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HOUSE BILL NO. 1926

Offered January 8, 2003

Prefiled January 7, 2003

A BILL to amend and reenact §§ 2.2-225, 2.2-226, 2.2-1110, 2.2-1119, 2.2-2101, 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 Subtitle I of Title 2.2 a chapter numbered 20, consisting of sections numbered 2.2-2000 through 2.2-2014, by adding in Chapter 24 of Subtitle I of Title 2.2 an article numbered 18, consisting of sections numbered 2.2-2452, 2.2-2453 and 2.2-2454; and to repeal the second enactment of Chapter 395 of the Acts of Assembly of 2001, Chapter 13 (§§ 2.2-1300 through 2.2-1304), Chapter 17 (§§ 2.2-1700 through 2.2-1710), Article 5 (§§ 2.2-2247 through 2.2-2259) of Chapter 22, Article 10 (§ 2.2-2423) of Chapter 24 and § 2.2-2431 of the Code of Virginia, relating to the Virginia Information Technologies Agency.

Patrons—Nixon, Almand, Amundson, Baskerville, Brink, Cosgrove, Darner, Keister, Moran, Petersen and Shuler

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-225, 2.2-226, 2.2-1110, 2.2-1119, 2.2-2101, 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 Subtitle I of Title 2.2 a chapter numbered 20, consisting of sections numbered 2.2-2000 through 2.2-2014, and by adding in Chapter 24 of Subtitle I of Title 2.2 an article numbered 18, consisting of sections numbered 2.2-2452 and 2.2-2453 as follows:

§ 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,~~ *Chief Information Officer Advisory Board, Council on Technology Services, Innovative Technology Authority, Virginia Information Providers Network Authority, Virginia Geographic Information Network Advisory Board, Technology Investment Board, Virginia Information Technologies Agency, 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.

§ 2.2-226. Secretary to function as Chief Information Officer; powers and duties.

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

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

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

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58 3. Prescribe regulations necessary or incidental to the performance of his duties or execution of his
59 powers.

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

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

65 1. Monitor trends and advances in information technology; ~~direct and approve~~ *develop and publish* a
66 comprehensive, statewide, ~~four-year planning process~~ *two-year strategic plan for information technology*;
67 and plan for the acquisition, management, and use of information technology. ~~The~~ *Upon approval of the*
68 *Technology Investment Board created in § 2.2-2452, the statewide plan shall be updated annually and*
69 *submitted to the Governor, the Speaker of the House of Delegates, and the President Pro Tempore of the*
70 *Senate. In developing and updating such plans, the CIO shall consider, at a minimum, the advice and*
71 *recommendations of the Virginia Information Technologies Agency, the Chief Information Officers*
72 *Advisory Board, and the Council on Technology Services created pursuant to § 2.2-2651.*

73 2. Require state agencies and institutions of higher education to prepare and submit information
74 technology plans to the CIO. The CIO shall have the authority to approve and recommend amendments
75 to such plans upon review and recommendation by the ~~Department of Technology Planning~~
76 *(DTP) Virginia Information Technologies Agency*. All state agencies and institutions of higher education
77 shall maintain current information technology plans that have been approved by the CIO.

78 3. Direct the formulation and promulgation of policies, standards, specifications, and guidelines for
79 information technology in the Commonwealth, including, but not limited to, those (i) required to support
80 state and local government exchange, acquisition, storage, use, sharing, and distribution of "geographic
81 data" or "base map data" and related technologies *as those terms are defined in § 2.2-2001*, (ii)
82 concerned with the development of electronic transactions including the use of electronic signatures as
83 provided in § 59.1-496, and (iii) necessary to support an enterprise approach to information technology
84 across the totality of state government, thereby assuring that the citizens and businesses of the
85 Commonwealth receive the greatest possible security, value, and convenience from investments made in
86 technology.

87 For the purposes of this subdivision, "enterprise" means a unified approach to security, suitability,
88 and maintainability of information technology infrastructures, products and services throughout state and
89 local government, subject to mission-critical needs.

