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## HOUSE BILL NO. 2539

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Science and Technology  
on February 2, 2009)

(Patron Prior to Substitute—Delegate Nixon)

A *BILL to amend and reenact §§ 2.2-2005, 2.2-2457, and 2.2-2458 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 20.1 of Title 2.2 an article numbered 7, consisting of sections 2.2-2033 and 2.2-2034, relating to oversight of information technology and applications in the Commonwealth; Information Technology Investment Board; Chief Information Officer.*

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

**1. That §§ 2.2-2005, 2.2-2457, and 2.2-2458 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 20.1 of Title 2.2 an article numbered 7, consisting of sections 2.2-2033 and 2.2-2034, as follows:**

§ 2.2-2005. Creation of Agency; appointment of Chief Information Officer.

A. There is hereby created the Virginia Information Technologies Agency (VITA), which shall serve as the agency responsible for administration and enforcement of the provisions of this Chapter and the rules and policies of the Board.

B. The Board shall appoint a Chief Information Officer (the CIO) as the chief administrative officer of the Board to oversee the operation of VITA. The CIO shall be employed under special contract for a term of *not to exceed* five years and shall, under the direction and control of the Board, 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 Board.

## Article 7.

## Division of Enterprise Applications.

§ 2.2-2033. Division of Enterprise Applications established; appointment of Virginia Chief Applications Officer.

A. There is hereby established within VITA a Division of Enterprise Applications (the Division) to oversee the Commonwealth's efforts to modernize the planning, development, implementation, improvement, and retirement of Commonwealth applications, including the coordination and development of enterprise-wide or multi-agency applications. The Division shall exercise the powers and duties conferred in this article.

B. The Division shall be headed by a Virginia Chief Applications Officer (CAO), appointed by and reporting to the CIO with the advice and consent of the Board. The Board shall provide the CAO with the powers necessary to direct the Commonwealth's efforts to modernize and oversee the planning, development, implementation, improvement, and retirement of enterprise-wide or multi-agency applications; to manage the Commonwealth portal; and to approve and oversee annual agency technology application budgets and contractor-based personnel IT services expenditures for presentation to and approval by the Board.

§ 2.2-2034. Agency cooperation with Division.

All agencies in the Commonwealth shall cooperate with the Chief Applications Officer and the Division in carrying out its duties and responsibilities set forth in this article, including implementing data standards, managing and modernizing the Commonwealth's applications portfolio, developing an enterprise architecture, overseeing and approving technology applications expenditures, and improving portal collaboration.

§ 2.2-2457. Information Technology Investment Board; membership; terms; quorum; compensation; staff.

A. The Information Technology Investment Board (the Board) is established as a supervisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall be responsible for the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology in the Commonwealth.

B. The Board shall consist of 10 members that include ~~eight~~ *seven* nonlegislative citizen members and ~~two~~ *three* ex officio members as follows: (i) ~~four~~ *three* nonlegislative citizen members appointed by the Governor, of whom one shall be appointed from a list of not less than seven individuals nominated jointly by the Chairs of the Senate Committee on General Laws and the House Committee on Science and Technology in consultation with their respective committee memberships; (ii) four nonlegislative citizen members appointed by the Joint Rules Committee from a list recommended by the Joint Commission on Technology and Science; (iii) the Secretary of Technology, who shall serve ex officio with full voting privileges; (iv) *the Secretary of Finance, who shall serve ex officio with full voting privileges;* and ~~(iv)~~ (v) the Auditor of Public Accounts, who shall serve ex officio without voting

60 privileges. The individuals jointly nominated by the Chairs of the Senate Committee on General Laws  
61 and the House Committee on Science and Technology *One nonlegislative citizen member appointed by*  
62 *the Governor* shall, at a minimum, have experience as senior information technology management  
63 personnel for a company with annual gross revenues in excess of \$50 million. The other nonlegislative  
64 citizen members shall have experience in information technology systems or other technology systems  
65 including but not limited to human resources, environment, transportation, or finance.

