

2011 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

11104551D

SENATE BILL NO. 1471

Offered January 21, 2011

A *BILL to amend and reenact §§ 2.2-3711, 2.2-4303, 2.2-4308, 2.2-4323, 3.2-2800, 3.2-2805, 3.2-2806, 9.1-108, 9.1-112, 9.1-141, 9.1-150.2, 9.1-185.2, 9.1-186.2, 9.1-1109, 9.1-1110, 10.1-419, 33.1-221.1:1.1, 44-146.35, 44-146.38, 44-146.40, 60.2-113, and 62.1-44.34:26 of the Code of Virginia, and to repeal §§ 2.2-1113, 2.2-1134, Articles 3 (§§ 2.2-2404 through 2.2-2406), 4 (§§ 2.2-2407 and 2.2-2408), and 7 (§§ 2.2-2413 and 2.2-2414) of Chapter 24, Articles 11 (§§ 2.2-2630 and 2.2-2631) and 24 (§§ 2.2-2667 and 2.2-2668) of Chapter 26, and Article 9 (§§ 2.2-2732 and 2.2-2733) of Chapter 27 of Title 2.2, §§ 3.2-2801 through 3.2-2804, 3.2-2807, 9.1-143, 9.1-802, 9.1-803, 9.1-1111, 9.1-1112, 9.1-1113, Chapter 21.2 (§§ 10.1-2135 through 10.1-2140) of Title 10.1, Chapter 65 (§§ 15.2-6500 through 15.2-6504) of Title 15.2, §§ 33.1-391.3:1, 44-146.39, and 62.1-132.11:2 of the Code of Virginia, relating to the elimination of certain advisory boards, councils, and other advisory collegial bodies.*

Patron—Martin

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, 2.2-4303, 2.2-4308, 2.2-4323, 3.2-2800, 3.2-2805, 3.2-2806, 9.1-108, 9.1-112, 9.1-141, 9.1-150.2, 9.1-185.2, 9.1-186.2, 9.1-1109, 9.1-1110, 10.1-419, 33.1-221.1:1.1, 44-146.35, 44-146.38, 44-146.40, 60.2-113, and 62.1-44.34:26 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

INTRODUCED

SB1471

59 8. In the case of boards of visitors of public institutions of higher education, discussion or
60 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
61 for services or work to be performed by such institution. However, the terms and conditions of any such
62 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign
63 person and accepted by a public institution of higher education in Virginia shall be subject to public
64 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
65 (i) "foreign government" means any government other than the United States government or the
66 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
67 created under the laws of the United States or of any state thereof if a majority of the ownership of the
68 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
69 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal
70 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
71 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

72 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum
73 of Natural History, and The Science Museum of Virginia, discussion or consideration of matters relating
74 to specific gifts, bequests, and grants.

75 10. Discussion or consideration of honorary degrees or special awards.

76 11. Discussion or consideration of tests, examinations, or other records excluded from this chapter
77 pursuant to subdivision 4 of § 2.2-3705.1.

78 12. Discussion, consideration, or review by the appropriate House or Senate committees of possible
79 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
80 filed by the member, provided the member may request in writing that the committee meeting not be
81 conducted in a closed meeting.

82 13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
83 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
84 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating
85 position of the governing body or the establishment of the terms, conditions and provisions of the siting
86 agreement, or both. All discussions with the applicant or its representatives may be conducted in a
87 closed meeting.

88 14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
89 activity and estimating general and nongeneral fund revenues.

90 15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to
91 subdivision 1 of § 2.2-3705.5.

92 16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to
93 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
94 discussion, consideration or review of State Lottery Department matters related to proprietary lottery
95 game information and studies or investigations exempted from disclosure under subdivision 6 of
96 § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

97 17. Those portions of meetings by local government crime commissions where the identity of, or
98 information tending to identify, individuals providing information about crimes or criminal activities
99 under a promise of anonymity is discussed or disclosed.

100 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
101 of, or information tending to identify, any prisoner who (i) provides information about crimes or
102 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
103 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
104 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

105 19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff
106 members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to
107 respond to such activity or a related threat to public safety; or discussion of reports or plans related to
108 the security of any governmental facility, building or structure, or the safety of persons using such
109 facility, building or structure.

110 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
111 of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the
112 University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings
113 Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or
114 other ownership interest in an entity, where such security or ownership interest is not traded on a
115 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
116 analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement
117 system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia
118 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest
119 or the future financial performance of the entity, and (ii) would have an adverse effect on the value of
120 the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of

the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in § 56-557, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or a grant allocation committee appointed to advise the Innovation and Entrepreneurship Investment Authority on the grant applications.

31. Discussion or consideration by the Commitment Review Committee of records excluded from this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

35. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision F 1 of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.

41. Discussion or consideration by the Board of Education of records relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 13 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council, the Virginia National Defense Industrial Authority, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of records excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

43. Discussion or consideration by the advisory committee for veterans care centers established by the Commissioner of the Virginia Department of Veterans Services pursuant to § 2.2-2004.1 of records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.7.

44. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

45. Discussion or consideration by the Virginia Tobacco Indemnification and Community Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-4303. Methods of procurement.

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or

competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation.

C. Upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3 b of the definition of "competitive negotiation" in § 2.2-4301. The basis for this determination shall be documented in writing.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

1. By the Commonwealth, its departments, agencies and institutions on a fixed price design-build basis or construction management basis under § 2.2-4306;

2. By any (a)(i) public body for the construction, alteration, repair, renovation or demolition of buildings or structures when the contract is not expected to cost more than \$1.5 million and (b)(ii) local governing body on a fixed price design-build basis or construction management basis under § 2.2-4308 when the contract is not expected to cost more than \$1.5 million;

3. By any public body for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property;

4. By any governing body of a locality with a population in excess of 100,000 that the ~~Design-Build/Construction Management Review Board has made a one-time determination, provided that~~ the locality has the personnel, procedures, and expertise to enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis, ~~provided that projects undertaken by the local governing body shall be exempt only from approval of the Design-Build/Construction Management Review Board~~ and shall otherwise be in compliance with the provisions of this section, § 2.2-4308, and other applicable law governing design-build or construction management contracts for public bodies other than the Commonwealth. The procedures of the local governing body shall be consistent with the two-step competitive negotiation process established in § 2.2-4301; or

5. As otherwise provided in § 2.2-4308.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The public body shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites.

G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable. Purchases under this subsection that are expected to exceed \$30,000 shall require the written informal solicitation of a minimum of four bidders or offerors.

305 H. A public body may establish purchase procedures, if adopted in writing, not requiring competitive
306 negotiation for single or term contracts for professional services if the aggregate or the sum of all phases
307 is not expected to exceed \$50,000; however such small purchase procedures shall provide for
308 competition wherever practicable.

309 I. Upon a determination made in advance by a public body and set forth in writing that the purchase
310 of goods, products or commodities from a public auction sale is in the best interests of the public, such
311 items may be purchased at the auction, including online public auctions. Purchase of information
312 technology and telecommunications goods and nonprofessional services from a public auction sale shall
313 be permitted by any authority, department, agency, or institution of the Commonwealth if approved by
314 the Chief Information Officer of the Commonwealth. The writing shall document the basis for this
315 determination. However, bulk purchases of commodities used in road and highway construction and
316 maintenance, and aggregates shall not be made by online public auctions.

317 J. The purchase of goods or nonprofessional services, but not construction or professional services,
318 may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway
319 construction and maintenance, and aggregates shall not be made by reverse auctioning.

320 § 2.2-4308. Design-build or construction management contracts for public bodies other than the
321 Commonwealth; eligibility requirements; award of contract; records to be kept.

322 A. While the competitive sealed bid process remains the preferred method of construction
323 procurement for public bodies in the Commonwealth, any public body other than the Commonwealth
324 may enter into a contract for construction on a fixed price or not-to-exceed price design-build or
325 construction management basis provided the public body complies with the requirements of this section
326 and has obtained the approval of the Design-Build/Construction Management Review Board (the Review
327 Board) pursuant to § 2.2-2406. Provided, however, that projects undertaken pursuant to subdivision D 2
328 or D 4 of § 2.2-4303 shall be exempt from approval of the Review Board.

329 Prior to making a determination as to the use of design-build or construction management for a
330 specific construction project, the public body shall have in its employ or under contract a licensed
331 architect or engineer with professional competence appropriate to the project who shall advise the public
332 body regarding the use of design-build or construction management for that project and who shall assist
333 the public body with the preparation of the Request for Proposal and the evaluation of such proposals.

334 Prior to issuing a Request for Proposal for any design-build or construction management contract for
335 a specific construction project, the public body shall:

336 1. Have adopted, by ordinance or resolution, written procedures governing the selection, evaluation
337 and award of design-build and construction management contracts. Such procedures shall be consistent
338 with those described in this chapter for the procurement of nonprofessional services through competitive
339 negotiation. Such procedures shall also require Requests for Proposals to include and define the criteria
340 of such construction project in areas such as site plans; floor plans; exterior elevations; basic building
341 envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical
342 systems; and special telecommunications; and may define such other requirements as the public body
343 determines appropriate for that particular construction project. ~~Except as may otherwise be approved by~~
344 ~~the Review Board,~~ such *Such* procedures for:

345 a. Design-build construction projects shall include a two-step competitive negotiation process
346 consistent with the ~~Review Board's regulations standards established by the Division of Engineering and~~
347 ~~Buildings of the Department of General Services for state agencies.~~

348 b. Construction management projects shall include selection procedures and required construction
349 management contract terms consistent with the ~~Review Board's regulations standards established by the~~
350 ~~Division of Engineering and Buildings of the Department of General Services for state agencies.~~

351 2. Have documented in writing that for a specific construction project (i) a design-build or
352 construction management contract is more advantageous than a competitive sealed bid construction
353 contract; (ii) there is a benefit to the public body by using a design-build or construction management
354 contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous.

