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## SENATE BILL NO. 1136

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on February 15, 2007)

(Patron Prior to Substitute—Senator McDougle)

*A BILL to amend and reenact §§ 2.2-2101, as it currently effective and as it shall become effective, and 2.2-2628 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2629.1, relating to the Council on Indians.*

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

**1. That §§ 2.2-2101, as it currently effective and as it shall become effective, and 2.2-2628 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2629.1 as follows:**

§ 2.2-2101. (Effective until July 1, 2008) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

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

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; ~~to members of the Council on Indians, who shall be appointed as provided for in § 2.2-2628;~~ to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth 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 § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; to members of the Commission on Civics Education, who shall be appointed as provided for in § 22.1-212.18; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-306; or to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109.

§ 2.2-2101. (Effective July 1, 2008) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

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

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; ~~to members of the Council on Indians, who shall be appointed as provided for in § 2.2-2628;~~ to members of the Board of Trustees of the Southwest Virginia

60 Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the  
61 Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as  
62 provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who  
63 shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating  
64 Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans  
65 Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of  
66 Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the  
67 Commonwealth Competition Commission, who shall be appointed as provided for in § 2.2-2621; to  
68 members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as  
69 provided for in § 2.2-2423; to members of the Advisory Commission on the Virginia Schools for the  
70 Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.1; to members of the  
71 Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the  
72 Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the  
73 State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be  
74 appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be  
75 appointed as provided for in § 2.2-2669; to members of the Commission on Civics Education, who shall  
76 be appointed as provided for in § 22.1-212.18; to members of the Volunteer Firefighters' and Rescue  
77 Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to  
78 members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-306; or to  
79 members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109.

80 § 2.2-2628. Council on Indians; membership; terms; chairman; compensation and expenses;  
81 chairman's executive summary.

82 A. The Council on Indians (the Council) is established as an advisory council, within the meaning of  
83 § 2.2-2100, in the executive branch of state government. The Council shall be composed of a total of 18  
84 members that shall consist of four legislative members and 14 nonlegislative citizen members as follows:  
85 (i) 13 nonlegislative members representing (i) the chiefs of the Virginia tribes officially recognized by  
86 the Commonwealth, who shall be entitled but not required to be represented by one member from each  
87 tribe, and the remaining Indian members chosen at large from the Indian population residing in Virginia,  
88 and one member from the Commonwealth at large, all of whom shall be appointed by the Governor; (ii)  
89 three members of the House of Delegates appointed by the Speaker of the House of Delegates in  
90 accordance with the principles of proportional representation contained in the Rules of the House of  
91 Delegates; and (iii) one member of the Senate appointed by the Senate Committee on Rules (ii) two  
92 members appointed at large by the Governor from the Indian population residing in Virginia, and (iii)  
93 one nonvoting member appointed by the Governor who is a senior member of his staff. If a recognized  
94 tribe elects not to be represented, then that seat on the Council shall remain vacant until such time as  
95 the tribe elects to be represented. Each at-large member from the Indian population residing in the  
96 Commonwealth shall be required, as a condition of his appointment to the Council, to provide  
97 verification of his status as an enrolled member of a tribe recognized by either the Commonwealth,  
98 another state, or territory. Such verification shall consist of a valid tribal identification card, confirmation  
99 of membership through a central tribal registry, a written statement of a tribal chief or council  
100 confirming membership, or certification of the enrolled member status from a tribal office.

101 B. After the original appointments, all nonlegislative citizen appointments shall be for terms of three  
102 years except appointments to fill vacancies, which shall be for the unexpired terms. Legislative members  
103 shall serve terms coincident with their terms of office. All members may be reappointed. However, no  
104 nonlegislative citizen member shall be eligible to serve more than three successive three-year terms, no  
105 member of the Senate shall be eligible to serve more than two successive four-year terms, and no  
106 member of the House of Delegates shall be eligible to serve more than four successive two-year terms,  
107 provided that no appointments to fill vacancies for an unexpired term shall be included in determining  
108 the term limit. Each chief shall serve a term coincident with his term of office as chief and may appoint  
109 one designee who may serve as his representative at Council meetings and other Council activities. The  
110 senior member of the Governor's staff shall serve a term coincident with the member's term of office.  
111 After the original appointments, the appointments of the at large members shall be for terms of two  
112 years except appointments to fill vacancies, which shall be for the unexpired terms. At large members  
113 may be reappointed. However, no at large member shall be eligible to serve more than three successive  
114 two-year terms

115 C. The Governor shall appoint one of the members appointed pursuant to clause (i) or (ii) of  
116 subsection A as chairman, who shall serve in such position at the pleasure of the Governor. The Council  
117 shall elect a vice-chairman from among its membership. The Council shall annually elect a chair and  
118 vice-chair from among its membership. The meetings of the Council shall be held at the call of the  
119 chairman or whenever the majority of the voting members so request. A majority of the nonlegislative  
120 members shall constitute a quorum.

121 D. Members of the Council shall receive no compensation for their services, but shall be reimbursed

122 for all reasonable and necessary expenses incurred in the performance of their duties as provided in  
123 §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the  
124 Office of the Governor.

125 E. The chairman of the Council shall submit to the Governor and the General Assembly an annual  
126 executive summary of the interim activity and work of the Council no later than the first day of each  
127 regular session of the General Assembly. The executive summary shall be submitted as provided in the  
128 procedures of the Division of Legislative Automated Systems for the processing of legislative documents  
129 and reports and shall be posted on the General Assembly's website.

130 § 2.2-2629.1. *Advisory Committee.*

131 *The Council shall establish a non voting advisory committee consisting of representatives of*  
132 *recognized and non-recognized Indian tribes. The advisory committee shall perform duties which may*  
133 *be assigned by the Council.*

134 **2. That the initial appointments of the at large members appointed by the Governor shall be**  
135 **staggered as follows: one member appointed for an initial term of one year; and one member**  
136 **appointed for a term of three years.**