

VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

CHAPTER 981

An Act to amend and reenact §§ 2.2-106, 2.2-225, 2.2-1110, 2.2-1119, 2.2-2261, 2.2-2423, 2.2-2431, 2.2-2651, 2.2-3704, 2.2-3708, 2.2-4304, 17.1-279, 42.1-80, 53.1-52, 56-484.12, 56-484.13, and 56-484.15 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 20, containing articles numbered 1 through 6, consisting of sections numbered 2.2-2000 through 2.2-2027, by adding in Chapter 24 of Subtitle 1 of Title 2.2 an article numbered 18, consisting of sections numbered 2.2-2452 and 2.2-2453; and to repeal §§ 2.2-226, 2.2-226.1, 2.2-227, and 2.2-2403 of the Code of Virginia and to repeal Chapter 13 (§§ 2.2-1300 through 2.2-1304), Chapter 17 (§§ 2.2-1700 through 2.2-1710), and Article 5 (§§ 2.2-2247 through 2.2-2259) of Chapter 22 of Title 2.2 of the Code of Virginia, relating to the Information Technology Investment Board; Chief Information Officer; Virginia Information Technologies Agency.

[H 1926]

Approved April 2, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-106, 2.2-225, 2.2-1110, 2.2-1119, 2.2-2261, 2.2-2423, 2.2-2431, 2.2-2651, 2.2-3704, 2.2-3708, 2.2-4304, 17.1-279, 42.1-80, 53.1-52, 56-484.12, 56-484.13, and 56-484.15 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 20, containing articles numbered 1 through 6, consisting of sections numbered 2.2-2000 through 2.2-2027, by adding in Chapter 24 of Title 2.2 an article numbered 18, consisting of sections numbered 2.2-2452 and 2.2-2453, as follows:

§ 2.2-106. Appointment of agency heads.

Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

1. Executive Director of the Virginia Port Authority;
2. Director of the State Council of Higher Education for Virginia;
3. Executive Director of the Department of Game and Inland Fisheries;
4. Executive Director of the Jamestown-Yorktown Foundation;
5. Executive Director of the Motor Vehicle Dealer Board;
6. Librarian of Virginia;
7. Administrator of the Commonwealth's Attorneys' Services Council;
8. Executive Director of the Virginia Housing Development Authority; ~~and the~~
9. Executive Director of the Board of Accountancy; *and the*
10. *Chief Information Officer of the Commonwealth.*

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

For the purpose of this section, "agency" includes all administrative units established by law or by executive order that are not (i) arms of the legislative or judicial branches of government; (ii) institutions of higher education as classified under §§ 23-253.7, 22.1-346, 23-14, 23-252, and; (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation districts; and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

§ 2.2-225. Position established; agencies for which responsible; additional powers.

The position of Secretary of Technology (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies and boards: ~~Department of Information Technology, Department of Technology Planning, Information Technology Investment Board~~, Innovative Technology Authority, ~~Virginia Information Providers Network Authority~~, *Virginia Information Technologies Agency*, Virginia Geographic Information Network Advisory Board, and the Wireless E-911 Services Board. The Governor, by executive order, may assign any other state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

Unless the Governor expressly reserves such power to himself, the Secretary may, with regard to strategy development, planning and budgeting for technology programs in the Commonwealth:

1. Monitor trends and advances in fundamental technologies of interest and importance to the economy of the Commonwealth and direct and approve a stakeholder-driven technology strategy development process that results in a comprehensive and coordinated view of research and development goals for industry, academia and government in the Commonwealth. This strategy shall be updated biennially and submitted to the Governor, the Speaker of the House of Delegates and the President Pro

Tempore of the Senate.

2. Work closely with the appropriate federal research and development agencies and program managers to maximize the participation of Commonwealth industries and universities in these programs consistent with agreed strategy goals.

3. Direct the development of plans and programs for strengthening the technology resources of the Commonwealth's high technology industry sectors and for assisting in the strengthening and development of the Commonwealth's Regional Technology Councils.

4. Direct the development of plans and programs for improving access to capital for technology-based entrepreneurs.

5. *Assist the Joint Commission on Technology and Science created pursuant to § 30-85 in its efforts to stimulate, encourage, and promote the development of technology in the Commonwealth.*

§ 2.2-1110. Using agencies to purchase through Division of Purchases and Supply; exception.

A. Except as *provided by § 2.2-2007 or otherwise directed and authorized by the Division or in the Code of Virginia*, every department, division, institution, officer and agency of the Commonwealth, hereinafter called the using agency, shall purchase through the Division all materials, equipment, supplies, printing and nonprofessional services of every description, whenever the whole or a part of the costs is to be paid out of the state treasury. The Division shall make such purchases in conformity with this article.

B. The provisions of subsection A shall not apply to the purchase of materials, equipment, supplies, printing and nonprofessional services of every description by the Virginia Retirement System; however, the Board of Trustees of the Virginia Retirement System shall adopt regulations made in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) that specify policies and procedures that are based on competitive principles and that are generally applicable to procurement of such goods and services by comparably situated state agencies. The exemption provided by this subsection shall apply for only as long as such regulations, or other regulations meeting the requirements of this subsection, remain in effect at the Virginia Retirement System.

§ 2.2-1119. Cases in which purchasing through Division not mandatory.

A. Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies and nonprofessional services through the Division shall not be mandatory in the following cases:

1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor and materials;

2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;

3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered perishable within the meaning of this subdivision, unless so classified by the Division;

4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

5. Materials, equipment and supplies needed by the Virginia Alcoholic Beverage Control Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or under its authority;

7. Printing of the records of the Supreme Court; and

8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking services.

B. *Telecommunications and information technology goods and services of every description shall be procured as provided by § 2.2-2007.*

CHAPTER 20.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY.

Article 1.

General Provisions.

§ 2.2-2000. *Creation of Agency; appointment of Chief Information Officer.*

A. *There is hereby created the Virginia Information Technologies Agency (VITA), which shall serve as the agency responsible for administration and enforcement of the provisions of this Chapter and the rules and policies of the Board.*

B. *The Board shall appoint a Chief Information Officer (the CIO) as the chief administrative officer of the Board to oversee the operation of VITA. The CIO shall be employed under special contract for a term of five years and shall, under the direction and control of the Board, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Board.*

§ 2.2-2001. Definitions.

As used in this chapter:

"Board" means the Information Technology Investment Board created in § 2.2-2452.

"Communications services" includes telecommunications services, automated data processing services, and management information systems that serve the needs of state agencies and institutions.

"Information technology" means telecommunications, automated data processing, databases, the Internet, management information systems, and related information, equipment, goods, and services. It is in the interest of the Commonwealth that its public institutions of higher education in Virginia be in the forefront of developments in technology. Therefore, the provisions of this chapter shall not be construed to hamper the pursuit of the missions of the institutions in instruction and research.

"Major information technology project" means any state agency information technology project that (i) is mission-critical, (ii) has statewide application, or (iii) has a total estimated cost of more than \$1 million.

"Noncommercial telecommunications entity" means any public broadcasting station as defined in § 2.2-2427.

"Public telecommunications entity" means any public broadcasting station as defined in § 2.2-2427.

"Public telecommunications facilities" means all apparatus, equipment and material necessary for or associated in any way with public broadcasting stations or public broadcasting services as those terms are defined in § 2.2-2427, including the buildings and structures necessary to house such apparatus, equipment and material, and the necessary land for the purpose of providing public broadcasting services, but not telecommunications services.