355 B. ~~Once approved by the Review Board in accordance with § 2.2-2406, the public body may procure~~
356 ~~a design-build or construction management contract for the specific construction project presented to the~~
357 ~~Review Board.~~ Unless otherwise specified in the Request for Proposal, the contract shall be awarded to
358 the fully qualified offeror who submits an acceptable proposal determined to be the best value in
359 response to the Request for Proposal.

360 C. ~~The public body shall provide information as requested by the Review Board to allow post-project~~
361 ~~evaluation by the Review Board.~~

362 § 2.2-4323. Purchase programs for recycled goods; agency responsibilities.

363 A. All state agencies shall implement a purchase program for recycled goods and shall coordinate
364 their efforts so as to achieve the goals and objectives established in subsection C as well as those set
365 forth in §§ 10.1-1425.6, 10.1-1425.7, 10.1-1425.8, 2.2-4313, 2.2-4324, and 2.2-4326.

366 B. The Department of Environmental Quality, ~~with advice from the Virginia Recycling Markets~~

~~Development Council~~, shall advise the Department of General Services concerning the designation of recycled goods. In cooperation with the Department of General Services, the Department of Environmental Quality shall increase the awareness of state agencies as to the benefits of using such products.

C. The Department of General Services shall:

1. Ensure that the Commonwealth's procurement guidelines for state agencies promote the use of recycled goods.

2. Promote the Commonwealth's interest in the use of recycled products to vendors.

3. Make agencies aware of the availability of recycled goods, including those that use post-consumer and other recovered materials processed by Virginia-based companies.

D. All state agencies shall, to the greatest extent possible, adhere to the procurement program guidelines for recycled products to be established by the Department of General Services.

§ 3.2-2800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Beekeeper" means any person who keeps and manages bees for profit, and shall include those growers who keep bees for pollinating crops.

"Cross pollination" means the transfer of pollen from the anthers of blossoms to the stigmas of other blossoms of the same crops or a variety of the same crop.

"Pollination contractor" means any person who contracts to supply a means of cross pollinating the blossoms of any specified plant.

"Producer" means any person engaged in the business of raising crops that benefit from cross pollination by honeybees or other pollinating insects.

"Regular meeting" means a meeting of not less than six members of the Plant Pollination Advisory Board held annually.

"Special meeting" means a meeting of at least six members of the Plant Pollination Advisory Board called by the chairman between regular meetings.

§ 3.2-2805. Powers and duties of Commissioner.

The Commissioner shall have the following powers and duties:

1. To receive and dispense funds;

2. To develop and administer, ~~in consultation with the Plant Pollination Advisory Board~~, a beekeeper assistance program that is designed to assist Virginia beekeepers in maintaining healthy, productive colonies;

3. To enter into contracts for the purpose of developing new or improved markets or marketing methods for bees and bee products and pollination services;

4. To contract for scientific research services and to contract to develop improved pollinating behavior in honeybees and other pollinating insects;

5. To contract for rearing numbers of improved queen bees sufficient for distribution or sale to beekeepers;

6. To enter into agreements with any local, state or national organization or agency engaged in education for the purpose of disseminating information on pollinators and pollination of crops;

7. To rent or purchase office and laboratory space and land as necessary to carry out its duties;

8. To appoint employees, full- or part-time, and to fix their compensation, if any, in accord with the provisions of the Virginia Personnel Act, (§ 2.2-2900 et seq.); ~~and~~

9. To encourage research, education, methods of improvement in apicultural practices, and promotion projects and the award of funds for such projects as deemed necessary or advisable to accomplish the objectives set forth in this chapter; and

10. To report to the Board in the manner and at such times as the Board may prescribe, regarding the receipt and expenditure of funds ~~and the Plant Pollination Advisory Board's policies, programs, and activities~~. The ~~Plant Pollination Advisory Board~~ Commissioner shall ensure that funds made available to the Plant Pollination Fund are expended only for the purposes authorized by this chapter.

§ 3.2-2806. Plant Pollination Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Plant Pollination Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys derived from appropriations from the general fund of the state treasury, grants of private or government money designated for specified activities authorized pursuant to this chapter; fees for services rendered pursuant to this chapter; payment for products, equipment, or material or any other thing supplied by the Commissioner; payment for educational publications, materials or supplies provided by the Commissioner; and grants, bequests and donations shall be paid into the state treasury and credited to the Fund. All funds collected for or received by the Commissioner shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each

428 fiscal year shall not revert to the general fund but shall remain in the Fund. The Commissioner is further
429 authorized to accept materials, supplies, property, land and personal services contributed from any
430 source. Moneys in the Fund shall be used solely for the administration of this chapter. Expenditures and
431 disbursements from the Fund shall be made by the Commissioner on warrants issued by the Comptroller
432 upon written request signed by a duly authorized officer of the Plant Pollination Advisory Board.

433 § 9.1-108. Criminal Justice Services Board membership; terms; vacancies; members not disqualified
434 from holding other offices; designation of chairmen; meetings; compensation.

