

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 58

An Act to amend and reenact §§ 2.2-216, 2.2-2634, 10.1-200, 10.1-1118, 10.1-1155, 23-31, and 51.5-75 of the Code of Virginia and to repeal §§ 2.2-2820.1 and 3.1-362 of the Code of Virginia, the fifth enactment clause of Chapters 755 and 914 of the Acts of Assembly of 1996, and the third enactment clause of Chapter 891 of the Acts of Assembly of 1998, relating to the elimination of obsolete agency reporting requirements.

[H 14]

Approved March 8, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-216, 2.2-2634, 10.1-200, 10.1-1118, 10.1-1155, 23-31, and 51.5-75 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-216. Duty to monitor the quality of the waters, habitat, and living resources of Chesapeake Bay and its tributaries.

The Secretary shall cooperate with appropriate state and federal agencies in the development and implementation of a comprehensive program to monitor the quality of the waters, *habitat*, and the living resources of the Chesapeake Bay and its tributaries. ~~The Secretary shall report biennially in even-numbered years to the General Assembly on the results of this monitoring program and the status of the resources of the Chesapeake Bay and its tributaries.~~

§ 2.2-2634. Powers and duties of Council.

In addition to the other powers and duties prescribed in this article, the Council shall have the following powers to:

1. Meet and function at any place in the Commonwealth;
2. Establish and maintain an office;
3. Select, and fix the compensation of, such technical advisors and employees as it deems necessary, or to authorize such action by the Director. The Attorney General shall represent the Council in all litigation to which the Council is a party;
4. Appoint and compensate qualified hearing officers from the list of hearing officers maintained by the Executive Secretary of the Supreme Court of Virginia;
5. Promote creation of local commissions to aid in effectuating the policies of this article and to enter into cooperative worksharing or other agreements with federal agencies or local commissions, including the deferral of complaints of discrimination to federal agencies or local commissions;
6. Adopt, promulgate, amend and rescind regulations consistent with this article pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.). No such regulation shall be inconsistent with any state or federal law or regulation. However, the Council shall not have the authority to adopt regulations on a substantive matter when another state agency is authorized to adopt such regulations;
7. Receive, investigate, seek to conciliate, refer to another agency, hold hearings pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.), and make findings and recommendations upon complaints alleging unlawful discriminatory practices;
8. Make studies and appoint advisory councils to effectuate the purposes and policies of the article and to make the results thereof available to the public;
9. Accept public grants or private gifts, bequests, or other payments, as appropriate;
- ~~10. Render at least annually a comprehensive written report to the Governor and to the General Assembly;~~
- ~~11 10.~~ Furnish technical assistance upon request of persons subject to this article to further comply with the article or an order issued thereunder;
- ~~12 11.~~ Inquire into incidents that may constitute unlawful acts of discrimination or unfounded charges of unlawful discrimination under state or federal law, and to take such action within the Council's authority designed to prevent such acts;
- ~~13 12.~~ Create an official seal that shall be judicially noticed; *and*
- ~~14 13.~~ Seek, with the approval of the Attorney General, through appropriate enforcement authorities, prevention of or relief from an alleged unlawful discriminatory practice; however, the Council itself shall have no power to issue subpoenas, award damages, or grant injunctive relief.

§ 10.1-200. Duties related to parks and outdoor recreation; additional powers.

To facilitate and encourage the public use of parks and recreational areas, to further take advantage of the positive economic impact of outdoor recreational facilities to localities and the Commonwealth, to foster the upkeep and maintenance of such resources, and to provide additional means by which the Governor and the General Assembly may determine necessary general fund appropriations and the need for other funding measures, the Department shall establish and implement a long-range plan for

acquisition, maintenance, improvement, protection and conservation for public use of those areas of the Commonwealth best adapted to the development of a comprehensive system of outdoor recreational facilities in all fields, including, but not limited to: parks, forests, camping grounds, fishing and hunting grounds, scenic areas, waters and highways, boat landings, beaches and other areas of public access to navigable waters. The Department shall have the power and duty to:

1. Administer all funds available to the Department for carrying out the purposes of this chapter, and to disburse funds to any department, commission, board, agency, officer or institution of the Commonwealth, or any political subdivision thereof or any park authority.

2. Study and appraise on a continuing basis the outdoor recreational needs of the Commonwealth; assemble and disseminate information on outdoor recreation; and prepare, maintain and keep up-to-date a comprehensive plan for the development of outdoor recreational facilities of the Commonwealth.