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

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

100 6. Direct the development of policies and procedures for review by the ~~Department of Technology~~
101 *Planning Virginia Information Technologies Agency* of technology procurements, agreements, or
102 contracts for amounts exceeding \$100,000. The ~~Department of Technology Planning~~ *Virginia*
103 *Information Technologies Agency* shall report monthly to the Secretary on all such reviews. The
104 Secretary may delegate approval of such procurements to the ~~Department of Technology Planning~~
105 *Virginia Information Technologies Agency*; however, approval of procurements in excess of one million
106 dollars shall not be delegated by the Secretary.

107 7. Disapprove procurements that, on the recommendation of the ~~Department of Technology Planning~~
108 *Virginia Information Technologies Agency*, do not conform to the statewide information technology plan
109 or to the individual plans of state agencies or institutions of higher education.

110 8. Direct the development of policies and procedures for the effective management of technology
111 investments throughout their entire life cycle, including, but not limited to, project definition,
112 procurement, development, implementation, operation, performance evaluation, and enhancement or
113 retirement. Such policies and procedures shall include, at a minimum, the periodic review by the
114 Secretary of the execution of agency and institution of higher education technology projects estimated to
115 cost one million dollars or more and deemed to be mission-critical or of statewide application by the
116 Secretary. The Secretary shall be authorized to direct the modification, suspension, or cessation of any
117 such project which, as the result of a periodic review, has not met the milestones and performance
118 measures agreed to by the Secretary and the sponsoring agency or institution. This shall not supersede
119 the responsibility of a board of visitors for the management and operation of an institution of higher

education.

The provisions of this subdivision shall not apply to research projects or research initiatives at institutions of higher education. However, technology investments in research projects or research initiatives at these institutions estimated to cost one million dollars or more of general fund appropriations may be reviewed as provided in this subdivision if the projects are deemed mission critical by the institution or of statewide application by the Secretary. The Secretaries of Technology and Education, in consultation with the institutions of higher education, shall develop and provide to the institutions of higher education criteria to be used in determining whether projects are mission-critical.

9. 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.

10. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to § 2.2-1702 2.2-2006.

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

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

13. 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.

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

C. As used in this chapter, "information technology" includes telecommunications, automated data processing, databases, word processing, the global information system known as 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:

"Enterprise" means a unified approach to security, suitability, and maintainability of information technology throughout state and local government, subject to mission-critical needs.

"Information technology" means telecommunications, automated data processing, databases, word processing, the Internet, management information systems, and related information, equipment, infrastructures, hardware, software, maintenance, goods, and services that facilitate the flow or processing of information in support of the Commonwealth's business activities, regardless of the technology involved.

D. 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.

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

A. Except as provided by § 2.2-2003 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; purchase of information technology.

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 § 2.2-2003.

CHAPTER 20.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY.

§ 2.2-2000. *Creation of Agency; appointment of Director.*

A. There is hereby created the Virginia Information Technologies Agency ("VITA"), which shall be headed by a Director appointed by the Governor to serve at his pleasure.

B. The Director of VITA shall, under the direction and control of the Governor, 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 Governor.

§ 2.2-2001. *Definitions.*

As used in this chapter:

"Agency" or "VITA" means the Virginia Information Technologies Agency.

"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.

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

"Director" means the Director of the Virginia Information Technologies Agency.

"Enterprise" means the same as that term is defined in § 2.2-226.

"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.

"Information technology" means automated data processing, databases, word processing, the Internet, management information systems, and related information, equipment, infrastructures, hardware, software, maintenance, goods, and services that facilitate the flow or processing of information in support of the Commonwealth's business activities, regardless of the technology involved.

"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. *Additional powers of the Agency.*

VITA shall have the following additional powers:

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

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

3. 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.

4. Assist the Secretary of Technology in the development of statewide policies affecting technology at all levels of government, in the business sector, and among the general citizenry.

