia Propane Education and Research Board, and the levy of an assessment of one-tenth of one cent (\$0.001) per gallon of propane at the time of its odorization in the Commonwealth or, if already odorized, at the time it is imported into the Commonwealth, with the Board retaining the authority to increase the assessment no more than one-tenth of one cent (\$0.001) per year, up to a maximum assessment of five-tenths of one cent (\$0.005) per year, for all odorized propane sold in the Commonwealth of Virginia to be used by such Board in accordance with the provisions of the Virginia Propane Education and Research Act?

[] Yes

[] No."

B. The question to be printed on the ballots used in the referendum authorized in § 45.1-401 on the continuation of the Board and assessment shall be as follows:

"Do you favor the continuation of the Virginia Propane Education and Research Board and the continuation of the levy of an assessment of up to five-tenths of one cent (\$0.005) per gallon of odorized propane sold in the Commonwealth of Virginia?

[] Yes

[] No."

552 § 45.1-404. Virginia Propane Education and Research Board established; purposes; duties and
553 responsibilities.

554 A. If created in accordance with this chapter, the Board shall be responsible for education, research
555 and market development related to the propane industry in Virginia. To accomplish this function, the
556 Board is authorized:

557 1. To establish an office or offices for the Board at such place or places within the Commonwealth
558 as it may designate;

559 2. To elect a chairperson and whatever other officers may be necessary to direct the affairs of the
560 Board, establish committees and subcommittees of the Board, as appropriate, and adopt rules for the
561 conduct of business and the implementation of this chapter;

562 3. To employ personnel, advisers, consultants, professionals and agents as may be necessary to carry
563 out the purposes and provisions of this chapter;

564 4. To develop programs and projects for implementing this chapter, including, but not limited to,
565 programs to enhance consumer and employee safety and training, to provide for research and
566 development of clean and efficient propane utilization equipment, and to inform and educate the public
567 about safety and other issues associated with the use of propane.

568 5. To establish, administer, manage and make expenditures from the Virginia Propane Education and
569 Research Fund;

570 6. To enter into contracts or agreements for goods or services necessary to carry out the purposes
571 set forth in this chapter and to incur expenses necessary to carry out those purposes;

572 7. To cooperate with any private, local, state or national commission, committee, organization,
573 agency or other entity and to make contracts and agreements for joint programs beneficial to the
574 industry; and

575 8. To take any action necessary or convenient for the exercise of the powers granted by this chapter
576 or reasonably implied by them.

577 B. The Board shall establish procedures for the solicitation of industry comment and
578 recommendations on any significant programs or projects to be conducted by the Board. The Board may
579 establish advisory committees of persons other than Board members.

580 C. The Board shall coordinate its activities with industry trade associations and others as
581 appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

582 § 45.1-405. Board membership; terms; quorum.

583 A. The Board shall consist of nine members. Five members shall represent retail marketers, with no
584 more than two of these five members representing multi-state retail marketers that have more than five
585 offices outside the Commonwealth. Three members shall represent producers, suppliers and persons who
586 manufacture or sell propane utilization equipment. One member shall be a public member.

587 B. Board members representing retail marketers, producers, and suppliers shall be appointed by the
588 Governor who shall make such appointments from nominations submitted by qualified industry trade
589 associations. Members in these categories shall be full-time employees or owners of businesses in the
590 industry. No more than one representative from any company or its affiliate may serve on the Board at
591 any time. The public member of the Board shall be appointed by the Governor.

592 C. In appointing members to the Board, the Governor shall consider broad-based representation
593 including:

594 1. Gas processors and oil refiners among producers;

595 2. Interstate and intrastate operators among retail marketers;

596 3. Large and small companies among producers, suppliers and retail marketers; and

597 4. Diverse geographic regions of the Commonwealth.

598 D. No employee of an industry trade association shall serve as a member of the Board and no
599 member of the Board may serve concurrently as an officer or member of the board of directors of an
600 industry trade association. A member of the board of directors of a qualified industry trade association
601 may serve as an ex officio non-voting member of the Board.

602 E. Board members shall serve two year terms except that for initial appointments, three members
603 shall be appointed to three-year terms, three members shall be appointed to two-year terms, and three
604 members shall be appointed to one-year terms. Within sixty days after the Board is created in
605 accordance with § 45.1-400, qualified industry trade organizations shall submit nominations to the
606 Governor. No member shall serve more than two consecutive terms. Members filling unexpired terms
607 may serve not more than a total of five consecutive years.

608 F. Five members shall constitute a quorum for the transaction of business.

609 G. Board members shall be reimbursed for all reasonable expenses incurred in the attendance of
610 meetings of the Board and any other Board-related activities as authorized by the Board.

611 § 45.1-406. Virginia Propane Education and Research Fund created; purpose.

612 A. The Board shall establish, administer, manage and make expenditures from a special,
613 nonreverting fund in the state treasury to be known as the Virginia Propane Education and Research

Fund. The Board shall establish and administer the Fund solely for the purpose of carrying out the provisions of this chapter. No provision of this chapter shall be construed to give the Board the authority to expend funds for legislative or political activity, except that the Board may recommend to the Director or to other state agencies changes in this chapter or other statutes or regulations that would further the purposes of this chapter. The Fund shall consist of assessments paid pursuant to § 45.1-407, donations from any person, and grants from state or federal agencies. The unexpended balance of the Fund at the end of the biennium shall not be transferred to the general fund of the state treasury.

B. The Auditor for Public Accounts shall audit all the accounts of the Board as provided in § 2.1-155.

C. All money collected under this chapter shall be expended by the Board by warrants of the State Comptroller on vouchers signed by a duly authorized officer of the Board.

§ 45.1-407. Initial and annual assessments.