3. Establish and promote standards for outdoor recreational facilities; encourage and assist in the coordination of federal, state, and local recreational planning; aid and advise various state institutions in the use of existing state parks and similar recreational facilities; work with the appropriate state agencies to develop areas for multiple recreational use, including, but not limited to, traditional uses such as hunting, fishing, hiking, swimming, and boating.

4. Study and develop plans and, upon request, provide assistance regarding the establishment and implementation of recreational programs for state institutions, agencies, commissions, boards, officers, political subdivisions, and park authorities.

5. Assist upon request any department, commission, board, agency, officer or institution of the Commonwealth or any political subdivision thereof or any park authority in planning outdoor recreational facilities in conformity with its respective powers and duties and encourage and assist in the coordination of federal, state and local recreational planning.

6. Apply to any appropriate agency or officer of the United States for participation in or receipt of aid from any federal program respecting outdoor recreation, and in respect thereto, enter into contracts and agreements with the United States or any appropriate agency thereof; keep financial and other records relating to contracts and agreements with the United States or any appropriate agency thereof, and furnish appropriate officials and agencies of the United States reports and information necessary to enable the officials and agencies to perform their duties under federal programs respecting outdoor recreation.

7. Act either independently or jointly with any department, commission, board, agency, officer or institution of the Commonwealth or any political subdivision thereof or any park authority to carry out the Department's powers and duties; and coordinate its activities with and represent the interests of the above entities having interests in the planning, maintenance, improvement, protection and conservation of outdoor recreation facilities.

8. Develop a standard against which the public can determine the extent to which the Commonwealth is meeting park and recreational needs. The standard shall be based on park usage, population trends and densities, and outdoor recreational facility demands. The standard shall be expressed in terms of acres and facilities needed on a regional and a statewide level to serve existing and projected needs and conservation goals. ~~The standard shall be developed by July 1, 1999. In the comprehensive plan cited in subsection 2 of this section, the Department shall annually report by November 1 of each year to the Governor and the General Assembly on (i) the development of the standard; (ii) where the Commonwealth's park system falls short of, meets or exceeds the standard; and (iii) the methodology used for determining clause (ii).~~

§ 10.1-1118. Account of receipts and expenditures.

The State Forester shall keep a full and accurate account of the receipts and expenditures of the Department; ~~and shall make a full, accurate and complete report to each session of the General Assembly, showing in detail the receipts from all sources and the expenditures and the purposes for which expenditures have been made.~~

§ 10.1-1155. Collections to be paid into state treasury; reports to the Department of Forestry.

Each clerk or other authorized person mentioned in § 10.1-1154 shall pay into the state treasury the gross amount received by him from the sale of special use permits, as follows: (i) for July, August and September, quarterly, not later than October 5; (ii) for October, November and December, quarterly, not later than January 5; (iii) for January, February and March, quarterly, not later than April 5; and (iv) for April, May and June, quarterly, not later than July 5.

At the time of each remittance the clerk or other authorized person shall report to the ~~State Forester~~ *Department of Forestry* on forms prescribed and provided by ~~him~~ *the State Forester*, showing the serial numbers and quantity of permit forms received, sold, and on hand unsold, and the amount of gross collections remitted for the quarter. ~~A duplicate copy of the report shall be forwarded, together with the remittance, to the Comptroller.~~

§ 23-31. Unfunded scholarships.

A. The corporate authorities of the University of Virginia, the University of Virginia's College at Wise, Virginia Military Institute, Virginia Polytechnic Institute and State University, The College of William and Mary, Christopher Newport University, George Mason University, Longwood University,

Mary Washington College, James Madison University, Virginia Commonwealth University, Radford University, Old Dominion University, the Virginia Community College System, Virginia State University, Norfolk State University, and Richard Bland College may establish scholarships, hereafter to be designated as unfunded scholarships, in their respective institutions under such regulations and conditions as they may prescribe, but subject to the following limitations and restrictions:

1. All such scholarships shall be applied exclusively to the remission, in whole or in part, of tuition and required fees.

