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HOUSE BILL NO. 1295

Offered January 25, 2012

A BILL to amend and reenact §§ 2.2-1124, 2.2-4303, 2.2-4304, 2.2-4343, 5.1-40, 10.1-561, 15.2-968.1, 15.2-1643, 15.2-2223.1, 22.1-18.1, 22.1-92, 22.1-129, 22.1-209.1:2, 22.1-225, 22.1-253.13:1, 22.1-275.1, 37.2-504, 37.2-508, 42.1-36.1, and 51.5-89 of the Code of Virginia and to repeal § 22.1-200.03 of the Code of Virginia and § 2 of the first enactment of Chapter 814 of the Acts of Assembly of 2010, relating to the elimination of various mandates on local and regional entities relating to procurement procedures, education, and land use.

Patrons—Byron, Cole, Dudenhefer, Garrett, Peace and Poindexter

Introduced at the request of the Governor

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1124, 2.2-4303, 2.2-4304, 2.2-4343, 5.1-40, 10.1-561, 15.2-968.1, 15.2-1643, 15.2-2223.1, 22.1-18.1, 22.1-92, 22.1-129, 22.1-209.1:2, 22.1-225, 22.1-253.13:1, 22.1-275.1, 37.2-504, 37.2-508, 42.1-36.1, and 51.5-89 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1124. Disposition of surplus materials.

A. "Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, but shall not include property as defined in § 2.2-1147 that is determined to be surplus. Surplus materials shall not include finished products that a mental health or mental retardation facility sells for the benefit of its patients or residents, provided that (i) most of the supplies, equipment, or products have been donated to the facility; (ii) the patients or residents of the facility have substantially altered the supplies, equipment, or products in the course of occupational or other therapy; and (iii) the substantial alterations have resulted in a finished product.

B. The Department shall establish procedures for the disposition of surplus materials from departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or agencies of the Commonwealth;

2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge;

3. Permit public sales or auctions, including online public auctions, provided that the procedures provide for sale to all political subdivisions and any volunteer rescue squad or volunteer fire department established pursuant to § 15.2-955 any surplus materials prior to such public sale or auction;

4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service departments for the purpose of resale at cost to TANF recipients;

5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as children's homes;

6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified in this section;

7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to be derived therefrom or (b) the surplus material is not suitable for sale;

8. Permit any dog especially trained for police work to be sold at an appropriate price to the handler who last was in control of the dog, which sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);

9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency of the Commonwealth for distribution to needy individuals by and through local social services boards;

10. Encourage the recycling of paper products, beverage containers, electronics, and used motor oil;

11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

12. Permit donations of surplus computers and related equipment to public schools in the Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income families. For the purposes of this subdivision, "at-risk youths" means school-age children approved

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59 eligible to receive free or reduced price meals in the federally funded lunch program;

60 13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public
61 television stations located in the state and other nonprofit organizations approved for the distribution of
62 federal surplus materials;

63 14. Permit a public institution of higher education to dispose of its surplus materials at the location
64 where the surplus materials are held and to retain any proceeds from such disposal, provided that the
65 institution meets the conditions prescribed in subsection B of § 23-38.88 and § 23-38.112 (regardless of
66 whether or not the institution has been granted any authority under Subchapter 3 (§ 23-38.91 et seq.) of
67 Chapter 4.10 of Title 23); and

68 15. Require, to the extent practicable, the recycling and disposal of computers and other information
69 technology assets. Additionally, for computers or information technology assets that may contain
70 confidential state data or personal identifying information of citizens of the Commonwealth, the
71 Department shall ensure all policies for the transfer or other disposition of computers or information
72 technology assets are consistent with data and information security policies developed by the Virginia
73 Information Technologies Agency.

74 C. The Department shall dispose of surplus materials pursuant to the procedures established in
75 subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose
76 of its surplus materials consistent with the procedures so established. No surplus materials shall be
77 disposed of without prior consent of the head of the department, division, institution, or agency of the
78 Commonwealth in possession of such surplus materials or the Governor.

79 D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may
80 donate surplus materials only under the following circumstances:

81 1. Emergencies declared in accordance with § 44-146.18:2 or 44-146.28;

82 2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains
83 a description of the surplus materials, the method by which the surplus materials shall be distributed,
84 and the anticipated recipients, and (b) such information shall be provided by the Department to the
85 Department of Planning and Budget in sufficient time for inclusion in the budget bill;

86 3. When the market value of the surplus materials, which shall be donated for a public purpose, is
87 less than \$500; however, the total market value of all surplus materials so donated by any department,
88 division, institution, or agency shall not exceed 25 percent of the revenue generated by such
89 department's, division's, institution's, or agency's sale of surplus materials in the fiscal year, except these
90 limits shall not apply in the case of surplus computer equipment and related items donated to Virginia
91 public schools; or

92 4. During a local emergency, upon written request of the head of a local government or a political
93 subdivision in the Commonwealth to the head of a department, division, institution, or agency.

94 E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of
95 the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming
96 fiscal year pursuant to subdivision B 6.

97 F. The Department may make available to any local public body of the Commonwealth the services
98 or facilities authorized by this section; however, the furnishing of any such services shall not limit or
99 impair any services normally rendered any department, division, institution or agency of the
100 Commonwealth. All public bodies shall be authorized to use the services of the Department's Surplus
101 Property Program under the guidelines established pursuant to this section and the surplus property
102 policies and procedures of the Department. Proceeds from the sale of the surplus property shall be
103 returned to the local body minus a service fee. The service fee charged by the Department shall be
104 consistent with the fee charged by the Department to state public bodies.

105 § 2.2-4303. Methods of procurement.

106 A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for
107 the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or
108 competitive negotiation as provided in this section, unless otherwise authorized by law.

109 B. Professional services shall be procured by competitive negotiation.

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

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

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

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

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

129 3. By any governing body of a locality with a population in excess of 100,000, provided that the
 130 locality has the personnel, procedures, and expertise to enter into a contract for construction on a fixed
 131 price or not-to-exceed price design-build or construction management basis and shall otherwise be in
 132 compliance with the provisions of this section, § 2.2-4308, and other applicable law governing
 133 design-build or construction management contracts for public bodies other than the Commonwealth. The
 134 procedures of the local governing body shall be consistent with the two-step competitive negotiation
 135 process established in § 2.2-4301; or

136 4. As otherwise provided in § 2.2-4308.

137 E. Upon a determination in writing that there is only one source practicably available for that which
 138 is to be procured, a contract may be negotiated and awarded to that source without competitive sealed
 139 bidding or competitive negotiation. The writing shall document the basis for this determination. The
 140 public body shall issue a written notice stating that only one source was determined to be practicably
 141 available, and identifying that which is being procured, the contractor selected, and the date on which
 142 the contract was or will be awarded. This notice shall be posted on the Department of General Services'
 143 central electronic procurement website or other appropriate websites, and in addition, public bodies may
 144 publish in a newspaper of general circulation on the day the public body awards or announces its
 145 decision to award the contract, whichever occurs first. Posting on the Department of General Services'
 146 central electronic procurement website shall be required of any state public body. Local public bodies
 147 are encouraged to utilize the Department of General Services' central electronic procurement website to
 148 provide the public with centralized visibility and access to the Commonwealth's procurement
 149 opportunities.