5. Enter into contracts to outsource information technology services that would be beneficial to the Commonwealth as determined by the Secretary of Technology pursuant to subdivision B 12 of § 2.2-226.

6. Provide agencies and institutions of higher education with information and guidelines 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 by the Secretary of Technology, in consultation with the Department of Planning and Budget, for integrating such plans and requests into the Commonwealth's strategic planning and performance budgeting processes.

7. Review information management plans submitted by state agencies to the Secretary of Technology. VITA shall recommend to the Secretary of Technology the approval of such plans and any amendments thereto.

8. Monitor implementation of information management plans and periodically report its findings to the Secretary of Technology.

9. Develop and adopt policies, standards, and guidelines for managing information technology in the Commonwealth.

10. Review agency and institution budget requests for information technology and recommend to the Secretary of Technology budget request priorities for consideration by the Department of Planning and Budget.

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

12. Develop an approval process to ensure that all information technology procurements conform to the statewide information management plan and the information management plans of agencies and institutions of higher education.

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

14. Develop a statewide information technology architecture and related set of system standards.

§ 2.2-2003. Additional powers and duties relating to communications services, telecommunications facilities, information technology goods and services.

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 state'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.

C. 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. Procurements made in accordance with

304 *this subsection shall be made in accordance with the regulations specified in § 2.2-1111, unless VITA*
305 *has adopted alternative regulations governing these procurements.*

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

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

313 *§ 2.2-2004. Procurement of computer equipment to be based on performance-based specifications.*

314 *Should VITA, or any agency or institution authorized by VITA pursuant to § 2.2-2003, elect to*
315 *procure personal computers and related peripheral equipment pursuant to any type of blanket*
316 *purchasing arrangement under which public bodies, as defined in § 2.2-4301, may purchase such goods*
317 *from any vendor following competitive procurement but without the conduct of an individual*
318 *procurement by or for the using agency or institution, it shall establish performance-based specifications*
319 *for the selection of equipment. Establishment of such contracts shall emphasize performance criteria*
320 *including price, quality, and delivery without regard to "brand name." All vendors meeting the*
321 *Commonwealth's performance requirements shall be afforded the opportunity to compete for such*
322 *contracts.*

323 *§ 2.2-2005. Internal service funds; Automated Services Internal Service Fund; Computer Services*
324 *Internal Service Fund; Telecommunication Services Internal Service Fund.*

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

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

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

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

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

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

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

340 *§ 2.2-2006. Virginia Technology Fund established; purpose.*

341 *There is hereby established in the state treasury a special nonreverting fund to be know as the*
342 *Virginia Technology Fund, hereafter referred to as "the Fund." The Fund shall be established on the*
343 *books of the Comptroller. All moneys appropriated by the General Assembly from time to time and*
344 *designated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned*
345 *on moneys in the Fund shall remain in the Fund and credited to it. Any moneys remaining in the Fund,*
346 *including interest thereon, at the end of the fiscal year shall not revert to the general fund but shall*
347 *remain in the Fund. Moneys in the fund shall be used for telecommunications and information*
348 *technology projects that benefit state government as a whole and that serve more than one state agency.*
349 *Expenditures and disbursements from the Fund shall be made by the Treasurer on warrants issued by*
350 *the Comptroller upon written request signed by the Director.*

351 *§ 2.2-2007. VITA exemption from procurement procedures.*

352 *The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the*
353 *VITA in the exercise of any power conferred under this chapter, provided the VITA implements, by*
354 *policy or regulation adopted by the Technology Investment Board, procedures to ensure fairness and*
355 *competitiveness in the procurement of goods and services. This exemption shall be applicable only so*
356 *long as such policies and procedures meeting the requirements remain in effect.*

357 *§ 2.2-2008. Public Safety Communications Systems Program established; appointment of Program*
358 *Coordinator; duties.*

359 *A. There is established within VITA a Public Safety Communications Systems Program (the*
360 *"Program"), which shall be headed by a Virginia Public Safety Communications Systems Program*
361 *Coordinator, appointed by the Director of VITA (the "Director") with the advice and consent of the*
362 *Wireless E-911 Services Board. The Program shall consist of no less than 3 employees and such other*
363 *personnel as the Director deems necessary. The salaries of the employees of the Program shall be paid*
364 *from the Wireless E-911 Fund created pursuant to § 56-484.17.*

365 *B. The Program 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.