"Public telecommunications services" means public broadcasting services as defined in § 2.2-2427.

"Secretary" means the Secretary of Technology.

"State agency" or "agency" means any agency, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch listed in the appropriation act.

"Telecommunications" means any origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature, by wire, radio, television, optical, or other electromagnetic systems.

"Telecommunications facilities" means apparatus necessary or useful in the production, distribution, or interconnection of electronic communications for state agencies or institutions including the buildings and structures necessary to house such apparatus and the necessary land.

§ 2.2-2002. Powers of the CIO.

A. In addition to such other duties as the Board may assign, the CIO shall:

1. Monitor trends and advances in information technology; develop a comprehensive, statewide, four-year strategic plan for information technology to include specific projects that implement the plan; and plan for the acquisition, management, and use of information technology by state agencies. The statewide plan shall be updated annually and submitted to the Board for approval. In developing and updating the plan, the CIO shall consider the advice and recommendations of the Council on Technology Services created pursuant to § 2.2-2651.

2. Direct the formulation and promulgation of policies, guidelines, standards, and specifications for the purchase, development, and maintenance of information technology for state agencies, 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, (ii) concerned with the development of electronic transactions including the use of electronic signatures as provided in § 59.1-496, and (iii) necessary to support a unified approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the Commonwealth receive the greatest possible security, value, and convenience from investments made in technology.

3. Direct the development of policies and procedures, in consultation with the Department of Planning and Budget, that are integrated into the Commonwealth's strategic planning and performance budgeting processes, and that state agencies and public 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 public institutions of higher education in preparing budget requests.

4. Review budget requests for information technology from state agencies and public institutions of higher education and recommend budget priorities to the Information Technology Investment Board.

This review shall include, but not be limited to, all data processing or other related projects for amounts exceeding \$100,000 in which the agency or institution has entered into or plans to enter into a contract, agreement or other financing agreement or such other arrangement that requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or other assessments or revenues to pay for the project. For each project, the agency or institution shall provide the CIO (i) a summary of the terms, (ii) the anticipated duration, and (iii) the cost or charges to any

user, whether a state agency or institution or other party not directly a party to the project arrangements. The description shall also include any terms or conditions that bind the Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed to reach such terms.

5. Direct the development of policies and procedures for the effective management of information technology investments throughout their entire life cycles, including, but not limited to, project definition, procurement, development, implementation, operation, performance evaluation, and enhancement or retirement. Such policies and procedures shall include, at a minimum, the periodic review by the CIO of agency and public institution of higher education information technology projects estimated to cost \$1 million or more or deemed to be mission-critical or of statewide application by the CIO.

6. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to § 2.2-2018.

7. Periodically evaluate the feasibility of outsourcing information technology resources and services, and outsource those resources and services that are feasible and beneficial to the Commonwealth.

8. Report annually to the Governor and the Joint Commission on Technology and Science created pursuant to § 30-85 on the use and application of information technology by state agencies and public institutions of higher education to increase economic efficiency, citizen convenience, and public access to state government.

9. Direct the development of policies and procedures that require VITA to review information technology projects proposed by state agencies and institutions exceeding \$100,000, and recommend whether such projects be approved or disapproved. The CIO shall disapprove projects between \$100,000 and \$1 million that do not conform to the statewide information plan or to the individual plans of state agencies or institutions of higher education.

B. Consistent with § 2.2-2007, the CIO may enter into public-private partnership contracts to finance or implement information technology programs and projects. The CIO may issue a request for information to seek out potential private partners interested in providing programs or projects pursuant to an agreement under this subsection. The compensation for such services shall be computed with reference to and paid from the increased revenue or cost savings attributable to the successful implementation of the program or project for the period specified in the contract. The CIO shall be responsible for reviewing and approving the programs and projects and the terms of contracts for same under this subsection. The CIO shall determine annually the total amount of increased revenue or cost savings attributable to the successful implementation of a program or project under this subsection and such amount shall be deposited in the Virginia Technology Infrastructure Fund created in § 2.2-2018. The CIO is authorized to use moneys deposited in the Fund to pay private partners pursuant to the terms of contracts under this subsection. All moneys in excess of that required to be paid to private partners, as determined by the CIO, shall be reported to the Comptroller and retained in the Fund. The CIO shall prepare an annual report to the Governor and General Assembly on all contracts under this subsection, describing each information technology program or project, its progress, revenue impact, and such other information as may be relevant.

§ 2.2-2003. Additional duties of the CIO relating to project management.

The CIO shall have the following duties relating to the management of information technology projects:

1. Develop an approval process for proposed major information technology projects by state agencies to ensure that all such projects conform to the statewide information management plan and the information management plans of agencies and public institutions of higher education.

2. Establish a methodology for conceiving, planning, scheduling and providing appropriate oversight for information technology projects including a process for approving the planning, development and procurement of information technology projects. Such methodology shall include guidelines for the establishment of appropriate oversight for information technology projects.

3. Establish minimum qualifications and training standards for project managers.

4. Review and approve all procurement solicitations involving major information technology projects.

5. Direct the development of any statewide or multiagency enterprise project.

6. Develop and update a project management methodology to be used by agencies in the development of information technology.

7. Establish an information clearinghouse that identifies best practices and new developments and contains detailed information regarding the Commonwealth's previous experiences with the development of major information technology projects.

§ 2.2-2004. Additional duties of the CIO relating to security of government database.

A. To ensure the security of state government databases and data communications from unauthorized uses, intrusions or other security threats, the CIO shall direct the development of policies, procedures and standards for assessing security risks, determining the appropriate security measures and performing security audits of government databases and data communications. At a minimum, these policies, procedures and standards shall address the scope of security audits and which public bodies

are authorized to conduct security audits. In developing and updating such policies, procedures and standards, the CIO shall consider, at a minimum, the advice and recommendations of the Council on Technology Services created pursuant to § 2.2-2651.

B. The CIO shall designate a government entity to oversee, plan and coordinate the conduct of periodic security audits of all executive branch agencies and institutions of higher education regarding the protection of government databases and data communications.

1. Security audits may include, but are not limited to, on-site audits as well as reviews of all written security procedures.

2. The designated entity may contract with a private firm or firms that specialize in conducting such audits subject to approval of the CIO.

C. All public bodies subject to such audits as required by this section shall fully cooperate with the entity designated to perform such audits.

D. The provisions of this section shall not infringe upon responsibilities assigned to the Comptroller, the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other provisions of the Code of Virginia.

§ 2.2-2005. Additional powers of VITA.

VITA shall have the following additional powers which, with the approval of the CIO, may be exercised by a division of VITA with respect to matters assigned to that division:

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

2. Plan and forecast future needs for information technology and conduct studies and surveys of organizational structures and best management practices of information technology systems and procedures.

3. Assist state agencies and public institutions of higher education in the development of information management plans and the preparation of budget requests for information technology that are consistent with the policies and procedures developed pursuant to § 2.2-2002.

4. Develop and adopt policies, standards, and guidelines for managing information technology by state agencies and institutions.

5. Develop and adopt policies, standards, and guidelines for the procurement of information technology and telecommunications goods and services of every description for state agencies.

