

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act 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.

[S 666]

Approved

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
Cosmetology, Board for
Criminal Justice Services Board
Dark-Fired Tobacco Board, Virginia

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

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

- 179 § 2.1-1.6. (Delayed effective date) State boards.
- 180 A. There shall be, in addition to such others as may be established by law, the following permanent
- 181 collegial bodies affiliated with a state agency within the executive branch:
- 182 Accountancy, Board of
- 183 Agriculture and Consumer Services, Board of
- 184 Air Pollution, State Advisory Board on
- 185 Alcoholic Beverage Control Board, Virginia
- 186 Apple Board, Virginia State
- 187 Appomattox State Scenic River Advisory Board
- 188 Aquaculture Advisory Board
- 189 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape
- 190 Architects, Board for
- 191 Art and Architectural Review Board
- 192 Athletic Training, Advisory Board on
- 193 Auctioneers Board
- 194 Audiology and Speech-Language Pathology, Board of
- 195 Aviation Board, Virginia
- 196 Barbers, Board for
- 197 Branch Pilots, Board for
- 198 Bright Flue-Cured Tobacco Board, Virginia
- 199 Building Code Technical Review Board, State
- 200 Catoctin Creek State Scenic River Advisory Board
- 201 Cattle Industry Board, Virginia
- 202 Cave Board
- 203 Cemetery Board
- 204 Certified Seed Board, State
- 205 Charity Food Assistance Advisory Board
- 206 Chesapeake Bay Local Assistance Board
- 207 Chickahominy State Scenic River Advisory Board
- 208 Child Abuse and Neglect, Advisory Board on
- 209 Chippokes Plantation Farm Foundation, Board of Trustees
- 210 Clinch Scenic River Advisory Board
- 211 Coal Mining Examiners, Board of
- 212 Coal Research and Development Advisory Board, Virginia
- 213 Coal Surface Mining Reclamation Fund Advisory Board
- 214 Conservation and Development of Public Beaches, Board on
- 215 Conservation and Recreation, Board of
- 216 Contractors, Board for
- 217 Corn Board, Virginia
- 218 Correctional Education, Board of
- 219 Corrections, State Board of
- 220 Cosmetology, Board for
- 221 Criminal Justice Services Board
- 222 Dark-Fired Tobacco Board, Virginia
- 223 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
- 224 Dentistry, Board of
- 225 Design-Build/Construction Management Review Board
- 226 Education, State Board of
- 227 Egg Board, Virginia
- 228 Emergency Medical Services Advisory Board, State
- 229 Farmers Market Board, Virginia
- 230 Fire Services Board, Virginia
- 231 Forestry, Board of
- 232 Funeral Directors and Embalmers, Board of
- 233 Game and Inland Fisheries, Board of
- 234 Geology, Board for
- 235 Goose Creek Scenic River Advisory Board
- 236 Health Planning Board, Virginia
- 237 Health Professions, Board of
- 238 Health, State Board of
- 239 Hearing Aid Specialists, Board for

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

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

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

CHAPTER 27.

VIRGINIA PROPANE EDUCATION AND RESEARCH ACT.

405 § 45.1-393. *Declaration of public policy.*

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

414 § 45.1-394. *Definitions.*

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

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

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

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

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

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

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

425 "Industry" means the production, transportation, and sale of propane, and the manufacture and
 426 distribution of propane utilization equipment.

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

428 "Person" means any individual, partnership, association, corporation, limited liability company,
 429 cooperative, firm or other entity.

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

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

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

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

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

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

443 "Retail marketer" means a person who sells and delivers, or causes another to deliver, odorized
 444 propane to the ultimate consumer or to retail propane dispensers.

445 "Retail propane dispenser" means a person who sells odorized propane to the ultimate consumer but
 446 does not deliver it or cause it to be delivered.

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

449 § 45.1-395. Petition for referendum on question of assessment for education, research and market
 450 development; action of Department and Director.

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

458 § 45.1-396. Persons eligible to vote; voting rights.

459 A. Each producer, supplier and retail marketer that produces or sells odorized propane in Virginia
 460 shall be eligible to vote in the referendum. A person eligible to vote may be a natural person,
 461 partnership, limited liability company, or corporation. The vote of a partnership shall be cast by one of
 462 the general partners. The vote of a limited liability company shall be cast by one of the members. A
 463 corporation shall vote by its president, general manager or such other person as may be authorized by
 464 the corporation to cast its vote.

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

473 C. All persons voting in the referendum shall certify to the Director the volume of propane, in
 474 gallons, represented by their vote. The information provided under this subsection shall be considered
 475 proprietary and shall be held in confidence by the Director. The Director may request additional
 476 information for any person voting in the referendum to verify the volume of propane represented by
 477 their vote.

478 § 45.1-397. Rules governing ballots, conduct of referendum, canvassing, etc.

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

483 § 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 one-half 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 one-half of one cent (\$0.005) per gallon of odorized propane sold in the Commonwealth of Virginia?

[] Yes

[] No."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Gas processors and oil refiners among producers;

2. Interstate and intrastate operators among retail marketers;

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

4. Diverse geographic regions of the Commonwealth.

D. No employee of an industry trade association shall serve as a member of the Board and no member of the Board may serve concurrently as an officer or member of the board of directors of an industry trade association. A member of the board of directors of a qualified industry trade association may serve as an ex officio nonvoting member of the Board.

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

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

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

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

A. The Board shall establish, administer, manage and make expenditures from a special, 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.

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

672 § 45.1-410. Collection of delinquent assessments; misdemeanors; prosecution.

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

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

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

690 § 45.1-411. Propane pricing.

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

694 § 45.1-412. Association meeting or activity not considered illegal or in restraint of trade.

695 No industry trade association meeting or activity undertaken to carry out the provisions of this
696 chapter and intended to benefit all persons involved in the propane industry shall be deemed or
697 considered illegal or in restraint of trade.

698 § 45.1-413. Relationship to other programs.

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

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