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**SENATE BILL NO. 1336**

Offered January 15, 2001

*A BILL to amend and reenact §§ 2.1-51.47, 2.1-114.5, and 2.1-563.35:3 of the Code of Virginia, relating to telecommuting by public employees.*

Patrons—Puller, Barry, Byrne, Colgan, Howell, Mims, Saslaw, Ticer and Whipple; Delegates: Albo, Almand, Amundson, Black, Brink, Darner, McQuigg, Moran and Scott

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.1-51.47, 2.1-114.5, and 2.1-563.35:3 of the Code of Virginia are amended and reenacted as follows:**

§ 2.1-51.47. Secretary to function as Chief Information Officer; powers and duties.

A. The Secretary of Technology shall function as the Chief Information Officer (CIO) of the Commonwealth. In addition to his powers and duties as Secretary of Technology, the CIO shall have the following general powers:

1. Employ such personnel as may be required to carry out the purposes of this chapter.

2. Make and enter into all contracts and agreements necessary or incidental to the performance of his duties and execution of his powers, including but not limited to contracts with the United States, other state agencies, institutions of higher education, and political subdivisions of the Commonwealth.

3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the CIO shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable.

4. Prescribe rules and regulations necessary or incidental to the performance of his duties or execution of his powers.

5. Exercise such powers and perform such duties as are conferred or imposed upon him by law or required of him by the Governor.

B. The CIO shall have the following powers and duties concerning the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology in the Commonwealth:

1. Monitor trends and advances in information technology; direct and approve a comprehensive, statewide, four-year planning process; and plan for the acquisition, management, and use of information technology. The statewide plan shall be updated annually and submitted to the Governor, the Speaker of the House of Delegates, and the President Pro Tempore of the Senate. In developing and updating such plans, the CIO shall consider, at a minimum, the advice and recommendations of the Council on Technology Services created in § 2.1-51.48.

2. Require state agencies and institutions of higher education to prepare and submit information technology plans to the CIO. The CIO shall have the authority to approve and recommend amendments to such plans upon review and recommendation by the Department of Technology Planning (DTP). All state agencies and institutions of higher education shall maintain current information technology plans that have been approved by the CIO.

3. Direct the formulation and promulgation of policies, standards, specifications, and guidelines for information technology in the Commonwealth, including, but not limited to, those (i) required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies, and (ii) concerning the development of electronic transactions including the use of electronic signatures as provided in § 59.1-496, and (iii) concerning telecommuting by the employees of the public bodies, as that term is defined in § 2.1-341.

4. Direct the development of policies and procedures, in consultation with the Department of Planning and Budget, which are integrated into the Commonwealth's strategic planning and performance budgeting processes, and which state agencies and institutions of higher education shall follow in developing information technology plans and technology-related budget requests. Such policies and procedures shall require consideration of the contribution of current and proposed technology expenditures to the support of agency and institution priority functional activities, as well as current and future operating expenses, and shall be utilized by all state agencies and institutions of higher education in preparing budget requests.

5. Review budget requests for information technology from state agencies and institutions of higher education and recommend budget priorities to the Department of Planning and Budget.

6. Direct the development of policies and procedures for review by the Department of Technology

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58 Planning of technology procurements, agreements, or contracts for amounts exceeding \$100,000. The  
59 Department of Technology Planning shall report monthly to the Secretary on all such reviews. The  
60 Secretary may delegate approval of such procurements to the Department of Technology Planning;  
61 however, approval of procurements in excess of one million dollars shall not be delegated by the  
62 Secretary.

63 7. Disapprove procurements that, on the recommendation of the Department of Technology Planning,  
64 do not conform to the statewide information technology plan or to the individual plans of state agencies  
65 or institutions of higher education.

66 8. Direct the development of policies and procedures for the effective management of technology  
67 investments throughout their entire life cycle, including, but not limited to, project definition,  
68 procurement, development, implementation, operation, performance evaluation, and enhancement or  
69 retirement. Such policies and procedures shall include, at a minimum, the periodic review by the  
70 Secretary of the execution of agency and institution of higher education technology projects estimated to  
71 cost one million dollars or more. The Secretary shall be authorized to direct the modification,  
72 suspension, or cessation of any such project which, as the result of a periodic review, has not met the  
73 milestones and performance measures agreed to by the Secretary and the sponsoring agency or  
74 institution. This shall not supersede the responsibility of a board of visitors for the management and  
75 operation of an institution of higher education.