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

7. Direct the compilation and maintenance of an inventory of information technology, including, but not limited to, personnel, facilities, equipment, goods, and contracts for services.

8. Develop statewide technical and data standards for information technology and related systems to promote efficiency and uniformity.

9. Evaluate the needs of agencies in the Commonwealth with regard to (i) a consistent, reliable, and secure information technology infrastructure, (ii) existing capabilities with regard to building and supporting that infrastructure, and (iii) recommended approaches to ensure the future development, maintenance, and financing of an information technology infrastructure befitting the needs of state agencies and the service level requirements of its citizens.

10. Establish fee schedules that shall be collectible from users when general fund appropriations are not applicable to the services rendered.

§ 2.2-2006. Additional powers and duties relating to communications services and telecommunications facilities.

A. VITA shall have the following additional powers and duties concerning the planning, budgeting, acquiring, using, and disposing of communications goods and services:

1. Formulate specifications for telecommunications, automated data processing, and management information systems;

2. Analyze and approve all procurements of interconnective telecommunications facilities, telephones, automated data processing, and other communications equipment and goods;

3. Review and approve all agreements and contracts for communications services prior to execution between a state agency and another public or private agency;

4. Develop and administer a system to monitor and evaluate executed contracts and billing and collection systems; and

5. Exempt from review requirements, but not from the Commonwealth's competitive procurement process, any state agency that establishes, to the satisfaction of VITA, (i) its ability and willingness to administer efficiently and effectively the procurement of communications services or (ii) that it has been subjected to another review process coordinated through or approved by VITA.

B. VITA shall have the following powers and duties concerning the development, operation and management of communications services:

1. Manage and coordinate the various telecommunications facilities and communications services, centers, and operations used by the Commonwealth;

2. Acquire, lease, or construct such facilities and equipment as necessary to deliver comprehensive

communications services, and to maintain such facilities and equipment owned or leased;

3. Provide technical assistance to state agencies in such areas as: (i) designing management information systems; (ii) performing systems development services, including design, application programming, and maintenance; (iii) conducting research and sponsoring demonstration projects pertaining to all facets of telecommunications and communications services; (iv) effecting economies in telephone systems and equipment; and (v) planning and forecasting for future needs in communications services; and

4. Develop and implement information, billing, and collections systems that will aid state agencies in forecasting their needs and managing their operations.

§ 2.2-2007. Procurement of information technology and telecommunications goods and services; computer equipment to be based on performance-based specifications.

A. Information technology and telecommunications goods and services of every description shall be procured by (i) VITA for its own benefit or on behalf of other state agencies and institutions or (ii) such other agencies or institutions to the extent authorized by VITA. Such procurements shall be made in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and regulations as may be prescribed by VITA.

The CIO shall disapprove any procurement that does not conform to the statewide information technology plan or to the individual plans of state agencies or public institutions of higher education.

B. All statewide contracts and agreements made and entered into by VITA for the purchase of communications services, telecommunications facilities, and information technology goods and services shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. Notwithstanding the provisions of § 2.2-4301, VITA may enter into multiple vendor contracts for the referenced services, facilities, and goods and services.

C. If VITA, or any agency or institution authorized by VITA, elects to procure personal computers and related peripheral equipment pursuant to any type of blanket purchasing arrangement under which public bodies, as defined in § 2.2-4301, may purchase such goods from any vendor following competitive procurement but without the conduct of an individual procurement by or for the using agency or institution, it shall establish performance-based specifications for the selection of equipment. Establishment of such contracts shall emphasize performance criteria including price, quality, and delivery without regard to "brand name." All vendors meeting the Commonwealth's performance requirements shall be afforded the opportunity to compete for such contracts.

D. This section shall not be construed or applied so as to infringe upon, in any manner, the responsibilities for accounting systems assigned to the Comptroller under § 2.2-803.

§ 2.2-2008. Internal service funds; Automated Services Internal Service Fund; Computer Services Internal Service Fund; Telecommunication Services Internal Service Fund.

A. There are established the following internal service funds to be administered by VITA:

1. The Automated Services Internal Service Fund to be used to finance automated systems design, development and testing services and staff of VITA;

2. The Computer Services Internal Service Fund to be used to finance computer operations and staff of VITA; and

3. The Telecommunication Services Internal Service Fund to be used to finance telecommunications operations and staff of VITA.

B. There is established the Acquisition Services Special Fund to be administered by VITA and used to finance procurement and contracting activities and programs unallowable for federal fund reimbursement.

C. All users of services provided for in this chapter administered by VITA shall be assessed a surcharge, which shall be deposited in the appropriate fund. This charge shall be an amount sufficient to allow VITA to finance the operations and staff of the services offered.

D. Additional moneys necessary to establish these funds or provide for the administration of the activities of VITA may be advanced from the general account of the state treasury.

§ 2.2-2009. Submission of information technology plans by state agencies and public institutions of higher education; designation of technology resource.

A. All state agencies and public institutions of higher education shall prepare and submit information technology plans to the CIO for review and approval. All state agencies and public institutions of higher education shall maintain current information technology plans that have been approved by the CIO.

B. The head of each state agency shall designate an existing employee to be the agency's information technology resource who shall be responsible for compliance with the procedures, policies, and guidelines established by the CIO.

§ 2.2-2010. Authority of CIO to modify or suspend major information technology projects; project termination.

The CIO may direct the modification or suspension of any major information technology project that, as the result of a periodic review authorized by subdivision 5 of § 2.2-2002, has not met the performance measures agreed to by the CIO and the sponsoring agency or public institution of higher education or if he otherwise deems such action appropriate and consistent with the terms of any affected

contracts. The CIO may recommend to the Board the termination of such project. Nothing in this section shall be construed to supersede the responsibility of a board of visitors for the management and operation of a public institution of higher education.

The provisions of this section shall not apply to research projects, research initiatives or instructional programs at public institutions of higher education. However, technology investments in research projects, research initiatives or instructional programs at such institutions estimated to cost \$1 million or more of general fund appropriations may be reviewed as provided in subdivision 5 of § 2.2-2002 if the projects are deemed mission-critical by the institution or of statewide application by the CIO. The CIO and the Secretary of Education, in consultation with public institutions of higher education, shall develop and provide to such institution criteria to be used in determining whether projects are mission-critical.

Article 2.

Division of Project Management.

§ 2.2-2011. Division of Project Management established.

There is established within VITA a Division of Project Management (the Division). The Division shall exercise the powers and duties conferred in this article.

§ 2.2-2012. Powers and duties of the Division.

The Division shall have the power and duty to:

1. Implement the approval process for information technology projects developed in accordance with § 2.2-2003;

2. Assist the CIO in the development and implementation of a project management methodology to be used in the development of and implementation of information technology projects in accordance with this article;

3. Provide ongoing assistance and support to state agencies and public institutions of higher education in the development of information technology projects;

4. Establish a program providing cost-effective training to agency project managers;

5. Review information management and information technology plans submitted by agencies and public institutions of higher education and recommend to the CIO the approval of such plans and any amendments thereto;

6. Monitor the implementation of information management and information technology plans and periodically report its findings to the CIO;

7. Assign project management specialists to review and recommend information technology proposals based on criteria developed by the Division based on the (i) degree to which the project is consistent with the Commonwealth's overall strategic plan; (ii) technical feasibility of the project; (iii) benefits to the Commonwealth of the project, including customer service improvements; (iv) risks associated with the project; (v) continued funding requirements; and (vi) past performance by the agency on other projects; and

8. Provide oversight for state agency information technology projects.

§ 2.2-2013. Project planning approval.