150 F. In case of emergency, a contract may be awarded without competitive sealed bidding or
 151 competitive negotiation; however, such procurement shall be made with such competition as is
 152 practicable under the circumstances. A written determination of the basis for the emergency and for the
 153 selection of the particular contractor shall be included in the contract file. The public body shall issue a
 154 written notice stating that the contract is being awarded on an emergency basis, and identifying that
 155 which is being procured, the contractor selected, and the date on which the contract was or will be
 156 awarded. This notice shall be posted on the Department of General Services' central electronic
 157 procurement website or other appropriate websites, and in addition, public bodies may publish in a
 158 newspaper of general circulation on the day the public body awards or announces its decision to award
 159 the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of
 160 General Services' central electronic procurement website shall be required of any state public body.
 161 Local public bodies are encouraged to utilize the Department of General Services' central electronic
 162 procurement website to provide the public with centralized visibility and access to the Commonwealth's
 163 procurement opportunities.

164 G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive
 165 sealed bids or competitive negotiation for single or term contracts for goods and services other than
 166 professional services if the aggregate or the sum of all phases is not expected to exceed \$100,000;
 167 however, such small purchase procedures shall provide for competition wherever practicable. *For local*
 168 *public bodies, such purchase procedures may allow for single or term contracts for all goods and*
 169 *services without requiring competitive sealed bids or competitive negotiation, provided the aggregate or*
 170 *the sum of all phases is not expected to exceed \$100,000.*

171 ~~Purchases~~For state public bodies, purchases under this subsection that are expected to exceed
 172 \$30,000 shall require the ~~(i)~~ written informal solicitation of a minimum of four bidders or offerors. ~~and~~
 173 ~~(ii) posting of~~ All public bodies proceeding with purchases under this subsection shall post a public
 174 notice on the Department of General Services' central electronic procurement website or other
 175 appropriate websites. Posting on the Department of General Services' central electronic procurement
 176 website shall be required of any state public body. Local public bodies are encouraged to utilize the
 177 Department of General Services' central electronic procurement website to provide the public with
 178 centralized visibility and access to the Commonwealth's procurement opportunities.

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

182 for competition wherever practicable.

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

191 ~~F.I.~~ The purchase of goods or nonprofessional services, but not construction or professional services,
192 may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway
193 construction and maintenance, and aggregates shall not be made by reverse auctioning.

194 § 2.2-4304. Cooperative procurement.

195 A. Any public body may participate in, sponsor, conduct, or administer a cooperative procurement
196 agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or
197 institutions or localities of the several states, of the United States or its territories, the District of
198 Columbia, or the U.S. General Services Administration, for the purpose of combining requirements to
199 increase efficiency or reduce administrative expenses in any acquisition of goods and services.

200 A public body may purchase from another public body's contract even if it did not participate in the
201 request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the
202 procurement was being conducted on behalf of other public bodies, except for:

203 ~~1. Contracts contracts for architectural or engineering services; or~~

204 ~~2. Construction in excess of \$200,000 by a local public body from the contract of another local~~
205 ~~public body that is more than a straight line distance of 75 miles from the territorial limits of the local~~
206 ~~public body procuring the construction. The installation of artificial turf or other athletic surfaces shall~~
207 ~~not be subject to the limitations prescribed in this subdivision. Nothing in this subdivision shall be~~
208 ~~construed to prohibit sole source or emergency procurements awarded pursuant to subsections E and F~~
209 ~~of § 2.2-4303.~~

210 In instances where any authority, department, agency, or institution of the Commonwealth desires to
211 purchase information technology and telecommunications goods and services from another public body's
212 contract and the procurement was conducted on behalf of other public bodies, such purchase shall be
213 permitted if approved by the Chief Information Officer of the Commonwealth. Any public body that
214 enters into a cooperative procurement agreement with a county, city, or town whose governing body has
215 adopted alternative policies and procedures pursuant to subdivisions A 9 and A 10 of § 2.2-4343 shall
216 comply with the alternative policies and procedures adopted by the governing body of such county, city,
217 or town.

218 B. Subject to the provisions of §§ 2.2-1110, 2.2-1111, 2.2-1120 and 2.2-2012, any authority,
219 department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or
220 administer a cooperative procurement arrangement on behalf of or in conjunction with public bodies,
221 private health or educational institutions or with public agencies or institutions of the several states,
222 territories of the United States, or the District of Columbia, for the purpose of combining requirements
223 to effect cost savings or reduce administrative expense in any acquisition of goods and services, other
224 than professional services. A public body may purchase from any authority, department, agency or
225 institution of the Commonwealth's contract even if it did not participate in the request for proposal or
226 invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being
227 conducted on behalf of other public bodies. In such instances, deviation from the procurement
228 procedures set forth in this chapter and the administrative policies and procedures established to
229 implement this chapter shall be permitted, if approved by the Director of the Division of Purchases and
230 Supply.

231 Pursuant to § 2.2-2012, such approval is not required if the procurement arrangement is for
232 telecommunications and information technology goods and services of every description. In instances
233 where the procurement arrangement is for telecommunications and information technology goods and
234 services, such arrangement shall be permitted if approved by the Chief Information Officer of the
235 Commonwealth. However, such acquisitions shall be procured competitively.

236 Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that
237 will allow for participation in any such arrangement.

238 C. As authorized by the United States Congress and consistent with applicable federal regulations,
239 and provided the terms of the contract permit such purchases:

240 1. Any authority, department, agency, or institution of the Commonwealth may purchase goods and
241 nonprofessional services, other than telecommunications and information technology, from a U.S.
242 General Services Administration contract or a contract awarded by any other agency of the U.S.
243 government, upon approval of the director of the Division of Purchases and Supply of the Department

244 of General Services;

245 2. Any authority, department, agency, or institution of the Commonwealth may purchase
246 telecommunications and information technology goods and nonprofessional services from a U.S. General
247 Services Administration contract or a contract awarded by any other agency of the U.S. government,
248 upon approval of the Chief Information Officer of the Commonwealth; and

249 3. Any county, city, town, or school board may purchase goods and nonprofessional services from a
250 U.S. General Services Administration contract or a contract awarded by any other agency of the U.S.
251 government.

252 § 2.2-4343. Exemption from operation of chapter for certain transactions.

253 A. The provisions of this chapter shall not apply to:

254 1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10
255 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by
256 the Board of Commissioners and approved by the Department of General Services, procedures to ensure
257 fairness and competitiveness in the procurement of goods and services and in the administration of its
258 capital outlay program. This exemption shall be applicable only so long as such policies and procedures
259 meeting the requirements remain in effect.

260 2. The Virginia Retirement System for selection of services related to the management, purchase or
261 sale of authorized investments, actuarial services, and disability determination services. Selection of these
262 services shall be governed by the standard set forth in § 51.1-124.30.

263 3. The State Treasurer in the selection of investment management services related to the external
264 management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to
265 competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by
266 the Department of General Services.

267 4. The Department of Social Services or local departments of social services for the acquisition of
268 motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

269 5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University
270 of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to
271 the management and investment of their endowment funds, endowment income, gifts, all other
272 nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant
273 to § 23-44.1, 23-50.10:01, 23-76.1, or 23-122.1. However, selection of these services shall be governed
274 by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) as required by
275 §§ 23-44.1, 23-50.10:01, 23-76.1, and 23-122.1.