2. The number of such scholarships annually awarded by an institution to undergraduate Virginia students shall not exceed ~~twenty~~ 20 percent of the enrollment of Virginia students in undergraduate studies in the institution during the preceding academic year. The total value of all such scholarships annually awarded by an institution to undergraduate Virginia students shall not exceed in any year the amount arrived at by multiplying the applicable figure for undergraduate tuition and required fees by ~~twenty~~ 20 percent of the enrollment of Virginia students in undergraduate studies in the institution during the preceding academic year. The number of such scholarships annually awarded by an institution to non-Virginia undergraduate students shall not exceed ~~twenty~~ 20 percent of the enrollment of non-Virginia students in undergraduate studies in the institution during the preceding academic year. The total value of all such scholarships annually awarded by an institution to non-Virginia undergraduate students shall not exceed in any year the amount of the applicable, per capita out-of-state differential paid by non-Virginia undergraduate students for tuition and required fees multiplied by ~~twenty~~ 20 percent of the enrollment of non-Virginia students in undergraduate studies in the institution during the preceding academic year. All such scholarships awarded to undergraduate students shall be awarded only to undergraduate students in the first four years of undergraduate work and shall be awarded and renewed on a selective basis to students of character and ability who are in need of financial assistance. For purposes of determining need under this section, a nationally recognized needs-analysis system approved by the State Council of Higher Education shall be used.

3. The number of such scholarships annually awarded by an institution to graduate students or teachers serving as clinical faculty pursuant to § 22.1-290.1 shall not exceed the total number of graduate students who are employed as teaching or research assistants with significant academic responsibilities and who are paid a stipend of at least \$2,000 in the particular academic year and such clinical faculty. The total value of all such scholarships annually awarded to such graduate students and clinical faculty shall not exceed in any year the amount arrived at by multiplying the applicable figure for graduate tuition and required fees by the number of graduate students so employed and paid and such clinical faculty. All graduate scholarships shall be awarded and renewed on a selective basis to such graduate students and clinical faculty of character and ability.

4. A scholarship awarded under this program shall entitle the holder to the following award, as appropriate:

a. A Virginia undergraduate student may receive an annual remission of an amount not to exceed the cost of tuition and fees required to be paid by the student;

b. A non-Virginia undergraduate student may receive an annual remission not to exceed the amount of the out-of-state differential required to be paid by the student for tuition and fees;

c. A qualified graduate student may receive an annual remission of an amount not to exceed the cost of tuition and fees required to be paid by the student;

d. A clinical faculty member may receive an award as determined by the governing body of the institution.

5. Notwithstanding the limitations on the awards of unfunded scholarships to undergraduate students pursuant to subdivisions A 2 and A 4 of this section, an institution may award additional unfunded scholarships to visiting foreign exchange students; however, the number of such awards in any fiscal year shall not exceed one quarter of one percent of the total institutional headcount enrollment.

B. No institution named herein shall remit any tuition or required fees or any special fees or charges to any student at such institution except as authorized in this section. Each institution named herein shall make ~~an annual~~ a report to the State Council of Higher Education, *upon request*, showing the number and value of scholarships awarded under this section according to each student classification.

C. Nothing in this section shall be construed to prevent or limit in any way the admission of certain students, known as state cadets, at the Virginia Military Institute or to affect the remission of tuition or required fees or other charges to such state cadets as permitted under existing law.

D. Nothing in this section shall be construed to affect or limit in any way the control of the governing bodies of the respective institutions over any other scholarships; or over any gifts or donations made to such institutions for scholarships or other special purposes; or over any funds provided by the federal government or otherwise for the purpose of career and technical education or vocational rehabilitation in this Commonwealth; or over any funds derived from endowment or appropriations from the federal government for instruction in agriculture and mechanic arts in land grant colleges.

E. Nothing in this section shall be construed to prevent the governing bodies of the respective institutions from fixing a reasonably lower tuition charge for Virginia students than for non-Virginia

students.

F. Nothing in this section or any other provision of law shall prohibit the awarding of ten full tuition unfunded scholarships each year by Old Dominion University under the terms and conditions provided for in a deed conveying certain property in Norfolk known as the Old Larchmont School made July 5, 1930, between the City of Norfolk and The College of William and Mary.

§ 51.5-75. Use of earnings of schools and workshops; record of receipts and expenditures.

In furtherance of the purposes of §§ 51.5-63, 51.5-66, 51.5-68, and 51.5-72 through 51.5-76, the Department shall have authority to use any receipts or earnings that accrue from the operation of industrial schools and workshops as provided in such sections, but a detailed statement of receipts or earnings and expenditures shall be carefully kept, and the Department shall make an annual report to the Governor of its proceedings and operations for each fiscal year.

2. That §§ 2.2-2820.1 and 3.1-362 of the Code of Virginia and the fifth enactment clauses of Chapters 755 and 914 of the Acts of Assembly of 1996, and the third enactment clause of Chapter 891 of the Acts of Assembly of 1998 are repealed.