A. Prior to proceeding with any major information technology project, an agency shall submit to the Division a project proposal, outlining the business need for the project, the proposed technology solution, if known, and an explanation of how the project would support the agency's business objectives and the Commonwealth's information technology plan. The project management specialist may require the submission of additional information if needed to adequately review any such proposal.

B. The project management specialist shall review the proposal and recommend its approval or rejection to the CIO.

§ 2.2-2014. Project development approval.

A. Upon approval of the CIO of the project plan, an agency shall submit to the Division a project development proposal containing (i) a detailed business case including a cost-benefit analysis; (ii) a business process analysis, if applicable; (iii) system requirements, if known; (iv) a proposed development plan and project management structure; and (v) a proposed resource or funding plan. The project management specialist may require the submission of additional information necessary to meet the criteria developed by the Division.

B. The project management specialist assigned to review the project development proposal shall recommend its approval or rejection to the CIO. If the CIO determines that the proposal be approved, he shall recommend such approval to the Board.

§ 2.2-2015. Procurement approval for major information technology projects.

Upon approval of the Board of the project development proposal involving a major information technology project that requires the procurement of goods or services, the agency shall submit a copy of any Invitation for Bid (IFB) or Request for Proposal (RFP) to the Division. The project management specialist shall review the IFB or RFP and recommend its approval or rejection to the CIO. The CIO shall have the final authority to approve the IFB or RFP prior to its release and shall approve the proposed contract for the award of the project.

§ 2.2-2016. Project oversight.

A. Whenever an agency has received approval from the Board to proceed with the development and acquisition of a major information technology project, an internal agency oversight committee shall be established by the CIO. The internal agency oversight committee shall provide ongoing oversight for the project and have the authority to approve or reject any changes in the project's scope, schedule, or budget. The CIO shall ensure that the project has in place adequate project management and oversight structures for addressing major issues that could affect the project's scope, schedule or budget and shall address issues that cannot be resolved by the internal agency oversight committee.

B. Whenever a statewide or multiagency project has received approval from the Board, the primary project oversight shall be conducted by a committee composed of representatives from agencies impacted by the project, which shall be established by the CIO.

Article 3.

Virginia Technology Infrastructure Fund.

§ 2.2-2017. Definitions; purpose.

A. As used in this article, unless the context requires a different meaning:

"Costs" means the reasonable and customary charges for goods and services incurred or to be incurred in major information technology projects.

"Technology infrastructure" means telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services.

B. In order for the Commonwealth to take advantage of technological applications in providing services and solving problems of Virginia's citizens, there is a need to reinvest savings that accrue from increased usage of technology into new and emerging technologies that will provide for both greater efficiencies and better responsiveness. The purpose of this article is to create the Virginia Technology Infrastructure Fund (the Fund). The Fund shall make moneys available to state agencies and institutions of higher education for major information technology projects.

§ 2.2-2018. Virginia Technology Infrastructure Fund created; contributions.

A. The Virginia Technology Infrastructure Fund (the Fund) is created in the state treasury. The Fund is to be used to fund major information technology projects or to pay private partners as authorized in subsection B of § 2.2-2002.

B. The Fund shall consist of: (i) the transfer of general and nongeneral fund appropriations from state agencies which represent savings that accrue from reductions in the cost of information technology and communication services, (ii) the transfer of general and nongeneral fund appropriations from state agencies which represent savings from the implementation of information technology enterprise projects, (iii) funds identified pursuant to subsection B of § 2.2-2002, (iv) such general and nongeneral fund fees or surcharges as may be assessed to agencies for enterprise technology projects, (v) gifts, grants, or donations from public or private sources, and (vi) such other funds as may be appropriated by the General Assembly. Savings shall be as identified by the CIO through a methodology approved by the Board and the Secretary of Finance. The Auditor of Public Accounts shall certify the amount of any savings identified by the CIO. For public institutions of higher education, however, savings shall consist only of that portion of total savings that represent general funds. The State Comptroller is authorized to transfer cash consistent with appropriation transfers. Appropriated funds from federal sources are exempted from transfer. Except for funds to pay private partners as authorized in subsection B of § 2.2-2002, moneys in the Fund shall only be expended as provided by the appropriation act.

Interest earned on the Fund shall be credited to the Fund. The Fund shall be permanent and nonreverting. Any unexpended balance in the Fund at the end of the biennium shall not be transferred to the general fund of the state treasury.

§ 2.2-2019. Annual plan; allowable uses of Fund.

The CIO, with advice from the Council on Technology Services, shall prepare a plan that identifies the projects in which the Fund will participate. The plan shall be consistent with the statewide plan for information technology and shall consider the use of existing resources and long-term operation and maintenance costs. Projects having the greatest benefit to state government as a whole shall have the highest priority in the plan.

Article 4.

Virginia Geographic Information Network.

§ 2.2-2020. Definitions.

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

"Base map data" means the digitized common geographic data that are used by most geographic information systems applications to reference or link attribute or other geographic data.

"Division" means the Geographic Information Network Division.

"Geographic data" means data that contain either coordinates that reference a geographic location or area or attribute data that can be related to a geographic area or location.

"Geographic information system (GIS)" means a computerized system that stores and links geographic data to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

§ 2.2-2021. Geographic Information Network Division established.

There is established within VITA a Geographic Information Network Division (the Division), which shall foster the creative utilization of geographic information and oversee the development of a catalog of GIS data available in the Commonwealth. The Division shall be headed by a coordinator who shall be under the supervision of and report to the CIO. The Division shall exercise the powers and duties conferred in this article.

§ 2.2-2022. Powers and duties of the Division; Division coordinator.

A. The powers and duties of the Division shall include:

1. Requesting the services, expertise, supplies and facilities of VITA from the CIO on issues concerning the Division;

2. Accepting grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Division shall have the power to comply with such conditions and execute such agreements as may be necessary or desirable;

3. Fixing, altering, charging, and collecting rates, rentals, and other charges for the use or sale of products of, or services rendered by, the Division, at rates which reflect the fair market value;

4. Soliciting, receiving, and considering proposals for funding projects or initiatives from any state or federal agency, local or regional government, public institution of higher education, nonprofit organization, or private person or corporation;

5. Soliciting and accepting funds, goods and in-kind services that are part of any accepted project proposal;

6. Establishing ad hoc committees or project teams to investigate related technology or technical issues and providing results and recommendations for Division action; and

7. Establishing such bureaus, sections or units as the Division deems appropriate to carry out its powers and duties.

B. The Coordinator shall:

1. Oversee the development of and recommend to VITA the promulgation of those policies and guidelines required to support state and local government exchange, acquisition, storage, use, sharing and distribution of geographic or base map data and related technologies;

2. Foster the development of a coordinated comprehensive system for providing ready access to electronic state government geographic data products for individuals, businesses, and other entities;

3. Initiate and manage projects or conduct procurement activities relating to the development or acquisition of geographic data or statewide base map data or both;

4. Plan for and coordinate the development or procurement of priority geographic base map data;

5. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of Virginia geographic data and governmental geographic data users;

6. Provide, upon request, advice and guidance on all agreements and contracts from all branches of state government for geographic data acquisition and design and the installation and maintenance of geographic information systems;

7. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual state and local government agencies;

Nothing in this article shall be construed to require that GIS data be physically delivered to the Division. All state agencies that maintain GIS databases shall report to the Division the details of the data that they develop, acquire, and maintain. Each agency shall submit quarterly reports to the Division specifying all updates to existing data as well as all data development and acquisition currently in progress. Data exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) need not be reported to the Division.

