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## SENATE BILL NO. 894

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Senator Deeds)

*A BILL to amend and reenact § 2.2-507 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 1 of Title 10.1 a section numbered 10.1-119, relating to Office of the Attorney General; Department of Conservation and Recreation; legal service in civil matters; special counsel for certain proceedings.*

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

**1. That § 2.2-507 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 1 of Title 10.1 a section numbered 10.1-119 as follows:**

§ 2.2-507. Legal service in civil matters.

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. Upon request of the local attorney for the Commonwealth, the Attorney General may provide legal service in civil matters for soil and water conservation district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents or employees of the Alcoholic Beverage Control Board;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents or employees of the State Mental Health, Mental Retardation and Substance Abuse Services Board, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Corrections, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Game wardens appointed by the Department of Game and Inland Fisheries;
10. Third impartial panel members appointed to hear a teacher's grievance pursuant to § 22.1-312;
11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1; or
12. Any emergency medical service agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties; or
13. *Conservation officers of the Department of Conservation and Recreation.*

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division or

60 department whose members, officers, inspectors, investigators, or other employees are defended pursuant  
61 to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may  
62 employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a  
63 party.

64 *§ 10.1-119. Defense of conservation officer of the Department prosecuted on criminal charges.*

65 *If any conservation officer appointed by the Director shall be brought before any regulatory body,*  
66 *summoned before any grand jury, investigated by any other law-enforcement agency, or arrested or*  
67 *indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his*  
68 *official duties, the Director may employ special counsel approved by the Attorney General to defend*  
69 *such officer. Upon a finding that (i) the officer did not violate a law or regulation resulting from the act*  
70 *that was the subject of the investigation and (ii) the officer will not be terminated from employment as*  
71 *the result of such act, the Director shall pay for the special counsel employed. The compensation for*  
72 *special counsel employed pursuant to this section shall, subject to the approval of the Attorney General,*  
73 *be paid out of the funds appropriated for the administration of the Department of Conservation and*  
74 *Recreation.*