276 6. The Board of the Virginia College Savings Plan for the selection of services related to the
277 operation and administration of the Plan, including, but not limited to, contracts or agreements for the
278 management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting
279 services. However, such selection shall be governed by the standard set forth in § 23-38.80.

280 7. Public institutions of higher education for the purchase of items for resale at retail bookstores and
281 similar retail outlets operated by such institutions. However, such purchase procedures shall provide for
282 competition where practicable.

283 8. The purchase of goods and services by agencies of the legislative branch that may be specifically
284 exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the
285 Senate. Nor shall the contract review provisions of § 2.2-2011 apply to such procurements. The
286 exemption shall be in writing and kept on file with the agency's disbursement records.

287 9. Any town with a population of less than 3,500, except as stipulated in the provisions of
288 §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and
289 2.2-4367 through 2.2-4377.

290 10. Any county, city or town whose governing body has adopted, by ordinance or resolution,
291 alternative policies and procedures which are (i) based on competitive principles and (ii) generally
292 applicable to procurement of goods and services by such governing body and its agencies, except as
293 stipulated in subdivision 12.

294 This exemption shall be applicable only so long as such policies and procedures, or other policies
295 and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town.
296 Such policies and standards may provide for incentive contracting that offers a contractor whose bid is
297 accepted the opportunity to share in any cost savings realized by the locality when project costs are
298 reduced by such contractor, without affecting project quality, during construction of the project. The fee,
299 if any, charged by the project engineer or architect for determining such cost savings shall be paid as a
300 separate cost and shall not be calculated as part of any cost savings.

301 11. Any school division whose school board has adopted, by policy or regulation, alternative policies
302 and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement
303 of goods and services by the school board, except as stipulated in subdivision 12.

304 This exemption shall be applicable only so long as such policies and procedures, or other policies or

305 procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This
306 provision shall not exempt any school division from any centralized purchasing ordinance duly adopted
307 by a local governing body.

308 12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of
309 subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330,
310 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply to all counties, cities
311 and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

312 The method for procurement of professional services set forth in subdivision 3 a of § 2.2-4301 in the
313 definition of competitive negotiation shall also apply to all counties, cities and school divisions, and to
314 all towns having a population greater than 3,500, where the cost of the professional service is expected
315 to exceed ~~\$50,000~~ \$100,000 in the aggregate or for the sum of all phases of a contract or project. ~~For~~
316 ~~procurements where the cost of the professional service is not expected to exceed \$50,000 in the~~
317 ~~aggregate or for the sum of all phases of a contract or project, subsection H of § 2.2-4303 shall apply.~~ A
318 school board that makes purchases through its public school foundation or purchases educational
319 technology through its educational technology foundation, either as may be established pursuant to
320 § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases,
321 the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

322 13. A public body that is also a utility operator may purchase services through or participate in
323 contracts awarded by one or more utility operators that are not public bodies for utility marking services
324 as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of
325 services under this subdivision may deviate from the procurement procedures set forth in this chapter
326 upon a determination made in advance by the public body and set forth in writing that competitive
327 sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is
328 awarded based on competitive principles.

329 14. Procurement of any construction or planning and design services for construction by a Virginia
330 nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design
331 or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit
332 corporation or organization is obligated to conform to procurement procedures that are established by
333 federal statutes or regulations, whether those federal procedures are in conformance with the provisions
334 of this chapter.

335 15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and
336 Interpreting the Executive Mansion.

337 16. The Eastern Virginia Medical School in the selection of services related to the management and
338 investment of its endowment and other institutional funds. The selection of these services shall, however,
339 be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.).

340 17. The Department of Corrections in the selection of pre-release and post-incarceration services.

341 18. The Board of the Chippokes Plantation Farm Foundation in entering into agreements with
342 persons for the construction, operation, and maintenance of projects consistent with the Chippokes
343 Plantation State Park Master Plan approved by the Director of the Department of Conservation and
344 Recreation pursuant to the requirements of § 10.1-200.1 and designed to further an appreciation for rural
345 living and the contributions of the agricultural, forestry, and natural resource based industries of the
346 Commonwealth, provided such projects are supported solely by private or nonstate funding.

347 19. The University of Virginia Medical Center to the extent provided by subdivision B 3 of
348 § 23-77.4.

349 20. The purchase of goods and services by a local governing body or any authority, board,
350 department, instrumentality, institution, agency or other unit of state government when such purchases
351 are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or
352 by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

353 21. The contract by community services boards or behavioral health authorities with an administrator
354 or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

355 22. (Contingent expiration date, see note.) Procurement of any construction or planning and design
356 services and contracts with or assigned to George Mason University by the corporation or other legal
357 entity created by the board of visitors of George Mason University for the establishment and operation
358 of the branch campus of George Mason University in the Republic of Korea, pursuant to § 23-91.29:1.

359 B. Where a procurement transaction involves the expenditure of federal assistance or contract funds,
360 the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or
361 regulations not in conformance with the provisions of this chapter, a public body may comply with such
362 federal requirements, notwithstanding the provisions of this chapter, only upon the written determination
363 of the Governor, in the case of state agencies, or the governing body, in the case of political
364 subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the
365 public interest. Such determination shall state the specific provision of this chapter in conflict with the
366 conditions of the grant or contract.

367 § 5.1-40. Lease of land acquired; approval by Department.

368 Any city, town or county acquiring land under the provisions of this article may individually, or
 369 jointly where so operated, lease the same, or any part thereof, to any individual or corporation desiring
 370 to use the same for the purpose of operating an airport or landing field, or for the purpose of landing or
 371 starting airplanes therefrom or for other aviation purposes, and on such terms and subject to such
 372 conditions and regulations as may be provided; and any city, town or county may enter into a contract
 373 in the form of a lease providing for the use of such land, or any part thereof, by the government of the
 374 United States for the use by the government of such land for aviation, mail delivery or other aviation
 375 purposes upon nominal or other rental or without consideration; ~~provided that such lease to an individual~~
 376 ~~or a corporation or to the government of the United States shall not be of any force, effect or validity~~
 377 ~~until the same shall be approved by the Department. In authorizing any such lease the political~~
 378 ~~subdivision shall certify that the lease meets the terms and provisions of any and all state and federal~~
 379 ~~grants.~~

380 § 10.1-561. State erosion and sediment control program.

381 A. The Board shall develop a program and promulgate regulations for the effective control of soil
 382 erosion, sediment deposition, and nonagricultural runoff that must be met in any control program to
 383 prevent the unreasonable degradation of properties, stream channels, waters and other natural resources
 384 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Stream restoration and relocation
 385 projects that incorporate natural channel design concepts are not man-made channels and shall be
 386 exempt from any flow rate capacity and velocity requirements for natural or man-made channels as
 387 defined in any regulations promulgated pursuant to this section, § 10.1-562, or 10.1-570. Any
 388 land-disturbing activity that provides for stormwater management intended to address any flow rate
 389 capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity
 390 and velocity requirements for natural or man-made channels if the practices are designed to (i) detain
 391 the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period
 392 the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow
 393 rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the
 394 peak flow rate from the site assuming it was in a good forested condition, achieved through
 395 multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume
 396 from the site when it was in a good forested condition divided by the runoff volume from the site in its
 397 proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for
 398 natural or man-made channels as defined in any regulations promulgated pursuant to § 10.1-562 or
 399 10.1-570.