§ 2.2-2009. Virginia Geographic Information Network established; appointment of Coordinator; powers and duties.

A. There is established within the VITA the Virginia Geographic Information Network (the Network), which shall foster the creative utilization of geographic information and oversee the development of a catalog of GIS data available in the Commonwealth. The Network shall be headed by a Coordinator, appointed by the Director.

B. The powers and duties of the Network shall include:

1. Requesting the services, expertise, supplies and facilities of the Department from the Director on issues concerning the Network.

2. Accepting grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Network 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 Network, 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, 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 Network action.

C. The Coordinator shall:

1. Oversee the development of and recommend to the 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.

All state agencies that maintain GIS data bases shall report to the Network the details of the data that they develop, acquire, and maintain. Each agency shall submit quarterly reports to the Network 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 Network.

8. Identify and collect information and technical requirements to assist the Network 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 Network.

10. Ensure the compliance of those policies, standards, and guidelines developed by the 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.

§ 2.2-2010. Enterprise Program Management Office established; duties.

A. There is established within VITA an Enterprise Program Management Office (the "Office").

B. The Office shall direct the development of statewide or multi-agency enterprise projects; provide ongoing assistance and support to agencies in the development of information technology projects, develop and annually update a state project management methodology to be used in the development and implementation of information technology projects, develop a program to provide cost-effective training to project managers, and establish an information clearinghouse that includes information collected on state agency project experiences and best practices.

§ 2.2-2011. Virginia Information Providers Network established; purpose.

427 *There is established within the VITA the Virginia Information Providers Network (VIPNet) to provide*
428 *for the centralized marketing, provision, leasing, and executing of license agreements for electronic*
429 *access to public information and government services through the Internet, wireless devices, personal*
430 *digital assistants, kiosks, or other such related media on terms and conditions as may be determined to*
431 *be in the best interest of the Commonwealth.*

432 *§ 2.2-2012. Public-private partnerships.*

433 *A. Consistent with § 2.2-2007, the Director is hereby authorized to enter into public-private*
434 *partnership contracts to finance or implement information technology programs and projects. The*
435 *Director may issue a request for information to seek out potential private partners interested in*
436 *providing programs or projects pursuant to an agreement under this section. The compensation for such*
437 *services shall be computed with reference to and paid from the increased revenue attributable to the*
438 *successful implementation of the program or project for the period specified in the contract.*

439 *B. The Secretary of Technology, with advice from and recommendation of the Technology Investment*
440 *Board created in § 2.2-2452, shall be responsible for reviewing and approving the programs and*
441 *projects and the terms of contracts for same under this section.*

442 *C. The Director shall prepare an annual report to the Governor and General Assembly on all*
443 *contracts under this section, describing each information technology program or project, its progress,*
444 *revenue impact, and such other information as may be relevant.*

445 *D. The Director shall determine annually the total amount of increased revenue attributable to the*
446 *successful implementation of a program or project under this section and such amount shall be*
447 *deposited in a special fund known as the Public-Private Information Technology Partnership Fund (the*
448 *"Fund"). The Director is authorized to use moneys deposited in the Fund to pay private partners*
449 *pursuant to the terms of contracts under this section. All moneys in excess of that required to be paid to*
450 *private partners, as determined by the Director, shall be reported to the Comptroller and transferred to*
451 *the Virginia Technology Fund created in § 2.2-2006.*

