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HOUSE BILL NO. 1941

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend and reenact § 2.2-2822 of the Code of Virginia, relating to patent and copyright policies of the Commonwealth.

Patrons—Peace and May; Senator: Watkins

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-2822 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-2822. Ownership and use of patents and copyrights developed by certain public employees.

A. Patents, copyrights or materials that were potentially patentable or copyrightable developed by a state employee during working hours or within the scope of his employment or when using state-owned or state-controlled facilities shall be the property of the Commonwealth. ~~The Governor shall set such policies as he deems necessary to implement this section.~~

B. The Secretary of Administration shall establish policies, subject to the approval of the Governor, regarding the use of patents and copyrights owned by the Commonwealth. Such policies shall include, at a minimum, the following:

1. A policy granting state agencies the authority over the use and release of patents and copyrights created by employees of the agency. Such policy shall authorize state agencies to release potentially copyrightable materials under the Creative Commons licensing system.

2. A provision encouraging the Commonwealth and state agencies to seek patent and copyright protection only in those instances where the patents or copyrights have potential commercial value.

3. Subject to approval by the Secretary of Administration, a process permitting state agencies to commercialize patents and copyrights with potential commercial value.

C. Patents, copyrights, or materials that were potentially patentable or copyrightable developed by an employee of any county, city, or town during working hours or within the scope of his employment or when using locality-owned or locality-controlled facilities shall be the property of the respective county, city, or town.

The governing body of any county, city, or town may establish policies regarding the use of patents and copyrights owned by the locality or may establish any policy adopted by the Secretary of Administration pursuant to subdivision B. Such policies may include a provision authorizing the release of potentially copyrightable materials under the Creative Commons licensing system.

D. Patents, copyrights, or materials that were potentially patentable or copyrightable developed by a local school board employee during working hours or within the scope of his employment or when using local school-board-owned or local school-board-controlled facilities shall be the property of the respective local school board.

Any local school board may establish policies regarding the use of patents and copyrights owned by the local school board or may establish any policy adopted by the Secretary of Administration pursuant to subdivision B. Such policies may include a provision authorizing the release of potentially copyrightable materials under the Creative Commons licensing system.

E. Nothing in this section shall be construed to limit access to public records as provided in the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

F. This section shall not apply to employees of public institutions of higher education who shall be subject to the patent and copyright policies of the institution employing them.

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