400 The regulations shall:

401 1. Be based upon relevant physical and developmental information concerning the watersheds and
 402 drainage basins of the Commonwealth, including, but not limited to, data relating to land use, soils,
 403 hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics,
 404 transportation, and public facilities and services;

405 2. Include such survey of lands and waters as may be deemed appropriate by the Board or required
 406 by any applicable law to identify areas, including multijurisdictional and watershed areas, with critical
 407 erosion and sediment problems; and

408 3. Contain conservation standards for various types of soils and land uses, which shall include
 409 criteria, techniques, and methods for the control of erosion and sediment resulting from land-disturbing
 410 activities.

411 B. The Board shall provide technical assistance and advice to, and conduct and supervise educational
 412 programs for, districts and localities that have adopted local control programs.

413 C. The program and regulations shall be available for public inspection at the Department.

414 D. The Board shall promulgate regulations establishing minimum standards of effectiveness of
 415 erosion and sediment control programs, and criteria and procedures for reviewing and evaluating the
 416 effectiveness of erosion and sediment control programs. In developing minimum standards for program
 417 effectiveness, the Board shall consider information and standards on which the regulations promulgated
 418 pursuant to subsection A ~~of this section~~ are based.

419 E. The Board shall periodically conduct a comprehensive review and evaluation to ensure that all
 420 erosion and sediment control programs operating under the jurisdiction of this article meet minimum
 421 standards of effectiveness in controlling soil erosion, sediment deposition and nonagricultural runoff.
 422 *Such review and evaluation may include certification of a review and evaluation conducted by a*
 423 *locality. Review and evaluation by a locality pursuant to a program certified by the Board shall be*
 424 *deemed consistent with the requirements of this subsection.* The Board shall develop a schedule for
 425 conducting periodic reviews and evaluations of the effectiveness of erosion and sediment control
 426 programs.

427 F. The Board shall issue certificates of competence concerning the content, application and intent of

428 specified subject areas of this chapter and accompanying regulations, including program administration,
429 plan review, and project inspection, to personnel of program authorities and to any other persons who
430 have completed training programs or in other ways demonstrated adequate knowledge. The Department
431 shall administer education and training programs for specified subject areas of this chapter and
432 accompanying regulations, and is authorized to charge persons attending such programs reasonable fees
433 to cover the costs of administering the programs.

434 G. As of December 31, 2004, any Department personnel conducting inspections pursuant to this
435 chapter shall hold a certificate of competence as provided in subsection F.

436 § 15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals.

437 A. The governing body of any county, city, or town may provide by ordinance for the establishment
438 of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle
439 for failure to comply with traffic light signals in such locality in accordance with the provisions of this
440 section. Each such locality may install and operate traffic light signal photo-monitoring systems at no
441 more than one intersection for every 10,000 residents within each county, city, or town at any one time,
442 provided, however, that within planning District 8, each such locality may install and operate traffic
443 light signal photo-monitoring systems at no more than 10 intersections, or at no more than one
444 intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any
445 one time.

446 B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section
447 if such vehicle is found, as evidenced by information obtained from a traffic light signal violation
448 monitoring system, to have failed to comply with a traffic light signal within such locality.

449 C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light
450 signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed
451 by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this
452 section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or
453 other recorded images produced by a traffic light signal violation monitoring system, shall be prima
454 facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other
455 recorded images evidencing such a violation shall be available for inspection in any proceeding to
456 adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

457 D. In the prosecution for a violation of any local ordinance adopted as provided in this section,
458 prima facie evidence that the vehicle described in the summons issued pursuant to this section was
459 operated in violation of such ordinance, together with proof that the defendant was at the time of such
460 violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption
461 that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such
462 presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by
463 regular mail with the clerk of the general district court that he was not the operator of the vehicle at the
464 time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the
465 vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy
466 of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of
467 the alleged violation of this section, is presented, prior to the return date established on the summons
468 issued pursuant to this section, to the court adjudicating the alleged violation.

469 E. For purposes of this section, "owner" means the registered owner of such vehicle on record with
470 the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring
471 system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically
472 produces two or more photographs, two or more microphotographs, video, or other recorded images of
473 each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For
474 each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the
475 intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered
476 that intersection.

477 F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator
478 and shall not be made part of the operating record of the person upon whom such liability is imposed,
479 nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No
480 monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

481 G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2.
482 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed
483 by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of
484 a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of
485 Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address
486 contained in the records of the lessor or renter. Every such mailing shall include, in addition to the
487 summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the
488 operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided
489 in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit

490 is to be sent. If the summoned person fails to appear on the date of return set out in the summons
 491 mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No
 492 proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to
 493 appear on the return date of the summons. Any summons executed for a violation of this section shall
 494 provide to the person summoned at least 30 business days from the mailing of the summons to inspect
 495 information collected by a traffic light signal violation monitoring system in connection with the
 496 violation.

497 H. Information collected by a traffic light signal violation monitoring system installed and operated
 498 pursuant to subsection A shall be limited exclusively to that information that is necessary for the
 499 enforcement of traffic light violations. On behalf of a locality, a private entity that operates a traffic
 500 light signal violation monitoring system may enter into an agreement with the Department of Motor
 501 Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner
 502 information regarding the registered owners of vehicles that fail to comply with a traffic light signal.
 503 Information provided to the operator of a traffic light signal violation monitoring system shall be
 504 protected in a database with security comparable to that of the Department of Motor Vehicles' system,
 505 and used only for enforcement against individuals who violate the provisions of this section.
 506 Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or
 507 other personal information collected by a traffic light signal violation monitoring system shall be used
 508 exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or
 509 used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be
 510 necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a
 511 challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action
 512 or proceeding relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a
 513 court of competent jurisdiction. Information collected under this section pertaining to a specific violation
 514 shall be purged and not retained later than 60 days after the collection of any civil penalties. If a
 515 locality does not execute a summons for a violation of this section within 10 business days, all
 516 information collected pertaining to that suspected violation shall be purged within two business days.
 517 Any locality operating a traffic light signal violation monitoring system shall annually certify compliance
 518 with this section and make all records pertaining to such system available for inspection and audit by
 519 the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his
 520 designee. Any person who discloses personal information in violation of the provisions of this
 521 subsection shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or
 522 disclosure of such personal information shall be grounds for termination of the agreement between the
 523 Department of Motor Vehicles and the private entity.

524 I. A private entity may enter into an agreement with a locality to be compensated for providing the
 525 traffic light signal violation monitoring system or equipment, and all related support services, to include
 526 consulting, operations and administration. However, only a law-enforcement officer employed by a
 527 locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an
 528 agreement for compensation based on the number of violations or monetary penalties imposed.

529 J. When selecting potential intersections for a traffic light signal violation monitoring system, a
 530 locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light
 531 violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty
 532 experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the
 533 ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the
 534 violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall
 535 submit a list of intersections to the Virginia Department of Transportation for final approval.

536 K. Before the implementation of a traffic light signal violation monitoring system at an intersection,
 537 the locality shall complete an engineering safety analysis that addresses signal timing and other
 538 location-specific safety features. The length of the yellow phase shall be established based on the
 539 recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation
 540 monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns
 541 red and the time the first violation is recorded. If recommended by the engineering safety analysis, the
 542 locality shall make reasonable location-specific safety improvements, including signs and pavement
 543 markings.

544 L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system
 545 on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results
 546 shall be made available to the public.