452 *§ 2.2-2013. Nonstock corporation to assist in development, acquisition and implementation of*
453 *information technology.*

454 *VITA is hereby authorized to establish a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.)*
455 *of Title 13.1 as an instrumentality to assist the Agency in the development, acquisition, and*
456 *implementation of information technology. On or before December 1 of each year, VITA shall report on*
457 *the activities of the nonstock corporation to the Governor and the General Assembly.*

458 *§ 2.2-2014. Advisory committees.*

459 *VITA may form such advisory committees as it deems necessary, convenient, or desirable to advise*
460 *and assist in exercising the powers and performing the duties conferred by this chapter. The disclosure*
461 *requirements of subsection B of § 2.2-3114 of the State and Local Government Conflict of Interests Act*
462 *shall apply to members of the advisory committees. Nonpublic employee members of advisory committees*
463 *shall be eligible for compensation for the performance of their duties subject to the provisions of*
464 *§ 2.2-2813.*

465 *§ 2.2-2101. Prohibition against service by legislators on boards, commissions, and councils within the*
466 *executive branch; exceptions.*

467 *Statute text*

468 *Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils*
469 *within the executive branch of state government who are responsible for administering programs*
470 *established by the General Assembly. Such prohibition shall not extend to boards, commissions, and*
471 *councils engaged solely in policy studies or commemorative activities. If any law directs the*
472 *appointment of any member of the General Assembly to a board, commission, or council in the*
473 *executive branch of state government that is responsible for administering programs established by the*
474 *General Assembly, such portion of such law shall be void, and the Governor shall appoint another*
475 *person from the Commonwealth at large to fill such a position.*

476 *The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall*
477 *be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be*
478 *appointed as provided for in § 2.2-2421; to members of the Council on Indians, who shall be appointed*
479 *as provided for in § 2.2-2628; to members of the Board of Trustees of the Southwest Virginia Higher*
480 *Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Maternal*
481 *and Child Health Council, who shall be appointed as provided for in § 2.2-2642; to members of the*
482 *Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to*
483 *members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be*
484 *appointed as provided in § 2.2-2600; to members of the Virginia Correctional Enterprises Advisory*
485 *Board, who shall be appointed as provided for in § 53.1-45.3; to members appointed to the Virginia*
486 *Veterans Cemetery Board pursuant to § 2.2-2438; to members appointed to the Board of Trustees of the*
487 *Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth*
488 *Competition Commission, who shall be appointed as provided for in § 2.2-2621; to members of the*

Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Advisory Commission on the Virginia Schools for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.1; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 37.1-207; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; ~~or to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; or to members of the Technology Investment Board, who shall be appointed as provided for in § 2.2-2452.~~

Article 18.

Technology Investment Board.

§ 2.2-2452. Technology Investment Board; membership; terms; staff.

A. The Technology Investment Board (the "Board") is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board shall be to improve the central approval and oversight of Virginia's major information technology projects, provide a structure for prioritizing projects for investment, and provide greater accountability for development of information technology by the Commonwealth.

B. The Board shall consist of the following 18 members: Secretaries of Administration, Commerce and Trade, Education, Finance, Health and Human Resources, Natural Resources, Public Safety, Technology, and Transportation; Chairman of the Joint Commission on Technology and Science; 1 member of the House of Delegates, to be appointed by the Speaker of the House; 1 member of the Senate to be appointed by the Senate Committee on Privileges and Elections; 4 citizen members with experience in information technology from the private sector or institutions of higher education to be appointed by the Governor; State Treasurer; State Comptroller; and Auditor of Public Accounts.

Legislative members and ex officio members of the Board shall serve terms coincident with their terms of office. Initial appointments of citizen members shall be staggered as follows: 1 citizen member for a term of 5 years; 1 citizen member for a term of 4 years; 1 citizen member for a 3 year term; and 1 citizen member for a term of 2 years.

The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government Conflict of Interests Act shall apply to citizen members of the Board who shall be eligible for compensation for the performance of their duties subject to the provisions of § 2.2-2813.