A. The owner of propane at the time of its odorization in the Commonwealth or, if already odorized, at the time of its import into the Commonwealth, shall pay the annual assessment based on the volume of odorized propane such owner sells. Nonodorized propane shall not be subject to assessment unless and until odorized and sold.

B. The initial assessment shall be one-tenth of one cent (\$0.001) per gallon of odorized propane sold. Thereafter, the annual assessment shall be set by the Board in an amount adequate to cover the projected cost of plans and programs developed by the Board, plus administrative costs and expenses. Gifts, grants and contributions received, or to be received, by the board may be, but are not required to be, taken into account in determining the amount of the annual assessment. In no event shall the annual assessment exceed one-half of one cent (\$0.005) per gallon of odorized propane. The increase in the annual assessment provided for in this chapter is limited to one-tenth of one cent (\$0.001) per year. No increase in the annual assessment shall occur unless at least two-thirds of those Board members voting on the question vote in favor of the increase.

§ 45.1-408. Tax Commissioner authorized to collect assessment on odorized propane sold; refund of assessment for exports.

A. In order for the Board to carry out the provisions for this chapter, the Tax Commissioner shall collect from the handler the assessment authorized by this chapter.

B. Any handler may request a refund of the assessment paid on any odorized propane for the preceding calendar year that was sold by the handler and exported in continuous movement to a destination outside of the Commonwealth. Upon compliance with the provisions of this section, the Tax Commissioner shall refund to each handler requesting a refund the amount of the assessment paid by or on behalf of such handler during the preceding calendar year.

C. The request for a refund must be made within sixty days following the calendar year for which the refund is requested. Failure to request a refund during this period shall terminate the right of any handler to receive a refund for all or part of the assessment paid for the preceding calendar year.

D. Each handler requesting a refund shall execute an affidavit on a form prepared by the Tax Commissioner verifying the amount of refund requested, the volume of propane sold for export to each buyer, the name and address of each buyer, the date of sale and such other information deemed necessary by the Tax Commissioner. The Tax Commissioner may verify the information in the affidavit before making payment and shall have the right to request and review records of such handler supporting the requested refund amount.

§ 45.1-409. Reports to Tax Commissioner; collection and disposition of assessment; records to be kept by handlers.

A. Handlers shall make reports to the Tax Commissioner on forms furnished and prescribed by the Tax Commissioner, on or before the twenty-fifth day of the month following the end of each calendar month. Each report shall include a statement of the total number of gallons of propane odorized in the Commonwealth or, if already odorized, imported into the Commonwealth during the preceding month, the name and address of each buyer of odorized propane, the date of sale and number of gallons sold to such buyer, and any other information deemed necessary by the Tax Commissioner to carry out his duties under this chapter. The amount of assessment required to be paid during the preceding month shall be remitted to the Tax Commissioner with the report. Notwithstanding the provisions of § 58.1-3, upon request, the Tax Commissioner is authorized to provide the Board with a list of assessment payers and amounts paid.

B. Each handler shall keep and preserve suitable records of all propane transactions subject to assessment and any other information deemed necessary by the Tax Commissioner to determine the amount of assessment for which the handler is liable under this chapter. Such records shall be retained for a period of not less than three years and shall be open for inspection by the Tax Commissioner or his agents.

675 § 45.1-410. Collection of delinquent assessments; misdemeanors; prosecution.

676 A. If assessment money due pursuant to this chapter is not paid when due, the Tax Commissioner
677 shall immediately notify the violator of such deficiency and shall add thereto a penalty of five percent of
678 the amount due. If such deficiency is not paid within thirty days from the date of such notice, it shall
679 bear interest, in accordance with § 58.1-15, from the date it was due, which shall be collected as part
680 of the delinquent amount. The Tax Commissioner may waive or remit the penalty of five percent, or
681 portion thereof, in his discretion for good cause shown. If any person is delinquent in any payment of
682 the money owned or interest thereon, the amount shall be collected by civil action in the name of the
683 Commonwealth at the direction of the Tax Commissioner, and the person adjudged to be in default shall
684 pay the cost of such action. The Attorney General, at the request of the Tax Commissioner, shall without
685 delay institute action in the proper court for the collection of the amount of any money past due under
686 this chapter, including interest thereon.

687 B. It shall be a Class 1 misdemeanor for any handler to fail to submit to the Tax Commissioner any
688 statement or report required by this chapter within sixty days from the date such statement or report is
689 required to be submitted under this chapter.

690 C. It shall be a Class 1 misdemeanor for any person knowingly to report falsely to the Tax
691 Commissioner the gallons of odorized propane sold by him during any period, to falsify the records
692 required by § 45.1-409, or to report falsely any information required by § 45.1-396.

693 § 45.1-411. Propane pricing.

694 In all cases, the price of propane shall be determined by market forces. The Board may take no
695 action, and no provision of this chapter may be interpreted as establishing an agreement, to pass along
696 to consumers the cost of the assessment provided for in § 45.1-407.

697 § 45.1-412. Association meeting or activity not considered illegal or in restraint of trade.

698 No industry trade association meeting or activity undertaken to carry out the provisions of this
699 chapter and intended to benefit all person involved in the propane industry shall be deemed or
700 considered illegal or in restraint of trade.

701 § 45.1-413. Relationship to other programs.

702 Nothing in this chapter shall be construed to preempt or supercede any other program relating to
703 propane education and research organized and operated under the laws of this Commonwealth or the
704 United States.

705 **2. That the provisions of this act which assess one-tenth of one cent (\$0.001) per gallon of odorized**
706 **propane sold per year in the Commonwealth shall become effective only after a referendum as**
707 **provided in Chapter 27 (§ 45.1-393 et seq.) of Title 45.1 has passed.**