8. Identify and collect information and technical requirements to assist the Division in setting priorities for the development of state digital geographic data and base maps that meet the needs of state agencies, institutions of higher education, and local governments;

9. Provide services, geographic data products, and access to the repository at rates established by the Division; and

10. Ensure the compliance of those policies, standards, and guidelines developed by VITA required to support and govern the security of state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies.

§ 2.2-2023. GIS Fund created.

There is hereby created in the state treasury a special, nonreverting fund to be known as the GIS Fund, hereafter referred to as the Fund. The Fund shall be established on the books of the Comptroller. All moneys collected pursuant to subsection A of § 2.2-2022 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the CIO.

§ 2.2-2024. Additional powers and duties of the CIO.

The CIO shall have the power and duty, on the recommendation of the Coordinator, to (i) receive

and disburse funds; (ii) enter into contracts for the purpose of carrying out the provisions of this article; and (iii) rent office space and procure equipment, goods, and services that are necessary to carry out the provisions of this article.

§ 2.2-2025. *Nonstock corporation to assist in the development of GIS data.*

VITA is hereby authorized to establish a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as an instrumentality to assist VITA and the Division in the development and acquisition of geographic data and statewide base map data. On or before December 1 of each year, VITA shall report on the activities of the nonstock corporation to the Governor and the General Assembly.

Article 5.

Division of Public Safety Communications.

§ 2.2-2026. *Division of Public Safety Communications established; appointment of Virginia Public Safety Communications Coordinator; duties of Division.*

A. There is established within VITA, a Division of Public Safety Communications (the Division), which shall be headed by a Virginia Public Safety Communications Coordinator, appointed by the CIO with the advice and consent of the Wireless E-911 Services Board. The Division shall consist of such personnel as the CIO deems necessary. The salaries of the employees of the Division shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.

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

Article 6.

Virginia Information Providers Network.

§ 2.2-2027. *Virginia Information Providers Network established; purpose.*

There is established within VITA the Virginia Information Providers Network (VIPNet) to provide for the centralized marketing, provision, leasing, and executing of license agreements for electronic access to public information and government services through the Internet, wireless devices, personal digital assistants, kiosks, or other such related media on terms and conditions as may be determined to be in the best interest of the Commonwealth. VIPNet may fix and collect fees and charges (i) for public information, media, and other incidental services furnished by it to any private individual or entity, notwithstanding the charges set forth in § 2.2-3704 and (ii) for such use and services VIPNet provides to any state agency or local government.

§ 2.2-2261. *Virginia Public Building Authority created; purpose; membership; terms; expenses; staff.*

There is created a political subdivision of the Commonwealth to be known as the "Virginia Public Building Authority." The Authority is created for the purpose of constructing, improving, furnishing, maintaining, acquiring, financing, refinancing, and operating public buildings for the use of the Commonwealth (heretofore or hereafter constructed), state arsenals, armories, and military reserves, state institutions of every kind and character (heretofore and hereafter constructed), additions and improvements to land grant colleges, state colleges, universities and medical colleges, and the purchase of lands for rehabilitation purposes in connection with state institutions and for use of state colleges, and museum facilities for a trust instrumentality of the United States, and the purchase of lands for the development of public buildings that may be authorized by the General Assembly in the future, the acquisition of items of personal property for the use of the Commonwealth, *the constructing, improving, maintaining, acquiring, financing, and refinancing of major information technology projects as defined in § 2.2-2001*, the financing or refinancing of capital projects that benefit the Commonwealth and any of its agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities, and the financing or refinancing of reimbursements to localities or governmental entities of all or any portion of the Commonwealth's share of the costs for capital projects made pursuant to other applicable provisions of Virginia law, and the refinancing of (i) obligations issued by other state and local authorities or political subdivisions of the Commonwealth where such obligations are secured by a lease or other payment agreement with the Commonwealth or (ii) the Commonwealth's obligations under such leases or payment agreements, the purpose and intent of this article being to benefit the people of the Commonwealth by, among other things, increasing their commerce and prosperity.

The Authority shall be comprised of the State Treasurer or his designee, the State Comptroller, and five additional members appointed by the Governor, subject to confirmation by the General Assembly, who shall serve at the pleasure of the Governor. Unconfirmed appointments shall expire ~~thirty~~ 30 days after the convening of the General Assembly. Members of the Authority shall be entitled to no compensation for their services as members, but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825. The term of each member appointed by the Governor shall be five years.

Vacancies in the membership of the Authority shall be filled by appointment for the unexpired portion of the term. The Governor shall designate one member of the Authority as chairman. The Department of the Treasury shall serve as staff to the Authority.

§ 2.2-2423. *Virginia Geographic Information Network Advisory Board; membership; terms; quorum; compensation.*

A. The Virginia Geographic Information Network Advisory Board (the Board) is hereby established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall advise the Geographic Information Network Division (the Division) of the ~~Department of Technology Planning~~ *Virginia Information Technologies Agency* on issues related to the exercise of the Division's powers and duties.

B. The Board shall consist of ~~seventeen~~ 17 members appointed as follows: (i) ~~eleven~~ 11 members to be appointed by the Governor, including the Commonwealth Transportation Commissioner, the Executive Director of the Economic Development Partnership Authority, an agency director from one of the natural resources agencies, and one official from a state university, or their designees; one elected official representing a local government in the Commonwealth; one member of the Virginia Association of Surveyors; one elected official who serves on a planning district commission; two representatives of utilities or transportation industries utilizing geographic data; and two representatives of private businesses with expertise and experience in the establishment, operation, and maintenance of geographic information systems; and (ii) five members of the General Assembly, three of whom shall be members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, and two of whom shall be members of the Senate, to be appointed by the Senate Committee on Privileges and Elections. The ~~Director of the Council on Information Management~~ *Chief Information Officer or his designee* shall serve as an ex officio, voting member. Any members of the Board who are representatives of private businesses that provide geographic information services, and their companies, are precluded from contracting to provide goods or services to the Division.

C. The gubernatorial appointees to the Board shall serve five-year terms, except that of the initial appointees, three shall serve three-year terms, three shall serve four-year terms, and the remainder shall serve five-year terms. Members appointed by the Governor shall serve no more than two consecutive full terms. All members of the Board appointed by the Governor shall be confirmed by each house of the General Assembly. Legislative members' terms shall be coincident with their terms of office.

D. The Board shall elect from its membership a chairman, vice chairman, and any other officers deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its chairman or the ~~Director~~ *Chief Information Officer*.

E. Members of the Board shall receive no compensation for their services, but the nongovernmental members shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

§ 2.2-2431. Staff and employees prohibited.

The Board shall not hire, employ, or contract for its own staff or employees, but may request administrative support from the public broadcasting stations. The ~~Department of Information Technology~~ *Virginia Information Technologies Agency* shall, upon request, provide to the Board and public broadcasting stations the same scope of technical communications and related services that it provided on or before July 1, 1997, to the Virginia Public Telecommunications Board and to Virginia's public telecommunications entities and public broadcast stations.