C. The Secretary of Technology shall be the chairperson of the Board. The Board shall meet at least 4 times annually, and on the call of the chairman when he deems additional meetings necessary.

D. 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 following powers and duties:

1. Review proposals from state agencies for any information technology project which is estimated to cost at least one million dollars or is reasonably expected to be of statewide significance;

2. For proposed projects, make recommendations to the Secretary of Technology on whether the project should be approved to conduct project planning;

3. When project planning is completed, make recommendations to the Secretary of Technology on whether the project should be approved to initiate project development;

4. When project development is completed, make recommendations to the Secretary of Technology on whether the procurement of information technology goods or services or both should be approved;

5. Receive reports from project oversight committees about the status of the information technology projects approved by the Board;

6. Generally advise the Secretary of Technology on all matters relating to the Commonwealth's investment in and procurement of information technology as defined in subsection C of § 2.2-226, including but not limited to the use of the Virginia Technology Fund created in § 2.2-2006 and public-private partnerships pursuant to § 2.2-2011;

7. At least twice each year, review internal service fund rates established by the Virginia Information Technologies Agency;

8. Prioritize funding and resources for information technology projects requested by agencies and institutions of higher education;

9. Apportion costs for information technology projects requested by the Governor and his cabinet secretaries to the agencies and institutions within their respective authority; and

10. Approve annual updates to the strategic plan for information technology developed and published by the Secretary of Technology pursuant to § 2.2-226.

§ 2.2-2454. Board to establish project oversight committees.

A. For each project recommended by the Board for approval to the Secretary of Technology, the Board shall establish: i) an internal project oversight committee comprised of agency business area representatives and executive level agency leaders, and ii) an external project oversight committee comprised of the Secretary of Technology or his deputy, a representative from the proponent secretariat,

550 *and a representative from the Department of Planning and Budget.*

551 *B. The oversight committees shall provide ongoing management of information technology projects*
552 *approved by the Board and report their findings to the Board for appropriate action.*

553 § 2.2-2651. Council on Technology Services; purpose; membership; chairman.

554 A. The Council on Technology Services (the "COTS") is established as an advisory council, within
555 the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council
556 shall be to advise and assist the Secretary of Technology in exercising the powers and performing the
557 duties conferred by Article 9 (§ 2.2-225 et seq.) of Chapter 2 of this title.

558 B. The COTS shall consist of no more than ~~twenty-six~~ 24 nor fewer than ~~twenty~~ 18 members, to be
559 appointed by the Governor upon recommendation of the Secretary of Technology, as follows: at least
560 ~~one~~ 1 agency business area representative or executive level agency leader from the Secretariats of
561 Administration, Commerce and Trade, Education, Finance, Health and Human Resources, Natural
562 Resources, Public Safety, and Transportation; at least ~~four~~ 4 representatives from public institutions of
563 higher education; at least ~~one~~ 1 representative from an independent agency of state government; ~~and~~ at
564 least ~~three~~ 3 representatives from public bodies other than the Commonwealth selected from a list of
565 names submitted by the Virginia Local Government Information Technology Executives; *and at least 3*
566 *private citizens with experience in technology and business areas or processes enhanced by technology.*
567 For terms coincident with their terms of office, the following shall serve as ex officio, voting members
568 of the COTS: ~~Director of the Department of Information Technology, Director of the Department of~~
569 ~~Technology Planning, Director of the Virginia Information Technologies Agency, Director of Information~~
570 ~~Systems of the Supreme Court of Virginia, and Director of the Division of Legislative Automated~~
571 ~~Systems, and Executive Director of the Virginia Information Providers Network Authority.~~

572 In making appointments, the Governor shall include not only information systems technology and
573 telecommunications professionals, but also managers and directors in agencies who are responsible for
574 business and strategic planning. Members of the Council shall serve at the pleasure of the Governor.
575 Members shall be appointed for a term of two years and shall be eligible for reappointment.