76 9. Direct the establishment of statewide standards for the efficient exchange of electronic information  
77 and technology, including infrastructure, between the public and private sectors in the Commonwealth.

78 10. Oversee and administer the Virginia Technology Infrastructure Fund created in § 9-145.52.

79 11. Undertake or cause to be undertaken a periodic benchmarking analysis of data center and  
80 telecommunications resources and services performed at or provided by agencies and institutions.

81 12. Evaluate the feasibility of outsourcing information technology resources and services and  
82 outsource those resources and services which would be beneficial to the Commonwealth.

83 13. Report annually to the Joint Commission on Technology and Science created pursuant to § 30-85  
84 on the use and application of information technology by state agencies and institutions of higher  
85 education to increase economic efficiency, citizen convenience, and public access to state government  
86 and to assist the Commission in its effort to stimulate, encourage, and promote the development of  
87 technology in the Commonwealth and sound public policies related thereto.

88 14. *Report annually to the General Assembly on the status and efficiency of telecommuting in the*  
89 *Commonwealth.*

90 C. As used in this chapter, "information technology" includes telecommunications, automated data  
91 processing, word processing, the global information system known as the Internet, management  
92 information systems, and related information, equipment, goods, and services. It is in the interest of the  
93 Commonwealth that its institutions of higher education be in the forefront of developments in  
94 technology. Therefore the provisions of this chapter shall not be construed to hamper the pursuit of the  
95 missions of the institutions in instruction and research.

96 § 2.1-114.5. Duties of Department.

97 The Department shall have the following duties:

98 1. Make recommendations to the Governor regarding the establishment and maintenance of a  
99 classification plan for the service of the Commonwealth, and recommend amendments thereto as may be  
100 necessary.

101 2. Make recommendations to the Governor regarding the establishment and administration of a  
102 compensation plan for all employees, and recommend amendments thereto as may be necessary.

103 3. Design and maintain a personnel information system which shall support the operational needs of  
104 the Department and of state agencies, and which shall provide for the management information needs of  
105 the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a  
106 roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each  
107 employee, the employing agency, the class title, pay, status and such other data as may be deemed  
108 desirable to produce significant facts pertaining to personnel administration.

109 4. Establish and direct a program of employee-management relations designed to improve  
110 communications between employees and agencies of the Commonwealth.

111 5. Establish and administer a system of performance evaluation for all employees in the service of  
112 the Commonwealth, based on the quality of service rendered, related where practicable to specific  
113 standards of performance. In no event shall workers' compensation leave affect the total number of hours  
114 credited during a performance cycle for purposes of calculating incentive increases in salary based on  
115 such performance evaluations.

116 6. Establish and administer a system of recruitment designed to attract high quality employees to the  
117 service of the Commonwealth. In administering this system, applicants shall be rated on the basis of  
118 relative merit and classified in accordance with their suitability for the various classes of positions in the  
119 service of the Commonwealth, and a record thereof shall be maintained in the open register.

7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work performed by the applicant.

8. Establish and administer a comprehensive and integrated program of employee training and management development.

9. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

10. Establish and administer a program to assure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.

11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than ten days of any state employee who is under investigation without a hearing conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.

12. Adopt and implement a program of meritorious service awards to employees who propose procedures or ideas which are adopted and which will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect.

13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the international network of computer systems commonly known as the Internet. At a minimum, the Department's acceptable use policy shall contain provisions which (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department of Human Resource Management shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to assure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department of Human Resource Management shall have no authority with respect to the state grievance procedures.

14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year. Effective July 1, 1995, the publication shall include net gains and losses in personnel for each agency for a three-year period.

15. Administer the workers' compensation insurance plan for state employees in accordance with § 2.1-114.5:02.

16. *In consultation with the Department of Technology Planning, establish and administer an incentive program that may encourage state employees to telecommute.*

§ 2.1-563.35:3. General powers of Department.