Article 18.

Information Technology Investment Board.

§ 2.2-2452. *Information Technology Investment Board; membership; terms; quorum; compensation; staff.*

A. *The Information Technology Investment Board (the Board) is established as a supervisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall be responsible for the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology in the Commonwealth.*

B. *The Board shall consist of 10 members that include eight nonlegislative citizen members and two ex officio members as follows: (i) four nonlegislative citizen members appointed by the Governor, of whom one shall be appointed from a list of not less than seven individuals nominated jointly by the Chairs of the Senate Committee on General Laws and the House Committee on Science and Technology in consultation with their respective committee memberships; (ii) four nonlegislative citizen members appointed by the Joint Rules Committee from a list recommended by the Joint Commission on Technology and Science; (iii) the Secretary of Technology who shall serve ex officio with full voting privileges; and (iv) the Auditor of Public Accounts shall serve ex officio without voting privileges. The individuals jointly nominated by the Chairs of the Senate Committee on General Laws and the House Committee on Science and Technology shall, at a minimum, have experience as senior information technology management personnel for a company with annual gross revenues in excess of \$50 million. The other nonlegislative citizen members shall have experience in information technology systems or other technology systems including but not limited to human resources, environment, transportation, or finance.*

The initial appointments of the nonlegislative citizen members shall be staggered as follows: one member for one year, one member for two years, one member for three years, and one member for four years appointed by the Governor; one member for one year, one member for two years, one member for

three years, and one member for four years appointed by the Joint Rules Committee. The *ex officio* members of the Board shall serve terms coincident with their respective terms of office. Thereafter, nonlegislative citizen members shall be appointed for terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

C. The Board shall elect its chairman and vice chairman from among its members for two-year terms. A majority of the members shall constitute a quorum. The Board shall meet at least quarterly each year. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

D. Citizen members shall receive compensation, including all reasonable and necessary expenses incurred in the discharge of their duties, as provided in § 2.2-2813.

E. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government Conflict of Interest Act shall apply to citizen members of the Board.

F. The Virginia Information Technologies Agency shall serve as staff to the Board.

§ 2.2-2453. Powers and duties of the Board.

The Board shall have the power and duty to:

1. Appoint the Chief Information Officer as the chief administrative officer of the Board to oversee the operation of VITA pursuant to § 2.2-2000;

2. Adopt rules and procedures for the conduct of its business;

3. Approve or disapprove the development of all major information technology projects as defined in § 2.2-2001. The Board may terminate any major information technology project recommended for termination by the Chief Information Officer pursuant to § 2.2-2010;

4. Approve strategies, standards, and priorities recommended by the Chief Information Officer for the use of information technology for state agencies in the executive branch of state government;

5. Approve the four-year plan for information technology projects;

6. Approve statewide technical and data standards for information technology and related systems;

7. Approve statewide information technology architecture and related set of system standards;

8. Approve criteria for the review and approval of the planning, scheduling and tracking of major information technology projects as defined in § 2.2-2001;

9. Adopt resolutions or regulations conferring upon the Chief Information Officer all such powers, authorities and duties as the Board deems necessary or proper to carry out the purposes of Chapter 20 of Title 2.2; and

10. Submit by September 1 of each year a list of recommended technology investment projects and priorities for funding such projects to the Governor and the General Assembly.

§ 2.2-2651. Council on Technology Services; purpose; membership; chairman.

A. The Council on Technology Services (the COTS) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to advise and assist the Secretary of Technology in exercising the powers and performing the duties conferred by Article 9 (§ 2.2-225 et seq.) of Chapter 2 of this title Chief Information Officer on the services provided by the Virginia Information Technologies Agency and the development and use of applications in state agencies and public institutions of higher education.

B. The COTS shall consist of ~~no more than twenty-six nor fewer than twenty~~ 18 members; ~~to be appointed by the Governor upon recommendation of the Secretary of Technology, that include 16 members to be appointed by the Chief Information Officer and two ex officio members as follows: at least one representative one designated information technology resource of an executive branch agency from each of the Secretariats of Administration, Commerce and Trade, Education, Finance, Health and Human Resources, Natural Resources, Public Safety, and Transportation; at least four representatives four designated information technology resources from public institutions of higher education; at least one representative from an independent agency of state government; and at least three representatives from public bodies other than the Commonwealth selected from a list of names submitted by the Virginia Local Government Information Technology Executives. For terms coincident with their terms of office, the following shall serve as ex officio, voting members of the COTS: Director of the Department of Information Technology, Director of the Department of Technology Planning, and the Director of Information Systems of the Supreme Court of Virginia; and the Director of the Division of Legislative Automated Systems, and Executive Director of the Virginia Information Providers Network Authority who shall serve as ex officio, voting members.~~

In making appointments, the Governor shall include not only information systems and telecommunications professionals, but also managers and directors in agencies who are responsible for business and strategic planning. Members of the Council shall serve at the pleasure of the Governor. *Ex officio* members shall serve terms coincident with their terms of office. Other members shall be appointed for a term of two years and shall be eligible for reappointment.

C. The ~~Secretary of Technology~~ *Chief Information Officer* shall be the chairman of the COTS. The COTS shall meet quarterly and at such other times as may be called by the chairman.

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges.

A. Except as otherwise specifically provided by law, all public records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, make one of the following responses:

1. The requested records will be provided to the requester.

2. The requested records will be entirely withheld because their release is prohibited by law or the custodian has exercised his discretion to withhold the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the volume and subject matter of withheld records, and (iii) cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

3. The requested records will be provided in part and withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the subject matter of withheld portions, and (iii) cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records. When a portion of a requested record is withheld, the public body may delete or excise only that portion of the record to which an exemption applies and shall release the remainder of the record.

4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall be in writing and specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days in which to provide one of the three preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsections G and H, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. A public body may make reasonable charges for its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than ~~fifty~~ 50 acres. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases

are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation or compilation of a new public record.

H. Every public body of state government shall compile, and annually update, an index of computer databases that contains at a minimum those databases created by them on or after July 1, 1997. "Computer database" means a structured collection of data or records residing in a computer. Such index shall be a public record and shall include, at a minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees for the production of copies in each available form. The form, context, language, and guidelines for the indices and the databases to be indexed shall be developed by the ~~Director of the Department of Information Technology~~ *Virginia Information Technologies Agency* in consultation with the Librarian of Virginia and the State Archivist. The public body shall not be required to disclose its software security, including passwords.

§ 2.2-3708. Electronic communication meetings.

A. It shall be a violation of this chapter for any political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government or any committee thereof to conduct a meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

B. For purposes of this section, "public body" means any public body of the Commonwealth, but excludes any political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government.

State public bodies may conduct any meeting, except closed meetings held pursuant to § 2.2-3711, wherein the public business is discussed or transacted through telephonic or video means. Where a quorum of a public body of the Commonwealth is physically assembled at one location for the purpose of conducting a meeting authorized under this section, additional members of such public body may participate in the meeting through telephonic means provided such participation is available to the public.

C. Notice of any meetings held pursuant to this section shall be provided at least ~~thirty~~ 30 days in advance of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify the locations for the meeting. All locations for the meeting shall be made accessible to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

Thirty-day notice shall not be required for telephonic or video meetings continued to address an emergency as provided in subsection F or to conclude the agenda of a telephonic or video meeting of the public body for which the proper notice has been given, when the date, time, place and purpose of the continued meeting are set during the meeting prior to adjournment.