576 C. The Secretary of Technology shall be the chairman of the COTS. The COTS shall meet quarterly
577 and at such other times as may be called by the chairman.

578 D. *The disclosure provisions of subsection B of § 2.2-3114 of the State and Local Government*
579 *Conflict of Interest Act shall apply to members of the COTS. Nonpublic employee members of the COTS*
580 *shall be eligible for compensation for the performance of their duties subject to the provisions of*
581 *§ 2.2-2813.*

582 § 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding
583 to request; charges.

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

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

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

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

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

609 4. It is not practically possible to provide the requested records or to determine whether they are
610 available within the five-work-day period. Such response shall be in writing and specify the conditions
611 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 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,

673 electronic or other communication means where the members are not physically assembled. Nothing in
674 this section shall be construed to prohibit the use of interactive audio or video means to expand public
675 participation.

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

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

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

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

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

699 D. An agenda and materials that will be distributed to members of the public body and that have
700 been made available to the staff of the public body in sufficient time for duplication and forwarding to
701 all locations where public access will be provided shall be made available to the public at the time of
702 the meeting. Minutes of all meetings held by telephonic or video means shall be recorded as required by
703 § 2.2-3707. Votes taken during any meeting conducted through telephonic or video means shall be
704 recorded by name in roll-call fashion and included in the minutes. In addition, the public body shall
705 make an audio recording of the meeting, if a telephonic medium is used, or an audio/visual recording, if
706 the meeting is held by video means. The recording shall be preserved by the public body for a period of
707 three years following the date of the meeting and shall be available to the public.

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

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

719 § 2.2-4304. Cooperative procurement.

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

727 B. Subject to the provisions of §§ 2.2-1110, 2.2-1111 ~~and~~ , 2.2-1120 ~~and~~ 2.2-2003, any authority,
728 department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or
729 administer a cooperative procurement arrangement with private health or educational institutions or with
730 public agencies or institutions of the several states, territories of the United States, or the District of
731 Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative
732 expense in any acquisition of goods and services, other than professional services. In such instances,
733 deviation from the procurement procedures set forth in this chapter and the administrative policies and
734 procedures established to implement this chapter shall be permitted, if approved by the Director of the

Division of Purchases and Supply. Pursuant to § 2.2-2003, 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 Director of the Virginia Information Technologies Agency. 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 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 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 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.~~

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 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 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 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 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 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.~~

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

896 furnish supplies and equipment to the clerks of the circuit courts pursuant to § 15.2-1656. Revenue
897 raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices
898 by local governing bodies.

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

900 § 42.1-80. State Public Records Advisory Council continued; members; chairman and vice-chairman;
901 compensation.

902 The State Public Records Advisory Council is continued. The Council shall consist of ~~twelve~~ 11
903 members. The Council membership shall include the Secretary of the Commonwealth, the Librarian of
904 Virginia, the Attorney General, the State Health Commissioner, the Commonwealth Transportation
905 Commissioner, ~~the Director of the Department of Information Technology~~, the Auditor of Public
906 Accounts, the Executive Secretary of the Supreme Court, the Director of the ~~Department of Technology~~
907 ~~Planning~~ Virginia Information Technologies Agency, or their designated representatives and three
908 members to be appointed by the Governor from the Commonwealth at large. The gubernatorial
909 appointments shall include ~~two~~ 2 clerks of courts of record and a member of a local governing body.
910 Those members appointed by the Governor shall remain members of the Council for a term coincident
911 with that of the Governor making the appointment, or until their successors are appointed and qualified.
912 The Council shall elect annually from its membership a chairman and vice-chairman. Members of the
913 Council shall receive no compensation for their services but shall be paid their reasonable and necessary
914 expenses incurred in the performance of their duties.

915 § 53.1-52. Procedure for purchases.