435 A. The Criminal Justice Services Board is established as a policy board within the meaning of
436 § 2.2-2100, in the executive branch of state government. The Board shall consist of 29 28 members as
437 follows: the Chief Justice of the Supreme Court of Virginia, or his designee; the Attorney General or his
438 designee; the Superintendent of the Department of State Police; the Director of the Department of
439 Corrections; the Director of the Department of Juvenile Justice; the Superintendent of the Department of
440 Correctional Education; the Chairman of the Parole Board; the Executive Director of the Virginia
441 Indigent Defense Commission or his designee; and the Executive Secretary of the Supreme Court of
442 Virginia. In those instances in which the Executive Secretary of the Supreme Court of Virginia, the
443 Superintendent of the Department of State Police, the Director of the Department of Corrections, the
444 Director of the Department of Juvenile Justice, the Superintendent of the Department of Correctional
445 Education, or the Chairman of the Parole Board will be absent from a Board meeting, he may appoint a
446 member of his staff to represent him at the meeting.

447 ~~Sixteen~~Fifteen members shall be appointed by the Governor from among citizens of the
448 Commonwealth. At least one shall be a representative of a crime victims' organization or a victim of
449 crime as defined in subsection B of § 19.2-11.01. The remainder shall be representative of the broad
450 categories of state and local governments, criminal justice systems, and law-enforcement agencies,
451 including but not limited to, police officials, sheriffs, attorneys for the Commonwealth, defense counsel,
452 the judiciary, correctional and rehabilitative activities, and other locally elected and appointed
453 administrative and legislative officials. Among these members there shall be two sheriffs representing
454 the Virginia Sheriffs Association selected from among names submitted by the Association; one member
455 who is an active duty law-enforcement officer appointed after consideration of the names, if any,
456 submitted by police or fraternal associations that have memberships of at least 1,000; two representatives
457 of the Chiefs of Police Association appointed after consideration of the names submitted by the
458 Association, if any; one attorney for the Commonwealth appointed after consideration of the names
459 submitted by the Association for Commonwealth's Attorneys, if any; one person who is a mayor, city or
460 town manager, or member of a city or town council representing the Virginia Municipal League
461 appointed after consideration of the names submitted by the League, if any; one person who is a county
462 executive, manager, or member of a county board of supervisors representing the Virginia Association of
463 Counties appointed after consideration of the names submitted by the Association, if any; one member
464 representing the Virginia Crime Prevention Association appointed after consideration of the names
465 submitted by the Association, if any; ~~one member of the Private Security Services Advisory Board~~; and
466 one representative of the Virginia Association of Regional Jail Superintendents Jails appointed after
467 consideration of the names submitted by the Association, if any.

468 Four members of the Board shall be members of the General Assembly appointed as follows: one
469 member of the House Committee on Appropriations appointed by the Speaker of House of Delegates
470 after consideration of the recommendation by the committee's chairman; one member of the House
471 Committee for Courts of Justice appointed by the Speaker of the House of Delegates after consideration
472 of the recommendation by the committee's chairman; one member of the Senate Committee on Finance
473 appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman
474 of the Senate Committee on Finance; and one member of the Senate Committee for Courts of Justice
475 appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman
476 of the Senate Committee for Courts of Justice. The legislative members shall serve for terms coincident
477 with their terms of office and shall serve as ex officio, nonvoting members. Legislative members may be
478 reappointed for successive terms.

479 B. The members of the Board appointed by the Governor shall serve for terms of four years,
480 provided that no member shall serve beyond the time when he holds the office or employment by
481 reason of which he was initially eligible for appointment. Gubernatorial appointed members of the Board
482 shall not be eligible to serve for more than two consecutive full terms. Three or more years within a
483 four-year period shall be deemed a full term. Any vacancy on the Board shall be filled in the same
484 manner as the original appointment, but for the unexpired term.

485 C. The Governor shall appoint a chairman of the Board, and the Board shall designate one or more
486 vice-chairmen from among its members, who shall serve at the pleasure of the Board.

487 D. Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the
488 contrary, membership on the Board shall not disqualify any member from holding any other public
489 office or employment, or cause the forfeiture thereof.

E. The Board shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Board.

F. The Board may adopt bylaws for its operation.

G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for the performance of their duties. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Criminal Justice Services.

§ 9.1-112. Committee on Training; membership.

There is created a permanent Committee on Training under the Board that shall be the policy-making body responsible to the Board for effecting the provisions of subdivisions 2 through 16 of § 9.1-102. The Committee on Training shall be composed of 14 13 members of the Board as follows: the Superintendent of the Department of State Police; the Director of the Department of Corrections; a member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court of Virginia; two sheriffs representing the Virginia State Sheriffs Association; two representatives of the Chiefs of Police Association; the active-duty law-enforcement officer representing police and fraternal associations; the attorney for the Commonwealth representing the Association ~~for~~ of Commonwealth's Attorneys for the Commonwealth; a representative of the Virginia Municipal League; a representative of the Virginia Association of Counties; a regional jail superintendent representing the Virginia Association of Regional Jails; and one member designated by the chairman of the Board from among the other appointments made by the Governor.