A. The Department shall have the following general powers, all of which, with the approval of the Director, may be exercised by a division of the Department with respect to matters assigned to that division:

1. Employ such personnel as may be required to carry out the purposes of this chapter.

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including, but not limited to, contracts with the United States, other state agencies, and political subdivisions of the Commonwealth.

3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable.

4. Prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter.

5. Do all acts necessary, convenient, or desirable to carry out the purposes of this chapter.

B. The Department shall have the following powers and duties concerning the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology:

1. To monitor trends and advances in information technology; develop a comprehensive, statewide, four-year planning process; and plan for the acquisition, management, and use of information technology.

181 2. To plan and forecast future needs for information technology and conduct studies and surveys of  
182 organizational structures and best management practices of information technology systems and  
183 procedures.

184 3. To assist the Secretary of Technology in the development of statewide policies affecting  
185 technology at all levels of government, in the business sector, and among the general citizenry.

186 4. To provide agencies and institutions of higher education with information and guidelines in the  
187 development of information management plans and the preparation of budget requests for information  
188 technology which are consistent with the policies and procedures developed by the Secretary of  
189 Technology, in consultation with the Department of Planning and Budget, for integrating such plans and  
190 requests into the Commonwealth's strategic planning and performance budgeting processes.

191 5. To review information management plans submitted by agencies and institutions of higher  
192 education to the Secretary of Technology. The Department shall recommend to the Secretary of  
193 Technology the approval of such plans and any amendments thereto.

194 6. To monitor implementation of information management plans and periodically report its findings  
195 to the Secretary of Technology.

196 7. To develop and promulgate policies, standards, and guidelines for managing information  
197 technology in the Commonwealth.

198 8. To review agency and institution budget requests for information technology and recommend to  
199 the Secretary of Technology budget request priorities for consideration by the Department of Planning  
200 and Budget.

201 9. To direct the compilation and maintenance of an inventory of information technology, including,  
202 but not limited to, personnel, facilities, equipment, goods, and contracts for services.

203 10. To develop an approval process to ensure that all information technology procurements conform  
204 to the statewide information management plan and the information management plans of agencies and  
205 institutions of higher education.

206 11. To develop statewide standards for the efficient exchange of electronic information and  
207 technology, including infrastructure, between the public and private sectors in the Commonwealth.

208 12. *To develop a comprehensive statewide plan, including but not limited to, model guidelines,*  
209 *procedures, and policies, for telecommuting by the employees of the public bodies, as that term is*  
210 *defined in § 2.1-341, and periodically update that plan.*

211 13. *To advise and assist the public bodies, as that term is defined in § 2.1-341, in planning,*  
212 *developing, and administering programs, projects, comprehensive plans, policies, and other activities for*  
213 *telecommuting by employees of the public bodies.*

214 14. *To advise and assist private sectors in the Commonwealth in planning, developing, and*  
215 *administering programs, projects, comprehensive plans, policies, and other activities for telecommuting*  
216 *by private sector employees and to develop incentives to encourage private sectors in the*  
217 *Commonwealth to utilize employee telecommuting.*

218 15. *To evaluate status, effectiveness and utilization of employee telecommuting, in both public and*  
219 *private sectors in the Commonwealth and report its findings to the Secretary of Technology.*

220 **2. § 1. That, in order to promote telecommuting in the Commonwealth, there is hereby established**  
221 **the Telecommuting Incentive Act.**

222 § 2. *In consultation with the Department of Technology Planning, the head of each public body, as*  
223 *that term is defined in § 2.1-341, shall establish a telecommuting policy under which eligible employees*  
224 *of the public body may telecommute to the maximum extent possible without diminished employee*  
225 *performance. The policy shall identify types of employees eligible for telecommuting and any incentives*  
226 *or benefits of telecommuting and shall be updated periodically as necessary. Where applicable,*  
227 *telecommuting policy of a public body shall complement or include the telecommuting incentive program*  
228 *established by the Department of Human Resource Management. The head of each public body shall*  
229 *annually report to the Secretary of Technology or his designee on status and efficiency of*  
230 *telecommuting.*