916 All purchases, *except for those of information technology and telecommunications goods and services*
917 *as provided in § 2.2-2003, made* by departments, institutions and agencies of the Commonwealth shall
918 be made as provided by the Division of Purchases and Supply of the Department of General Services.
919 *All purchases of information technology and telecommunications made by departments, institutions, and*
920 *agencies of the Commonwealth shall be made as provided by the Virginia Information Technologies*
921 *Agency.* All other purchases shall be upon requisition by the proper authority of the county, district, city
922 or town requiring such articles.

923 § 56-484.12. Definitions.

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

925 "Agency" means the Virginia Information Technologies Agency.

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

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

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

932 "Coordinator" means the Virginia Public Safety Communications Systems *Program* Coordinator
933 employed by the ~~Division~~ Agency.

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

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

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

939 ~~"Division" means the Division of Public Safety Communications Systems.~~

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

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

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

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

951 "Program" means the Public Safety Communications Systems Program in the Agency created in
952 § 2.2-2008.

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

957 "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 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 members as follows: the Director of the ~~Department of Technology Planning~~ *Virginia Information Technologies Agency*, 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~~ *Virginia Information Technologies Agency* 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 ~~Geographic Information Network Division~~ *Virginia Information Technologies Agency* 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~~ *Virginia Information Technologies Agency*, 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 Systems Program~~ created pursuant to § ~~2.2-1710~~ 2.2-2008.

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 the second enactment of Chapter 395 of the Acts of Assembly of 2001 is repealed.

3. That Chapter 13 (§§ 2.2-1300 through 2.2-1304), Chapter 17 (§§ 2.2-1700 through 2.2-1710), Article 5 (§§ 2.2-2247 through 2.2-2259) of Chapter 22, Article 10 (§ 2.2-2423) of Chapter 24 and § 2.2-2431 of the Code of Virginia are repealed.

4. That 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 enactment 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 Governor may transfer information technology employees 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 enactment clause, (i) "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 and (ii) "information technology employee" means any full-time or part-time classified, wage, or contractual employee in a state agency, the majority of whose actual job duties involve information technology as that term is defined in § 2.2-226 of the Code of Virginia.

6. That as of the effective date of this act, prior written approval from the Secretary of Technology shall be obtained before any state agency procures, purchases, or contracts for information technology goods or services of any description. 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 as of the effective date of this act, prior written approval from the Secretary of Technology shall be obtained before any state agency advertises or hires any information technology employee or takes any other personnel action with regard to information technology employees. 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. "Information technology employee" means any full-time or part-time classified, wage, or contractual employee in a state agency, the majority of whose actual job duties involve information technology as that term is defined in § 2.2-226 of the Code of Virginia.

8. 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.

9. 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. 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.

10. That the Virginia Information Technologies Agency shall identify, catalogue, and review all contracts for information technology goods and services held by state agencies as of the effective date of this act and determine whether: (i) the Virginia Information Technologies Agency (VITA) should become the successor in interest to the state agency holding the contract; (ii) the contract should be continued, cancelled, or modified; and (iii) the funding source and availability of funding for payment on the contract. Upon recommendation by the Technology Investment Board created pursuant to this act and approval of the Secretary of Technology, the VITA shall be authorized to become the successor in interest on contracts for information technology goods and services held by state agencies as of the effective date. 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.

11. 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 the 2002-2004 appropriation

981 act adopted by the General Assembly.

982 12. That the provisions of this act shall not in any way amend or affect the existing delegations of
983 telecommunications procurement granted by the Department of Information Technology or the
984 Virginia Information Technologies Agency, as its successor in interest, to public bodies or inhibit
985 the ability of the Department of Information Technology or the Virginia Information Technologies
986 Agency, as its successor in interest, to grant future delegations of such authority.

987 13. That the gubernatorial appointees to the Council on Technology Services holding office on the
988 effective date of this act are discharged from their service and shall exercise no further authority
989 as members of the Council.

990 14. That an emergency exists and this act is in force from its passage.

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