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SENATE BILL NO. 689

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology)

(Patron Prior to Substitute—Senator Blevins)

Senate Amendments in [] — February 16, 2010

A BILL to amend and reenact § 51.5-39.5 of the Code of Virginia, relating to the Virginia Office for Protection and Advocacy.

Be it enacted by the General Assembly of Virginia:

1. That § 51.5-39.5 of the Code of Virginia is amended and reenacted as follows:

§ 51.5-39.5. Powers and duties of the Board; Protection and Advocacy Fund.

A. The Virginia Office for Protection and Advocacy shall be administered by the Board, whose powers and duties include, but are not limited to:

1. Appointing and annually evaluating the performance of a director who shall not be a member of the Board, to serve as the chief executive officer of the Office at the pleasure of the Board. The Director shall be an attorney in good standing, licensed to practice law in Virginia, and a person qualified by knowledge, skills, and abilities to administer and direct the provision of protection and advocacy services regarding the rights of persons with disabilities;

2. Preparing and submitting a budget to the General Assembly for the operation of the Office and the Board;

3. Establishing general policies for the Office and advising and assisting the Director in developing annual program priorities;

4. Establishing annual program priorities for the Office;

5. Adopting regulations, policies and procedures and making determinations necessary to carry out the provisions of this chapter and Chapter 9 (§ 51.5-40 et seq.) of this title. The adoption of such regulations shall be consistent with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act;

6. Monitoring and evaluating the operations of the Office;

7. Maintaining records of its proceedings and making such records available for inspection by the public; and

8. ~~[Approving the pursuit of legal remedies recommended by the Director Establishing a policy and internal guidelines for the approval of legal remedies]~~, including the initiation of any legal proceeding on behalf of the Office, any persons with disabilities, or any organization representing persons with disabilities; and

9. Performing any other acts necessary to carry out the provisions of this chapter.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Protection and Advocacy Fund, hereinafter referred to as "the Fund," to be administered by the Board. The Fund shall be established on the books of the Comptroller. The Fund shall consist of (i) gifts, donations, grants, and bequests on behalf of the Office from the United States government and agencies and instrumentalities thereof; (ii) such other funds as may be appropriated by the General Assembly from time to time and designated for this Fund; (iii) funds from any other source; and (iv) all interest, dividends and appreciation that may accrue thereto. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Office or his designee. The total costs for the operation and administration of the Office shall be funded from the Fund and shall be in such amount as provided in the general appropriation act.

The Board shall have the authority to apply for and accept, gifts, donations, grants, and bequests on behalf of the Office from the United States government and agencies and instrumentalities thereof and from any other source and to deposit all moneys received in the Protection and Advocacy Fund created pursuant to this subsection. To these ends, the Board shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable, consistent with policies, rules, and regulations of the Board.

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