The Committee on Training shall annually elect its chairman from among its members.

§ 9.1-141. Powers of Board relating to private security services business.

A. The Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), establishing compulsory minimum, entry-level, in-service, and advanced training standards for persons employed by private security services businesses in classifications defined in § 9.1-138. The regulations may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and Board regulations. In establishing compulsory training standards for each of the classifications defined in § 9.1-138, the Board shall be guided by the policy of this section to secure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section and Article 4 (§ 9.1-138 et seq.) of this chapter. The regulations may provide for partial exemption from such compulsory, entry-level training for persons having previous employment as law-enforcement officers for a local, state or the federal government, to include units of the United States Armed Forces, or for persons employed in classifications defined in § 9.1-138. However, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer or whose employment as a private security services business employee was terminated because of his misconduct or incompetence. The regulations may include separate provisions for partial exemption from compulsory training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department.

B. The Board may enter into an agreement with other states for reciprocity or recognition of private security services businesses and their employees, duly licensed by such states. The agreements shall allow those businesses and their employees to provide and perform private security services within the Commonwealth to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses.

C. The Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses that:

1. Establish the qualifications of applicants for registration, certification, or licensure under Article 4 (§ 9.1-138) of this chapter;

2. Examine, or cause to be examined, the qualifications of each applicant for registration, certification, or licensure, including when necessary the preparation, administration and grading of examinations;

3. Certify qualified applicants for private security training schools and instructors or license qualified applicants as practitioners of private security services businesses;

4. Levy and collect fees for registration, certification, or licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of registration, certification, and licensure for private security services businesses and training schools;

5. Are necessary to ensure continued competency, and to prevent deceptive or misleading practices by practitioners and effectively administer the regulatory system adopted by the Board;

6. Receive complaints concerning the conduct of any person whose activities are regulated by the Board, to conduct investigations, and to take appropriate disciplinary action if warranted; and

7. Revoke, suspend or fail to renew a registration, certification, or license for just cause as enumerated in Board regulations.

D. ~~In adopting its regulations under subsections A and C, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.~~

§ 9.1-150.2. Powers of Criminal Justice Services Board relating to special conservators of the peace appointed pursuant to § 19.2-13.

The Board may adopt regulations establishing compulsory minimum, entry-level, in-service, and advanced training standards for special conservators of the peace. The regulations may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and its regulations. In establishing compulsory training standards for special conservators of the peace, the Board shall ensure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section. The regulations may provide for exemption from training of persons having previous employment as law-enforcement officers for a state or the federal government. However, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence. The regulations may include provisions for partial exemption from such training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department. The Board may also adopt regulations that (i) establish the qualifications of applicants for registration; (ii) cause to be examined the qualifications of each applicant for registration; (iii) provide for collection of fees for registration and renewal that are sufficient to cover all expenses for administration and operation of a program of registration; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) effectively administer the regulatory system promulgated by the Board; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations, and appropriate disciplinary action if warranted; and (viii) allow the Board to revoke, suspend or refuse to renew a registration, certification, or license for just cause as enumerated in regulations of the Board. The Board shall not adopt compulsory, minimum, entry-level training standards in excess of 24 hours for unarmed special conservators of the peace or in excess of 40 hours for armed special conservators of the peace. ~~In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.~~

§ 9.1-185.2. Powers of the Criminal Justice Services Board relating to bail bondsmen.

The Board shall have full regulatory authority and oversight of property and surety bail bondsmen.

The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail bonding within the Commonwealth. The Board's regulations shall include but not be limited to regulations that (i) establish the qualifications of applicants for licensure and renewal under this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure, including when necessary the preparation, administration, and grading of examinations; (iii) levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations and appropriate disciplinary action if warranted; (viii) establish standards for professional conduct, solicitation, collateral received in the course of business, firearms training and usage, uniforms and identification, documentation and recordkeeping requirements, reporting requirements, and methods of capture for the recovery of bailees; and (ix) allow the Board to suspend, revoke or refuse to issue, reissue or renew a license for just cause. The Board shall not adopt compulsory, minimum, firearms training standards in excess of 24 hours per year for bail bondsmen. ~~In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.~~

§ 9.1-186.2. Powers of Department and Board relating to bail enforcement agents.

A. The Board shall have full regulatory authority and oversight of bail enforcement agents.

B. The Board shall adopt regulations establishing compulsory minimum, entry-level and in-service training and education for bail enforcement agents. The regulations may include provisions allowing the Department to inspect the facilities and programs of persons conducting training to ensure compliance with the law and regulations. In establishing compulsory training standards for bail enforcement agents, the Board shall ensure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this article. The regulations may provide for exemption from training of

persons having previous employment as law-enforcement officers for a local, state or the federal government. However, no such exemption shall be granted for any person whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence. The regulations may include provisions for partial exemption from such training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department.