547 M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light
 548 signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light
 549 signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were
 550 in place at the time of the commission of the traffic light signal violation.

551 N. Prior to or coincident with the implementation or expansion of a traffic light signal violation
552 monitoring system, a locality shall conduct a public awareness program, advising the public that the
553 locality is implementing or expanding a traffic light signal violation monitoring system.

554 O. Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a
555 traffic light signal photo-monitoring system is owned, leased, or rented by a county, city, or town, then
556 the county, city, or town may access and use the recorded images and associated information for
557 employee disciplinary purposes.

558 § 15.2-1643. Circuit courts to order court facilities to be repaired.

559 A. When it appears to the circuit court for any county or city, from the report of persons appointed
560 to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure,
561 out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the
562 public, the court shall enter an order, in the name and on behalf of the Commonwealth against the
563 supervisors of the county, or the members of the council of the city, as the case may be, to show cause
564 why a mandamus should not issue, commanding them to cause the court facilities of such county or city
565 to be made secure, or put in good repair, or rendered otherwise safe as the case may be, and to proceed
566 as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of
567 such order to be served upon each supervisor or member of the council, as the case may be.

568 B. Upon the entry of such order, as provided in subsection A hereof, the chief judge of the circuit
569 shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of the
570 notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are
571 alleged to be necessary to hear and determine whether, after consideration of such matters as set forth in
572 subdivisions 1 through 4 of this subsection, the court facilities are in fact insecure or out of repair or
573 otherwise pose a danger to the health, welfare and safety of court employees or the public and the
574 extent to which repairs, if any, are necessary.

575 Before a mandamus is issued, if the concerned governing body elects, or if the pleadings allege that
576 the court facilities are in fact insecure or out of repair, or otherwise pose a danger to the health, welfare
577 and safety of court employees or the public, ~~or that a replacement or additional courthouse may be~~
578 ~~needed~~, the local governing body shall appoint a five-member panel, three of whom shall be qualified
579 by training and experience as either an architect or a professional engineer, not representing the same
580 firms, to review the court facilities in question and make recommendations to the local governing body
581 and circuit court judge assigned by the Chief Justice concerning the construction or repairs deemed
582 necessary.

583 In making their recommendations, the panel shall consider matters such as, but not limited to, the
584 following:

585 1. Security provisions to safeguard court personnel, participants and the public;

586 2. Efficient layout and circulation patterns to maximize public access, promote efficient operations,
587 and accommodate the diverse users;

588 3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms,
589 prison holding areas, and public information areas; and

590 4. Comfort, safety and obsolescence of the existing facility or any part thereof.

591 The existing facilities shall be considered in relationship to their location and the extent of their use,
592 and their failure to meet any of these general considerations shall not necessarily be deemed a cause for
593 determining them inadequate.

594 In making their recommendations, the panel may consult recognized national standard works in the
595 field.

596 All costs, fees and expenses of the five-member panel, after approval by the local governing body,
597 shall be paid by the county or city that appointed the panel.

598 C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or
599 otherwise unsafe, or having been in such condition, that the necessary repairs have been made, the court
600 shall vacate the order. If the court finds that the court facilities are insecure or out of repair or otherwise
601 unsafe, it shall issue its mandamus as provided in subsection A. No mandamus shall require a county or
602 city to erect a replacement or additional courthouse unless such replacement or additional courthouse has
603 been recommended by the panel appointed pursuant to the provisions of subsection B.

604 D. Appeals shall be allowed to the Supreme Court of Virginia as appeals from courts of equity are
605 allowed.

606 § 15.2-2223.1. Comprehensive plan to include urban development areas.

607 A. For purposes of this section:

608 "Commercial" means property devoted to usual and customary business purposes for the sale of
609 goods and services and includes, but is not limited to, retail operations, hotels, motels and offices.
610 "Commercial" does not include residential dwelling units, including apartments and condominiums, or
611 agricultural or forestal production, or manufacturing, processing, assembling, storing, warehousing, or
612 distributing.

613 "Commission" means the Commission on Local Government.

614 "Developable acreage," solely for the purposes of calculating density within the urban development
615 area, means land that is not included in (i) existing parks, rights-of-way of arterial and collector streets,
616 railways, and public utilities and (ii) other existing public lands and facilities.

617 "Population growth" means the difference in population from the next-to-latest to the latest decennial
618 census year, based on population reported by the United States Bureau of the Census. In computing its
619 population growth, a locality may exclude the inmate population of any new or expanded correctional
620 facility that opened within the time period between the two censuses.

621 "Urban development area" means an area designated by a locality that is (i) appropriate for higher
622 density development due to its proximity to transportation facilities, the availability of a public or
623 community water and sewer system, or a developed area and (ii) to the extent feasible, to be used for
624 redevelopment or infill development.

625 B. Every locality that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of this chapter
626 and that (i) has a population of at least 20,000 and population growth of at least five percent or (ii) has
627 population growth of 15 percent or more, shall, and any locality may, amend its comprehensive plan to
628 incorporate one or more urban development areas.

629 1. The comprehensive plan of a locality having a population of less than 130,000 persons shall
630 provide for urban development areas that are appropriate for development at a density on the
631 developable acreage of at least four single-family residences, six townhouses, or 12 apartments,
632 condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per
633 acre for commercial development, or any proportional combination thereof.

634 2. The comprehensive plan of a locality having a population of 130,000 or more persons shall
635 provide for urban development areas that are appropriate for development at a density on the
636 developable acreage of at least eight single-family residences, 12 townhouses, or 24 apartments,
637 condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.8 per
638 acre for commercial development, or any proportional combination thereof.

639 3. The urban development areas designated by a locality shall be sufficient to meet projected
640 residential and commercial growth in the locality for an ensuing period of at least 10 but not more than
641 20 years, which may include phasing of development within the urban development areas. Where an
642 urban development area in a county with the urban county executive form of government includes
643 planned or existing rail transit, the planning horizon may be for an ensuing period of at least 10 but not
644 more than 40 years. Future residential and commercial growth shall be based on official estimates of
645 either the Weldon Cooper Center for Public Service of the University of Virginia, the Virginia
646 Employment Commission, the United States Bureau of the Census, or other official government
647 projections required for federal transportation planning purposes.

648 4. The boundaries and size of each urban development area shall be reexamined and, if necessary,
649 revised every five years in conjunction with the review of the comprehensive plan and in accordance
650 with the most recent available population growth estimates and projections.

651 5. The boundaries of each urban development area shall be identified in the locality's comprehensive
652 plan and shall be shown on future land use maps contained in such comprehensive plan.

653 6. The comprehensive plan shall incorporate principles of traditional neighborhood design in the
654 urban development area, which may include but need not be limited to (i) pedestrian-friendly road
655 design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of
656 road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including
657 mixed housing types, with affordable housing to meet the projected family income distributions of future
658 residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of
659 subdivision street widths and turning radii at subdivision street intersections.

660 7. The comprehensive plan shall describe any financial and other incentives for development in the
661 urban development areas.

662 8. A portion of one or more urban development areas shall be designated as a receiving area for any
663 transfer of development rights program established by the locality.

664 C. No locality that has amended its comprehensive plan in accordance with this section shall limit or
665 prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning
666 based solely on the fact that the property is located outside the urban development area.