66 The ex officio members of the Board shall serve terms coincident with their respective terms of  
67 office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for terms  
68 of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the  
69 unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall  
70 serve more than two consecutive four-year terms. The remainder of any term to which a member is  
71 appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for  
72 reappointment. Vacancies shall be filled in the same manner as the original appointments.

73 C. The Board shall elect its chairman ~~and vice-chairman~~ from among its members for a two-year  
74 ~~term~~ term. *The Board shall not delegate any duties or responsibilities to the chairman other than to*  
75 *preside over meetings or to act as the spokesperson for the Board in public meetings. The chairman*  
76 *shall have no powers or duties greater than those given to any other Board member. The Secretary of*  
77 *Technology shall serve as vice-chairman.* A majority of the members shall constitute a quorum. The  
78 Board shall meet at least quarterly each year. The meetings of the Board shall be held at the call of the  
79 chairman or whenever the majority of the members so request.

80 D. Nonlegislative citizen members shall receive compensation and shall be reimbursed for all  
81 reasonable and necessary expenses incurred in the performance of their duties, as provided in  
82 §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be  
83 provided by the Virginia Information Technologies Agency.

84 E. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government  
85 Conflict of Interest Act shall apply to citizen members of the Board.

86 F. The Virginia Information Technologies Agency shall serve as staff to the Board.

87 § 2.2-2458. Powers and duties of the Board.

88 The Board shall have the power and duty to:

89 1. Appoint the Chief Information Officer as the chief administrative officer of the Board to oversee  
90 the operation of VITA pursuant to § 2.2-2005;

91 2. Adopt rules and procedures for the conduct of its business;

92 3. Approve or disapprove the development of all major information technology projects as defined in  
93 § 2.2-2006. The Board may terminate any major information technology project recommended for  
94 termination by the Chief Information Officer pursuant to § 2.2-2015;

95 4. Approve strategies, standards, and priorities recommended by the Chief Information Officer for the  
96 use of information technology for state agencies in the executive branch of state government;

97 5. Approve the four-year plan for information technology projects;

98 6. Approve statewide technical and data standards for information technology and related systems;

99 7. Approve statewide information technology architecture and related set of system standards;

100 8. Approve criteria for the review and approval of the planning, scheduling and tracking of major  
101 information technology projects as defined in § 2.2-2006;

102 9. Adopt resolutions or regulations conferring upon the Chief Information Officer all such powers,  
103 authorities and duties as the Board deems necessary or proper to carry out the purposes of Chapter 20.1  
104 of Title 2.2; ~~and~~

105 10. *Approve and oversee the prioritization, development, and implementation of enterprise-wide*  
106 *technology applications; annually oversee all agency technology applications budgets; and review and*  
107 *approve infrastructure expenditures. For purposes of this section, technology applications include, but*  
108 *are not limited to, hardware, software, maintenance, facilities, contractor services, goods, and services*  
109 *that promote business functionality and facilitate the storage, flow, use, or processing of information by*  
110 *agencies of the Commonwealth in the execution of their business activities; and*

111 11. Submit by September 1 of each year a list of recommended technology investment projects and  
112 priorities for funding such projects to the Governor and the General Assembly.

113 **2. That nothing in this act shall be construed to invalidate the existing contract of the director of**  
114 **the Virginia Enterprise Applications Program. The director shall serve as the Chief Applications**  
115 **Officer (CAO), implementing the powers and duties set forth in this act, for the remainder of the**  
116 **term of the contract.**

117 **3. That effective July 1, 2009, the amounts provided in the General Appropriations Act, Chapter**  
118 **879 of the Acts of Assembly of 2008, for projects currently under the Virginia Enterprise**  
119 **Applications Program Division (VEAP) may be used to support the provisions of this act.**  
120 **However, the Information Technology Investment Board shall not budget any amounts for the**  
121 **activities provided for in this act from revenues it receives from billings or overhead that it**

122 charges to other agencies for services, unless it can clearly demonstrate that the project benefits  
123 the Commonwealth and is recoverable under federal overhead guidelines.