C. The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail enforcement within the Commonwealth and shall include but not be limited to regulations that: (i) establish qualifications of applicants for licensure and renewal under this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure, including when necessary the preparation, administration, and grading of examinations; (iii) levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations, and appropriate disciplinary action if warranted; (viii) establish professional conduct standards, firearms training and usage standards, uniform and identification standards, reporting standards, and standards for the recovery and capture of bailees; (ix) allow the Board to revoke, suspend or refuse to renew a license for just cause; and (x) establish an introductory training curriculum which includes search, seizure and arrest procedure, pursuit, arrest, detainment and transportation of a bailee, specific duties and responsibilities regarding entering an occupied structure, the laws and rules relating to the bail bond business, the rights of the accused, ethics and Virginia law and regulation. The Board shall adopt annual compulsory, minimum, firearms training standards for bail enforcement agents. ~~In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.~~

§ 9.1-1109. Forensic Science Board; membership.

A. The Forensic Science Board (the Board) is established as a policy board within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of ~~15~~ 13 members as follows:

1. The Superintendent of the State Police or his designee;
2. The Director of the Department of Criminal Justice Services or his designee;
3. The Chief Medical Examiner or his designee;
4. The Executive Director of the Virginia Board of Pharmacy or his designee;
5. The Attorney General, or his designee;
6. The Executive Secretary of the Supreme Court of Virginia or his designee;
7. The Chairman of the Virginia State Crime Commission or his designee;
8. The Chairman of the Board of the Virginia Institute of Forensic Science and Medicine or his designee;
9. The Chairman of the Senate Committee for Courts of Justice or his designee;
10. The Chairman of the House Committee for Courts of Justice or his designee; *and*
11. ~~Two members of the Scientific Advisory Committee, chosen by the chairman of that committee;~~

~~and~~ 12. Three members, appointed by the Governor, from among the citizens of the Commonwealth as follows:

- a. A member of law enforcement;
- b. A member of the Virginia Association of Commonwealth's Attorneys Association; ~~and~~
- c. A member who is a criminal defense attorney having specialized knowledge in the area of forensic sciences.

B. The legislative members shall serve for terms coincident with their terms of office. The members appointed by the Governor shall serve for terms of four years, provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Any vacancy on the Board shall be filled in the same manner as the original appointment, but for the unexpired term.

C. Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Board shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

D. The Board shall elect its chairman and vice-chairman. A majority of the members shall constitute a quorum. Members shall be paid reasonable and necessary expenses incurred in the performance of their duties. Legislative members shall receive compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive compensation for their services as provided in §§ 2.2-2813 and 2.2-2825.

E. The Board shall hold no less than four regular meetings a year. Subject to the requirements of this

subsection, the chairman of the Board shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Board.

§ 9.1-1110. Functions of Forensic Science Board.

A. The Board shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of (i) this chapter or (ii) §§ 18.2-268.6, 18.2-268.9, 19.2-188.1, and 19.2-310.5 and for any provisions of the Code as they relate to the responsibilities of the Department. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information or DNA identification shall be submitted for review and comment to any board, commission, or committee or other body that may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Develop and establish program and fiscal standards and goals governing the operations of the Department;

3. Ensure the development of long-range programs and plans for the incorporation of new technologies as they become available;

4. Review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

5. Monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board;

6. Advise the Governor, Director, and General Assembly on matters relating to the Department and forensic science in general;

7. Review, amend, and approve recommendations of the Scientific Advisory Committee;

8. Monitor the receipt, administration, and expenditure of all funds and other assistance available for carrying out the purposes of this chapter;

9. Approve Department applications for grants from the United States government or any other source in carrying out the purposes of this chapter and approve of acceptance of any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. With regard to any grants of money from a governmental or public agency, the Board may delegate or assign the duties under this subdivision to the chairman of the Board who may, with the concurrence of the vice-chairman and in consultation with the Director, make such determinations. Any grants or donations received pursuant to this section shall be detailed in the annual report of the Board. The report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department;

10. Monitor all contracts and agreements necessary or incidental to the performance of the duties of the Department and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth; and

11. Recommend actions to foster and promote coordination and cooperation between the Department and the user programs that are served.

B. By November 1 of each year, the Board shall review and make recommendations to the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance, and the Crime Commission concerning:

1. New major programs and plans for the activities of the Department and elimination of programs no longer needed;

2. Policy and priorities in response to agency needs;

3. General fiscal year operational budget and any major changes in appropriated funds;

4. Actions to foster and promote coordination and cooperation between the Department and the user programs which are served; and

5. Rules and regulations necessary to carry out the purposes and intent of this chapter; and

6. Any recommendations submitted to the Board or the Director by the Scientific Advisory Committee.

§ 10.1-419. Declared a state historic river; planning for use and development; advisory committee established.

A. In keeping with the public policy of the Commonwealth of Virginia to conserve the portions of certain rivers possessing superior natural beauty, thereby assuring their use and enjoyment for their historic, scenic, recreational, geologic, fish and wildlife, cultural and other values, that portion of the Lower James River in Charles City, James City and Surry Counties, from an unnamed tributary to the James River approximately 1.2 miles east of Trees Point in Charles City County (northside) and Upper Chippokes Creek (southside) to Grices Run (northside) and Lawnes Creek (southside), is hereby declared

to be an historic river with noteworthy scenic and ecological qualities.