667 D. Any locality that would be required to amend its plan pursuant to subsection B that determines
668 that its plan accommodates growth in a manner consistent with subsection B, upon adoption of a
669 resolution describing such accommodation and describing any financial and other incentives for
670 development in the areas that accommodate such growth, shall not be required to further amend its plan
671 pursuant to subsection B. Any locality that has adopted a resolution certifying compliance with
672 subsection B prior to February 1, 2010, shall not be required to comply with this subsection until review
673 of the locality's comprehensive plan as provided for in provision 4 of subsection B.

674 E. Localities shall consult with adjacent localities, as well as the relevant planning district
 675 commission and metropolitan planning organization, in establishing the appropriate size and location of
 676 urban development areas to promote orderly and efficient development of their region.

677 F. Any county that amends its comprehensive plan pursuant to subsection B may designate one or
 678 more urban development areas in any incorporated town within such county, if the council of the town
 679 has also amended its comprehensive plan to designate the same areas as urban development areas with
 680 at least the same density designated by the county. However, if a town has established an urban
 681 development area within its corporate boundaries, the county within which the town is located shall not
 682 include the town's projected population and commercial growth when initially determining or
 683 reexamining the size and boundary of any other urban development area within the county.

684 G. To the extent possible, federal, state and local transportation, housing, water and sewer facility,
 685 economic development, and other public infrastructure funding for new and expanded facilities shall be
 686 directed to the urban development area, or in the case of a locality that adopts a resolution pursuant to
 687 subsection D, to the area that accommodates growth in a manner consistent with this section.

688 H. ~~Documents describing all urban development area designations, as well as any resolution adopted~~
 689 ~~pursuant to subsection D, together with associated written policies, zoning provisions and other~~
 690 ~~ordinances, and the capital improvement program shall be forwarded, electronically or by other means,~~
 691 ~~to the Commission within 90 days of the adoption or amendment of comprehensive plans and other~~
 692 ~~written policies, zoning provisions and other ordinances. The Commission shall annually report to the~~
 693 ~~Governor and General Assembly the overall compliance with this section including densities achieved~~
 694 ~~within each urban development area. Before preparing the initial report, the Commission shall develop~~
 695 ~~an appropriate format in concert with the relevant planning district commission. Other than the~~
 696 ~~documents, policies, zoning provisions and other ordinances, resolutions, and the capital improvement~~
 697 ~~program forwarded by the locality, the Commission shall not impose an additional administrative burden~~
 698 ~~on localities in preparing the annual report required by this subsection.~~

699 I. Any locality that becomes subject to provision 2 of subsection B shall have until July 1, 2012, to
 700 amend its comprehensive plan in accordance with this section.

701 J. I. Any locality that becomes subject to this section due to population growth shall have two years
 702 following the report of the United States Bureau of the Census made pursuant to P.L. 94-171 to amend
 703 its comprehensive plan in accordance with this section.

704 § 22.1-18.1. Annual report on gifted education required; local advisory committee on gifted
 705 education.

706 Each local school board shall submit the annual report, "Programs for Gifted Education," as required
 707 by Board regulations, to the Department of Education.

708 Each school board ~~shall~~ *may* appoint, in accordance with the regulations of the Board of Education, a
 709 local advisory committee on gifted education. ~~The A~~ local advisory committee on gifted education shall
 710 annually review the local plan for the education of gifted students, including revisions, and determine
 711 the extent to which the plan for the previous year was implemented. The comments and
 712 recommendations of the local advisory committee on gifted education shall be submitted in writing
 713 directly to the school board and the superintendent.

714 A school board shall comply with Board regulations governing gifted education relative to the use of
 715 multiple criteria for the identification of gifted students.

716 With such funds as may be appropriated for this purpose, the Department of Education shall conduct
 717 an annual review of all local gifted education programs, on such date as it may determine, to ensure full
 718 implementation and compliance with federal and state laws and regulations governing gifted education.
 719 The Department may conduct the review as an on-site observation or require certification of compliance
 720 from the division superintendent.

721 § 22.1-92. Estimate of moneys needed for public schools; notice of costs to be distributed.

722 A. It shall be the duty of each division superintendent to prepare, with the approval of the school
 723 board, and submit to the governing body or bodies appropriating funds for the school division, by the
 724 date specified in § 15.2-2503, the estimate of the amount of money deemed to be needed during the next
 725 fiscal year for the support of the public schools of the school division. The estimate shall set up the
 726 amount of money deemed to be needed for each major classification prescribed by the Board of
 727 Education and such other headings or items as may be necessary.

728 Upon preparing the estimate of the amount of money deemed to be needed during the next fiscal
 729 year for the support of the public schools of the school division, each division superintendent shall also
 730 prepare and distribute, within a reasonable time as prescribed by the Board of Education, notification of
 731 the estimated average per pupil cost for public education in the school division for the coming school
 732 year to each parent, guardian, or other person having control or charge of a child enrolled in the
 733 relevant school division, in accordance with the budget estimates provided to the local governing body
 734 or bodies. Such notification shall also include actual per pupil state and local education expenditures for
 735 the previous school year. The notice may also include federal funds expended for public education in

736 the school division.

737 The notice shall be made available in a form provided by the Department of Education and shall be
738 published on the school division's website or in hard copy upon request. To promote uniformity and
739 allow for comparisons, the Department of Education shall develop a form for this notice and distribute
740 such form to the school divisions for publication.

741 B. Before any school board gives final approval to its budget for submission to the governing body,
742 the school board shall hold at least one public hearing to receive the views of citizens within the school
743 division. A school board shall cause public notice to be given at least ten days prior to any hearing by
744 publication in a newspaper having a general circulation within the school division. The passage of the
745 budget by the local government shall be conclusive evidence of compliance with the requirements of
746 this section.

747 § 22.1-129. Surplus property; sale, exchange or lease of real and personal property.

748 A. Whenever a school board determines that it has no use for some of its real property, the school
749 board may sell such property and may retain all or a portion of the proceeds of such sale upon approval
750 of the local governing body and after the school board has held a public hearing on such sale and
751 retention of proceeds, or may convey the title to such real property to the county or city or town
752 comprising the school division or, if the school division is composed of more than one county or city,
753 to the county or city in which the property is located. To convey the title, the school board shall adopt a
754 resolution that such real property is surplus and shall record such resolution along with the deed to the
755 property with the clerk of the circuit court for the county or city where such property is located. Upon
756 the recording of the resolution and the deed, the title shall vest in the appropriate county, city or town.

757 If a school board sells surplus real property, a capital improvement fund shall be established by such
758 school board and the proceeds of such sale retained by the school board shall accrue to such capital
759 improvement fund. The capital improvement fund shall only be used for new school construction, school
760 renovation, and major school maintenance projects.

761 B. A school board shall have the power to exchange real and personal property, to lease real and
762 personal property either as lessor or lessee, to grant easements on real property, to convey real property
763 in trust to secure loans, to convey real property to adjust the boundaries of the property and to sell
764 personal property in such manner and upon such terms as it deems proper. As lessee of real property, a
765 school board shall have the power to expend funds for capital repairs and improvements on such
766 property, if the lease is for a term equal to or longer than the useful life of such repairs or
767 improvements.

768 C. Notwithstanding the provisions of subsections A and B, a school board shall have the power to
769 sell career and technical education projects and associated land pursuant to § 22.1-234.