The public body shall provide the ~~Director of the Department of Information Technology~~ *Virginia Information Technologies Agency* with notice of all public meetings held through telephonic or video means pursuant to this section.

D. An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by telephonic or video means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through telephonic or video means shall be recorded by name in roll-call fashion and included in the minutes. In addition, the public body shall make an audio recording of the meeting, if a telephonic medium is used, or an audio/visual recording, if the meeting is held by video means. The recording shall be preserved by the public body for a period of three years following the date of the meeting and shall be available to the public.

E. No more than ~~twenty-five~~ 25 percent of all meetings held annually by a public body, including meetings of any ad hoc or standing committees, may be held by telephonic or video means. Any public body that meets by telephonic or video means shall file with the ~~Director of the Department of Information Technology~~ *Virginia Information Technologies Agency* by July 1 of each year a statement identifying the total number of meetings held during the preceding fiscal year, the dates on which the meetings were held and the number and purpose of those conducted through telephonic or video means.

F. Notwithstanding the limitations imposed by subsection E, a public body may meet by telephonic or video means as often as needed if an emergency exists and the public body is unable to meet in regular session. Public bodies conducting emergency meetings through telephonic or video means shall comply with the provisions of subsection D requiring minutes, recordation and preservation of the audio or audio/visual recording of the meeting. The nature of the emergency shall be stated in the minutes.

§ 2.2-4304. Cooperative procurement.

A. Any public body may participate in, sponsor, conduct, or administer a cooperative procurement agreement with one or more other public bodies, or agencies of the United States, for the purpose of combining requirements to increase efficiency or reduce administrative expenses. Any public body that enters into a cooperative procurement agreement with a county, city, or town whose governing body has adopted alternative policies and procedures pursuant to subdivisions 9 and 10 of § 2.2-4343 shall comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

B. Subject to the provisions of §§ 2.2-1110, 2.2-1111 ~~and~~, 2.2-1120 *and* 2.2-2007, any authority, department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or administer a cooperative procurement arrangement with private health or educational institutions or with public agencies or institutions of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services. In such instances, deviation from the procurement procedures set forth in this chapter and the administrative policies and procedures established to implement this chapter shall be permitted, if approved by the Director of the Division of Purchases and Supply. *Pursuant to § 2.2-2007, such approval is not required if the procurement arrangement is for telecommunications and information technology goods and services of every description. In instances where the procurement arrangement is for telecommunications and information technology goods and services, such arrangement shall be permitted if approved by the Chief Information Officer.* However, such acquisitions shall be procured competitively. Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

§ 17.1-279. (Expires July 1, 2004) Additional fee to be assessed by circuit court clerks for information technology.

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a ~~three-dollar~~ \$3 fee, known as the "Technology Trust Fund Fee," in each law and chancery action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

B. Two dollars of every ~~three-dollar~~ \$3 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) obtaining office automation and information technology equipment, including software and conversion services; (ii) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades which may include, but not necessarily be limited to, a digital imaging system; and (iii) improving public access to court records. The Compensation Board in consultation with the circuit court clerks and other users of court records shall develop policies governing the allocation of funds for these purposes. In allocating funds, the Compensation Board may consider the current automation of the clerks' offices and the recommendations made in the 1996 report by the Joint Legislative Audit and Review Commission (JLARC) regarding automation of the circuit court clerks' offices. Except for improvements as provided in subsection E, such policies shall require a clerk to submit to the Compensation Board a written certification from the ~~Department of Technology Planning~~ *Virginia Information Technologies Agency* that the clerk's proposed technology improvements will be compatible with a system to provide statewide remote access to land records in accordance with the recommendations of JLARC and the Task Force on Land Records Management (the Task Force) established by the ~~Department of Technology Planning~~ *Virginia Information Technologies Agency*.

The annual budget submitted by each circuit court clerk pursuant to § 15.2-1636.7 may include a request for technology improvements in the upcoming fiscal year to be allocated by the Compensation Board from the trust fund. Such request shall not exceed the deposits into the trust fund credited to that locality. The Compensation Board shall allocate the funds requested by the clerks in an amount not to exceed the deposits into the trust fund credited to their respective localities.

C. The remaining ~~one dollar~~ \$1 of each such fee may be allocated by the Compensation Board from the trust fund for the purposes of (i) funding studies to develop and update individual land-records

automation plans for individual circuit court clerks' offices and (ii) implementing the plan to modernize land records in individual circuit court clerk's offices and provide remote access to land records throughout the Commonwealth.

D. Such fee shall not be assessed to any instrument to be recorded in the deed books nor any judgment to be docketed in the judgment lien docket books tendered by any federal, state or local government.

E. Notwithstanding any other provisions of this chapter, each circuit court clerk may apply to the Compensation Board for an allocation from the Technology Trust Fund for automation and technology improvements for any one or more of the following: (i) equipment and services to convert paper, microfilm, or similar documents to a digital image format, (ii) the conversion of information into a format which will accommodate remote access, and (iii) the law and chancery division of his office. However, allocations for (iii) above shall not exceed the pro rata share of the collections of the ~~three-dollar~~ \$3 fee relative to the chancery and law actions filed in the jurisdiction as provided in this section. If a clerk has implemented the technology plan approved by the ~~Department of Technology Planning~~ *Virginia Information Technologies Agency* referred to in subsection B, and such plan has been amended to reflect the clerk's automation progress and has been submitted to the ~~Department of Technology Planning~~ *Virginia Information Technologies Agency* at least biennially beginning July 1, 2002, the Compensation Board may approve an application for an allocation that exceeds the pro rata share of collections of the ~~three-dollar~~ \$3 fee relative to the chancery and law actions filed in that jurisdiction. The Compensation Board in approval of such application shall consider what local funds have been spent by the jurisdiction to accelerate the implementation of the technology plan approved by the ~~Department of Technology Planning~~ *Virginia Information Technologies Agency*.

F. Information regarding the technology programs adopted by the circuit court clerks shall be shared with the ~~Department of Information Technology~~ *Virginia Information Technologies Agency*, The Library of Virginia, and the Office of the Executive Secretary of the Supreme Court.

G. Nothing in this section shall be construed to diminish the duty of local governing bodies to furnish supplies and equipment to the clerks of the circuit courts pursuant to § 15.2-1656. Revenue raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices by local governing bodies.

H. The provisions of this section shall expire on July 1, 2004.

§ 42.1-80. State Public Records Advisory Council continued; members; chairman and vice chairman; compensation.

The State Public Records Advisory Council is continued. The Council shall consist of ~~twelve~~ 11 members. The Council membership shall include the Secretary of the Commonwealth, the Librarian of Virginia, the Attorney General, the State Health Commissioner, the Commonwealth Transportation Commissioner, the ~~Director of the Department of Information Technology~~ *Chief Information Officer*, the Auditor of Public Accounts, the Executive Secretary of the Supreme Court, the ~~Director of the Department of Technology Planning~~, or their designated representatives and three members to be appointed by the Governor from the Commonwealth at large. The gubernatorial appointments shall include two clerks of courts of record and a member of a local governing body. Those members appointed by the Governor shall remain members of the Council for a term coincident with that of the Governor making the appointment, or until their successors are appointed and qualified. The Council shall elect annually from its membership a chairman and vice chairman. Members of the Council shall receive no compensation for their services but shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

§ 53.1-52. Procedure for purchases.