B. In all planning for the use and development of water and related land resources which changes the character of a stream or waterway or destroys its historic, scenic or ecological values, full consideration and evaluation of the river as an historic, scenic and ecological resource should be given before such work is undertaken. Alternative solutions should also be considered before such work is undertaken.

C. ~~The Counties of Charles City, James City and Surry and the Governor shall appoint a seven-member advisory committee of area residents and other qualified persons. The governing bodies of the Counties of James City and Surry shall each appoint two persons to the Lower James River Advisory Committee. The governing body of Charles City County shall appoint one person to the Advisory Committee. The Governor shall appoint two persons to the Advisory Committee. Committee members will serve four-year terms, without compensation.~~

~~The Advisory Committee shall assist and advise the Department of Conservation and Recreation, the political subdivisions through which the Lower James River passes, and other public bodies concerning the protection and management of this portion of the River. The Advisory Committee shall have no regulatory authority.~~

D.C. The General Assembly hereby designates the Department of Conservation and Recreation as the agency of the Commonwealth responsible for assuring that the purposes of this chapter are achieved. Nothing in this designation shall impair the powers and duties of the local jurisdictions listed above or the Virginia Department of Transportation.

§ 33.1-221.1:1.1. Rail Enhancement Fund.

A. The General Assembly declares it to be in the public interest that railway preservation and development of railway transportation facilities are an important element of a balanced transportation system of the Commonwealth for freight and passengers and further declares it to be in the public interest that the retention, maintenance, improvement and development of freight and passenger railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets, and there is hereby created in the state treasury a special nonreverting fund to be known as the Rail Enhancement Fund which shall be considered a special fund within the Transportation Trust Fund, hereafter referred to as "the Fund."

B. The Fund shall be established on the books of the Comptroller, and shall consist of dedications pursuant to § 58.1-2425 and such funds from other sources as may be set forth in the appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. 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 as provided in this section. 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 Virginia Department of Rail and Public Transportation or the Director's designee.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Fund for acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way or facilities, or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way or facilities, for freight and/or passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. ~~Prior to recommending an allocation of the Fund to the Commonwealth Transportation Board, the Director of the Department of Rail and Public Transportation shall consult with and obtain the advice and recommendations of the Rail Advisory Board established pursuant to § 33.1-391.3:1.~~

D. Projects undertaken pursuant to this section shall be limited to those the Commonwealth Transportation Board shall have determined will result in public benefits to the Commonwealth or to a region of the Commonwealth that are equal to or greater than the investment of funds under this section. Such public benefits shall include, but not be limited to, the impact of the project on traffic congestion, environmental quality, and whenever possible, give due consideration to passenger rail capacity on corridors identified by the Commonwealth Transportation Board that have existing or proposed passenger rail service. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, or a local government source, or a combination of such sources.

§ 44-146.35. Powers and duties of the Department of Emergency Management.

In carrying out the purposes set forth in this chapter the Department shall have the authority to:

1. Coordinate the development of hazardous materials training programs and hazardous materials emergency response programs and plans with state and local government agencies and related groups. Those state agencies and local government agencies shall retain the statutory responsibilities assigned

797 elsewhere in this Code.

798 2. Administer the implementation of the Virginia Hazardous Materials Emergency Response Program.
799 ~~The Department shall consider the recommendations of the Hazardous Materials Emergency Response~~
800 ~~Advisory Council in implementing the Program.~~

801 § 44-146.38. Political subdivisions to appoint hazardous materials coordinator.

802 Each political subdivision shall appoint a hazardous materials coordinator. In appointing the
803 hazardous materials coordinator, political subdivisions shall consider the requisite qualifications for
804 hazardous materials coordinators as established by the Coordinator ~~upon recommendation of the State~~
805 ~~Hazardous Materials Emergency Response Advisory Council.~~ The hazardous materials coordinator shall
806 coordinate the hazardous materials emergency response program within the political subdivision.

807 § 44-146.40. Virginia Emergency Response Council created; membership; responsibilities; immunity
808 for local councils.

809 A. There is hereby created the Virginia Emergency Response Council to carry out the provisions of
810 Title 3, Public Law 99-499.

811 B. The Virginia Emergency Response Council shall consist of such state agency heads or designated
812 representatives with technical expertise in the emergency response field as the Governor shall appoint.
813 The Governor shall designate a chairman from among its members.

814 C. The Virginia Emergency Response Council, known as the "Virginia Council," shall designate an
815 appropriate state agency to receive funds provided under Title 3, Public Law 99-499.

816 D. ~~The Virginia Emergency Response Council shall seek advice on policy and programmatic matters~~
817 ~~from the Hazardous Materials Emergency Response Advisory Council.~~

818 E. The Virginia Council shall adopt rules and procedures in accordance with the provisions of the
819 Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) ~~of Title 2.2~~ for the conduct of its business.