770 Notwithstanding the provisions of subsections A and B, a school board of the City of Virginia Beach
771 shall have the power to sell property to the Virginia Department of Transportation or the Commissioner
772 of Highways when the Commissioner has determined that (i) such conveyance is necessary and (ii)
773 when eminent domain has been authorized for the construction, reconstruction, alteration, maintenance,
774 and repair of the public highways of the Commonwealth, and for all other purposes incidental thereto,
775 including, but not limited to, the relocation of public utilities as may be required.

776 D. School boards may donate obsolete educational technology hardware and software that is being
777 replaced pursuant to subdivision B 4 of § 22.1-199.1. Any such donations shall be offered to other
778 school divisions, to students, as provided in Board of Education guidelines, and to preschool programs
779 in the Commonwealth. In addition, elected school boards may donate such obsolete educational
780 technology hardware and software and other obsolete personal property to a Virginia nonprofit
781 organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

782 § 22.1-209.1:2. Regional alternative education programs for certain students.

783 A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a
784 program consisting of regional alternative education options for elementary, middle, and high school
785 students in compliance with subdivision D 7 6 of § 22.1-253.13:1 who (i) have committed an offense in
786 violation of school board policies relating to weapons, alcohol or drugs, or intentional injury to another
787 person, or against whom a petition or warrant has been filed alleging such acts or school board charges
788 alleging such policy violations are pending; (ii) have been expelled from school attendance or have
789 received one suspension for an entire semester, or have received two or more long-term suspensions
790 within one school year; or (iii) have been released from a juvenile correctional center and have been
791 identified by the Superintendent of the Department of Correctional Education and the relevant division
792 superintendent as requiring a regional alternative education program. Based on available space, a student
793 may also be administratively assigned to a regional alternative education program either at the request of
794 the parent and with the consent of the division superintendent or by the division superintendent after
795 written notice to the student and his parent. Such notice of the opportunity for the student and/or his
796 parent to participate in a hearing conducted by the division superintendent or his designee regarding

797 such placement shall be issued and the assignment shall be final unless altered by the school board,
798 upon timely written petition, in accordance with regulations of the school board, by the student or his
799 parent, for a review of the record by the school board. However, no child shall be assigned to any
800 regional alternative education program described in this section for more than one school year without
801 an annual assessment of the placement to determine the appropriateness of transitioning the child into
802 the school division's regular program.

803 B. Applications for grants shall include the following components:

804 1. An agreement executed by two or more school divisions and approval of their respective
805 governing bodies to offer a regional alternative education option as provided in subsection A, and a plan
806 for the apportionment of responsibilities for the administration, management, and support of the
807 program, including, but not limited to, the facilities and location for the program, daily operation and
808 oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and
809 the program of instruction.

810 2. A procedure for obtaining the participation in or support for the program, as may be determined,
811 of the parents, guardian or other person having charge or control of a child placed in the program.

812 3. An interagency agreement for cooperation executed by the local departments of health and social
813 services or welfare; the juvenile and domestic relations district court; law-enforcement agencies;
814 institutions of higher education and other postsecondary training programs; professional and community
815 organizations; the business and religious communities; dropout prevention and substance abuse
816 prevention programs; community services boards located in the applicants' respective jurisdictions; and
817 the Department of Correctional Education.

818 4. A curriculum developed for intensive, accelerated instruction designed to establish high standards
819 and academic achievement for participating students.

820 5. An emphasis on building self-esteem and the promotion of personal and social responsibility.

821 6. A low pupil/teacher ratio to promote a high level of interaction between the students and the
822 teacher.

823 7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling;
824 organized, age-appropriate, developmental education for elementary and middle school children; and
825 opportunities that enhance acculturation and permit students to improve their social and interpersonal
826 relationship skills.

827 8. Community outreach to build strong school, business, and community partnerships, and to promote
828 parental involvement in the educational process of participating children.

829 9. Specific, measurable goals and objectives and an evaluation component to determine the program's
830 effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth
831 committed to juvenile correctional centers, and recidivism; and in increasing the academic achievement
832 levels and rehabilitative success of participating students, admission to institutions of higher education
833 and other postsecondary education and training programs, and improving staff retention rates.

834 10. The number of children who may be assigned to the regional alternative education program
835 during the school year.

836 11. A plan for transitioning the enrolled students into the relevant school division's regular program.

837 12. A current program of staff development and training.

838 C. Beginning with the first year of program implementation, the Department of Education shall be
839 entitled to deduct annually from the locality's share for the education of its students a sum equal to the
840 actual local expenditure per pupil for the support of those students placed by the relevant school division
841 in any such program. The amount of the actual transfers shall be based on data accumulated during the
842 prior school year.

843 D. A school board shall require written notification to the pupil's parent, guardian, or other person
844 having charge or control, when a pupil commits an offense in violation of school board policies, which
845 school officials determine was committed without the willful intent to violate such policies, or when the
846 offense did not endanger the health and safety of the individual or other persons, of the nature of the
847 offense no later than two school days following its occurrence. A school board shall require the
848 principal of the school where the child is in attendance or other appropriate school personnel to develop
849 appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

850 E. For the purposes of this section, "regional alternative education program" means a program
851 supported and implemented by two or more school divisions which are either geographically contiguous
852 or have a community of interest.

853 F. For the purposes of this section, "one school year" means no more than 180 teaching days.

854 § 22.1-225. Authority of school boards.

855 A. Local school boards shall provide adult education programs, in compliance with subdivision D & 7
856 of § 22.1-253.13:1, for residents of the school division and, in their discretion, may charge appropriate
857 fees to persons admitted to such programs.

858 B. With such funds as may be appropriated for the purposes of this article, school boards shall seek

859 to ensure that every adult participating in such program has an opportunity to earn a general educational
860 development (GED) certificate or a high school diploma.

861 § 22.1-253.13:1. Standard 1. Instructional programs supporting the Standards of Learning and other
862 educational objectives.

863 A. The General Assembly and the Board of Education believe that the fundamental goal of the
864 public schools of this Commonwealth must be to enable each student to develop the skills that are
865 necessary for success in school, preparation for life, and reaching their full potential. The General
866 Assembly and the Board of Education find that the quality of education is dependent upon the provision
867 of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of
868 high-quality instructional personnel; (ii) the appropriate learning environment designed to promote
869 student achievement; (iii) quality instruction that enables each student to become a productive and
870 educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of
871 other resources. In keeping with this goal, the General Assembly shall provide for the support of public
872 education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

873 B. The Board of Education shall establish educational objectives known as the Standards of
874 Learning, which shall form the core of Virginia's educational program, and other educational objectives,
875 which together are designed to ensure the development of the skills that are necessary for success in
876 school and for preparation for life in the years beyond. At a minimum, the Board shall establish
877 Standards of Learning for English, mathematics, science, and history and social science. The Standards
878 of Learning shall not be construed to be regulations as defined in § 2.2-4001.

879 The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality
880 foundation educational program. The Standards of Learning shall include, but not be limited to, the basic
881 skills of communication (listening, speaking, reading, and writing); computation and critical reasoning
882 including problem solving and decision making; proficiency in the use of computers and related
883 technology; and the skills to manage personal finances and to make sound financial decisions.

884 The English Standards of Learning for reading in kindergarten through grade three shall be based on
885 components of effective reading instruction, to include, at a minimum, phonemic awareness, phonics,
886 fluency, vocabulary development, and text comprehension.