All purchases, *except for those of information technology and telecommunications goods and services as provided in § 2.2-2007, made by departments, institutions and agencies of the Commonwealth shall be made as provided by the Division of Purchases and Supply of the Department of General Services. All purchases of information technology and telecommunications made by departments, institutions, and agencies of the Commonwealth shall be made as provided by the Virginia Information Technologies Agency.* All other purchases shall be upon requisition by the proper authority of the county, district, city or town requiring such articles.

§ 56-484.12. Definitions.

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

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

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

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

"Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to § 2.2-2000.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by

the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

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

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

"Division" means the Division of Public Safety Communications *created in § 2.2-2026.*

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

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

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

"Place of primary use" has the meaning attributed in subsection L of § 58.1-3812.

"Public safety answering point" or PSAP means a facility (i) equipped and staffed on a ~~twenty-four~~ 24-hour basis to receive and process E-911 calls or (ii) that intends to receive and process E-911 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

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

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

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

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

"Wireless E-911 surcharge" means a monthly fee of ~~seventy-five cents~~ \$0.75 billed monthly by each CMRS provider and CMRS reseller on each CMRS number of a customer with a place of primary use in Virginia.

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

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

B. The Board shall consist of ~~fourteen~~ 14 members as follows: the ~~Director of the Department of Technology Planning~~ *Chief Information Officer*, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; and the following twelve members to be appointed by the Governor: one member representing the Virginia Department of Emergency Management, one member representing the Virginia State Police, one member representing a local exchange carrier providing E-911 service in Virginia, two members representing wireless service providers authorized to do business in Virginia, two county, city or town PSAP directors or managers, one Virginia sheriff, one chief of police, one fire chief, one emergency medical services manager, and one finance officer of a county, city, or town.

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

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

E. Members of the Board shall serve without compensation; however, members of the Board shall be reimbursed for expenses as provided in §§ 2.2-2813 through 2.2-2826.

F. *The Division shall provide staff support to the Board.* The Geographic Information Network Division created in § 2.2-2021 and the Virginia Department of Transportation shall provide such technical advice as the Board requires.

§ 56-484.15. Wireless Carrier E-911 Cost Recovery Subcommittee established.

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

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

C. Staff to the Subcommittee shall be provided by the Division of Public Safety Communications created pursuant to § ~~2.2-1710~~ 2.2-2026.

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

2. That §§ 2.2-226, 2.2-226.1, 2.2-227, and 2.2-2403 of the Code of Virginia are repealed.

3. That Chapter 13 (§§ 2.2-1300 through 2.2-1304), Chapter 17 (§§ 2.2-1700 through 2.2-1710), and Article 5 (§§ 2.2-2247 through 2.2-2259) of Chapter 22 of Title 2. 2 of the Code of Virginia are repealed.

4. That it is the intent of the General Assembly that the provisions of this act provide for the consolidation of the procurement and operational functions of information technology, including but not limited to servers and networks, for state agencies in a single agency. The Governor may transfer appropriations or portions thereof within any state agency established or otherwise affected by the provisions of this act, or from such agency to another, to support changes in organization or responsibility resulting from or required by the provisions of this act. For the purposes of this clause, "state agency" means any administrative unit of state government in the executive branch, including any department, institution, commission, board, council, authority, or other body, however designated. The term "state agency" shall not include public institutions of higher education as set forth in § 23-9.5 of the Code of Virginia and the Virginia Housing Development Authority.

5. That the Secretary of Technology shall continue to serve as the Chief Information Officer of the Commonwealth for six months after the effective date of this act or until such time as the Information Technology Investment Board has hired the Chief Information Officer as provided by the first enactment of this act.

6. That on or before January 1, 2004, the Chief Information Officer shall consolidate within the Virginia Information Technologies Agency (i) state network management, and (ii) server and other operation functions, along with appropriate staff, for state agencies with a position level of 100 employees or less. For the purposes of this clause, "state agency" means any administrative unit of state government in the executive branch, including any department, institution, commission, board, council, authority, or other body, however designated. The term "state agency" shall not include public institutions of higher education as set forth in § 23-9.5 of the Code of Virginia and the Virginia Housing Development Authority.

7. That on or before July 1, 2004, the Chief Information Officer shall consolidate within the Virginia Information Technologies Agency the server and other operational functions, along with appropriate staff, of state agencies with a position level of between 100 and 400 employees. For the purposes of this clause, "state agency" means any administrative unit of state government in the executive branch, including any department, institution, commission, board, council, authority, or other body, however designated. The term "state agency" shall not include public institutions of higher education as set forth in § 23-9.5 of the Code of Virginia and the Virginia Housing Development Authority.

8. That on or before January 1, 2005, the Chief Information Officer shall (i) fully implement the systems development standards, policies, and methodologies required by this act and (ii) consolidate within the Virginia Information Technologies Agency the server and other operational functions, along with appropriate staff, of state agencies with a position level in excess of 400 employees. For the purposes of this clause, "state agency" means any administrative unit of state government in the executive branch, including any department, institution, commission, board, council, authority, or other body, however designated. The term "state agency" shall not include public institutions of higher education as set forth in § 23-9.5 of the Code of Virginia and the Virginia Housing Development Authority.

9. That the Information Technology Investment Board may, by a vote of a majority of its members, accelerate the implementation schedule set forth in the sixth, seventh, and eighth enactments of this act.
10. That on or before December 1, 2003, the Secretary of Technology shall submit a report to the General Assembly on the progress of implementation of the provisions of this act. The report shall be delivered to the chairs of the House and Senate General Laws Committees, the House Appropriations and Senate Finance Committees, and the House Science and Technology Committee.
11. That the gubernatorial appointees to the Council on Technology Services holding office on July 1, 2003 shall continue to serve until such time as appointments are made by the Chief Information Officer in accordance with the provisions of this act.
12. That as of the effective date of this act, the Virginia Information Technologies Agency shall be deemed the successor in interest to the Department of Information Technology, the Department of Technology Planning and the Virginia Information Providers Network Authority. Without limiting the foregoing, all right, title and interest in and to any real or tangible personal property vested in the Department of Information Technology, the Department of Technology Planning and the Virginia Information Providers Network Authority as of the effective date of this act shall be transferred to and taken as standing in the name of the Virginia Information Technologies Agency.
13. That the Virginia Information Technologies Agency shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.
14. That all rules and regulations adopted by the Department of Information Technology and the Department of Technology Planning that are in effect as of the effective date of this act and that pertain to the subject of this act shall remain in full force and effect until altered, amended or rescinded by the Virginia Information Technologies Agency.
15. That the provisions of this act shall not in any way amend or affect the Commonwealth's institutions of higher education as such institutions may be delegated the authority for the purchase of information technology facilities and services pursuant to any appropriation act adopted by the General Assembly.
16. That the provisions of this act shall not in any way amend or affect the existing delegations of telecommunications procurement granted by the Department of Information Technology or the Virginia Information Technologies Agency, as its successor in interest, to public bodies or inhibit the ability of the Department of Information Technology or the Virginia Information Technologies Agency as its successor in interest, to grant future delegations of such authority.