820 F. Any person appointed by the Virginia Emergency Response Council as a member of a local
821 emergency planning committee shall be immune from civil liability for any official act, decision or
822 omission done or made in performance of his duties as a member of such local council, provided that
823 the act, decision or omission was not done or made in bad faith or with malicious intent or does not
824 constitute gross negligence. No member of any emergency planning committee nor any state agency on
825 behalf of such member need make a payment into the state insurance trust fund under § 2.2-1835 for
826 this purpose.

827 G. Any joint emergency planning committee serving Fairfax County and the City of Fairfax shall
828 have the authority to require any facility within its emergency planning district to submit the information
829 required and participate in the emergency planning provided for in Subtitle A of Title 3 of Public Law
830 99-499. For the purposes of this subsection, "facility" shall include any development or installation
831 having an aggregate storage capacity of at least one million gallons of oil as defined in § 62.1-44.34:10,
832 or the potential for a sudden release of 10,000 pounds or more of any other flammable liquid or gas not
833 exempt from the provisions of § 327 of Title 3 of Public Law 99-499. This requirement shall not occur
834 until after public notice and the opportunity to comment. The committee shall notify the facility owner
835 or operator of any requirement to comply with this subsection.

836 § 60.2-113. Employment stabilization.

837 The Commission shall take all necessary steps through its appropriate divisions and with the advice
838 of such advisory boards and committees as it may have to:

839 1. Establish a viable labor exchange system to promote maximum employment for the
840 Commonwealth of Virginia with priority given to those workers drawing unemployment benefits;

841 2. Provide Virginia State Job Service services, as described in this title, according to the provisions
842 of the Wagner-Peyser Act (29 U.S.C. 49f), as amended by the Workforce Investment Act;

843 3. Maintain a solvent trust fund financed through equitable employer taxes that provide temporary
844 partial income replacement to involuntarily unemployed covered workers;

845 4. Coordinate and conduct labor market information research studies, programs and operations,
846 including the development, storage, retrieval and dissemination of information on the social and
847 economic aspects of the Commonwealth and publish data needed by employers, economic development,
848 education and training entities, government and other users in the public and private sectors;

849 5. Determine and publish a list of jobs, trades, and professions for which a high demand of qualified
850 workers exists or is projected by the Commission. The Commission shall consult with the Virginia
851 Workforce Council in making such determination. Such information shall be published biennially and
852 disseminated to employers; education and training entities, including public two-year and four-year
853 institutions of higher education; government agencies, including the Department of Education and public
854 libraries; and other users in the public and private sectors;

855 6. Prepare official short and long-range population projections for the Commonwealth for use by the
856 General Assembly and state agencies with programs which involve or necessitate population projections;

857 7. Encourage and assist in the adoption of practical methods of vocational guidance, training and
858 retraining; and

859 8. Establish the Interagency Migrant Worker Policy Committee, comprised of representatives from
860 appropriate state agencies, including the Virginia Workers' Compensation Commission, whose services
861 and jurisdictions involve migrant and seasonal farmworkers and their employees. ~~The Committee shall~~
862 ~~coordinate its activities with the Migrant and Seasonal Farmworkers Board established in § 2.2-2407.~~ All
863 agencies of the Commonwealth shall be required to cooperate with the Committee upon request.

864 § 62.1-44.34:26. Responsibilities of the Council.

865 The Council shall have the following responsibilities:

866 1. To foster the exchange of information between the federal, state, and local government;
867 2. To enhance Virginia's participation in the United States Environmental Protection Agency's Region

868 III Response Team;

869 3. To review and evaluate the response to emergency situations and recommend changes to the
870 Commonwealth of Virginia's Oil and Hazardous Materials Emergency Response Plan;

871 4. To provide ongoing analysis of the most recent technical developments for the remediation of
872 discharges; and

873 5. To coordinate its activities with the State Hazardous Materials Emergency Response Advisory
874 Council and the Virginia Emergency Response Council.

875 2. That §§ 2.2-1134, Articles 3 (§§ 2.2-2404 through 2.2-2406), 4 (§§ 2.2-2407 and 2.2-2408), and 7
876 (§§ 2.2-2413 and 2.2-2414) of Chapter 24, Articles 11 (§§ 2.2-2630 and 2.2-2631) and 24
877 (§§ 2.2-2667 and 2.2-2668) of Chapter 26, and Article 9 (§§ 2.2-2732 and 2.2-2733) of Chapter 27
878 of Title 2.2, §§ 3.2-2801 through 3.2-2804, 3.2-2807, 9.1-143, 9.1-802, 9.1-803, 9.1-1111, 9.1-1112,
879 9.1-1113, Chapter 21.2 (§§ 10.1-2135 through 10.1-2140) of Title 10.1, Chapter 65 (§§ 15.2-6500
880 through 15.2-6504) of Title 15.2, §§ 33.1-391.3:1, 44-146.39, and 62.1-132.11:2 of the Code of
881 Virginia are repealed.