887 The Standards of Learning in all subject areas shall be subject to regular review and revision to
888 maintain rigor and to reflect a balance between content knowledge and the application of knowledge in
889 preparation for eventual employment and lifelong learning. The Board of Education shall establish a
890 regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of
891 the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once
892 every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such
893 review and revision on a more frequent basis.

894 To provide appropriate opportunity for input from the general public, teachers, and local school
895 boards, the Board of Education shall conduct public hearings prior to establishing revised Standards of
896 Learning. Thirty days prior to conducting such hearings, the Board shall give notice of the date, time,
897 and place of the hearings to all local school boards and any other persons requesting to be notified of
898 the hearings and publish notice of its intention to revise the Standards of Learning in the Virginia
899 Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present
900 information prior to final adoption of any revisions of the Standards of Learning.

901 In addition, the Department of Education shall make available and maintain a website, either
902 separately or through an existing website utilized by the Department of Education, enabling public
903 elementary, middle, and high school educators to submit recommendations for improvements relating to
904 the Standards of Learning, when under review by the Board according to its established schedule, and
905 related assessments required by the Standards of Quality pursuant to this chapter. Such website shall
906 facilitate the submission of recommendations by educators.

907 School boards shall implement the Standards of Learning or objectives specifically designed for their
908 school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to
909 achieve the educational objectives established by the school division at appropriate age or grade levels.
910 The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

911 The Board of Education shall include in the Standards of Learning for history and social science the
912 study of contributions to society of diverse people. For the purposes of this subsection, "diverse" shall
913 include consideration of disability, ethnicity, race, and gender.

914 With such funds as are made available for this purpose, the Board shall regularly review and revise
915 the competencies for career and technical education programs to require the full integration of English,
916 mathematics, science, and history and social science Standards of Learning. Career and technical
917 education programs shall be aligned with industry and professional standard certifications, where they
918 exist.

919 C. Local school boards shall develop and implement a program of instruction for grades K through

920 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the Board of
921 Education. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts
922 and computations, proficiency in the use of computers and related technology, and scientific concepts
923 and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and
924 world and United States history, economics, government, foreign languages, international cultures, health
925 and physical education, environmental issues and geography necessary for responsible participation in
926 American society and in the international community; fine arts, which may include, but need not be
927 limited to, music and art, and practical arts; knowledge and skills needed to qualify for further
928 education, gainful employment, or training in a career or technical field; and development of the ability
929 to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to
930 achieve economic self-sufficiency.

931 Local school boards shall also develop and implement programs of prevention, intervention, or
932 remediation for students who are educationally at risk including, but not limited to, those who fail to
933 achieve a passing score on any Standards of Learning assessment in grades three through eight or who
934 fail an end-of-course test required for the award of a verified unit of credit. Such programs shall include
935 components that are research-based.

936 Any student who achieves a passing score on one or more, but not all, of the Standards of Learning
937 assessments for the relevant grade level in grades three through eight may be required to attend a
938 remediation program.

939 Any student who fails to achieve a passing score on all of the Standards of Learning assessments for
940 the relevant grade level in grades three through eight or who fails an end-of-course test required for the
941 award of a verified unit of credit shall be required to attend a remediation program or to participate in
942 another form of remediation. Division superintendents shall require such students to take special
943 programs of prevention, intervention, or remediation, which may include attendance in public summer
944 school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01.

945 Remediation programs shall include, when applicable, a procedure for early identification of students
946 who are at risk of failing the Standards of Learning assessments in grades three through eight or who
947 fail an end-of-course test required for the award of a verified unit of credit. Such programs may also
948 include summer school for all elementary and middle school grades and for all high school academic
949 courses, as defined by regulations promulgated by the Board of Education, or other forms of
950 remediation. Summer school remediation programs or other forms of remediation shall be chosen by the
951 division superintendent to be appropriate to the academic needs of the student. Students who are
952 required to attend such summer school programs or to participate in another form of remediation shall
953 not be charged tuition by the school division.

954 The requirement for remediation may, however, be satisfied by the student's attendance in a program
955 of prevention, intervention or remediation that has been selected by his parent, in consultation with the
956 division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii)
957 a special program that has been determined to be comparable to the required public school remediation
958 program by the division superintendent. The costs of such private school remediation program or other
959 special remediation program shall be borne by the student's parent.

960 The Board of Education shall establish standards for full funding of summer remedial programs that
961 shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof
962 required for full funding and an assessment system designed to evaluate program effectiveness. Based on
963 the number of students attending and the Commonwealth's share of the per pupil instructional costs,
964 state funds shall be provided for the full cost of summer and other remediation programs as set forth in
965 the appropriation act, provided such programs comply with such standards as shall be established by the
966 Board, pursuant to § 22.1-199.2.

967 D. Local school boards shall also implement the following:

968 1. Programs in grades K through three that emphasize developmentally appropriate learning to
969 enhance success.

970 2. Programs based on prevention, intervention, or remediation designed to increase the number of
971 students who earn a high school diploma and to prevent students from dropping out of school. Such
972 programs shall include components that are research-based.

973 3. Career and technical education programs incorporated into the K through 12 curricula that include:

974 a. Knowledge of careers and all types of employment opportunities including, but not limited to,
975 apprenticeships, entrepreneurship and small business ownership, the military, and the teaching
976 profession, and emphasize the advantages of completing school with marketable skills;

977 b. Career exploration opportunities in the middle school grades; and

978 c. Competency-based career and technical education programs that integrate academic outcomes,
979 career guidance and job-seeking skills for all secondary students. Programs must be based upon labor
980 market needs and student interest. Career guidance shall include counseling about available employment
981 opportunities and placement services for students exiting school. Each school board shall develop and

982 implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be
983 developed with the input of area business and industry representatives and local community colleges and
984 shall be submitted to the Superintendent of Public Instruction in accordance with the timelines
985 established by federal law.

986 4. Educational objectives in middle and high school that emphasize economic education and financial
987 literacy pursuant to ~~§ 22.1-200.03.~~

988 5. Early identification of students with disabilities and enrollment of such students in appropriate
989 instructional programs consistent with state and federal law.

990 6.5. Early identification of gifted students and enrollment of such students in appropriately
991 differentiated instructional programs.

992 7.6. Educational alternatives for students whose needs are not met in programs prescribed elsewhere
993 in these standards. Such students shall be counted in average daily membership (ADM) in accordance
994 with the regulations of the Board of Education.

995 8.7. Adult education programs for individuals functioning below the high school completion level.
996 Such programs may be conducted by the school board as the primary agency or through a collaborative
997 arrangement between the school board and other agencies.

998 9.8. A plan to make achievements for students who are educationally at risk a divisionwide priority
999 that shall include procedures for measuring the progress of such students.

1000 10.9. A plan to notify students and their parents of the availability of dual enrollment and advanced
1001 placement classes, the International Baccalaureate Program, and Academic Year Governor's School
1002 Programs, the qualifications for enrolling in such classes and programs, and the availability of financial
1003 assistance to low-income and needy students to take the advanced placement and International
1004 Baccalaureate examinations.

1005 11.10. Identification of students with limited English proficiency and enrollment of such students in
1006 appropriate instructional programs.

1007 12.11. Early identification, diagnosis, and assistance for students with reading and mathematics
1008 problems and provision of instructional strategies and reading and mathematics practices that benefit the
1009 development of reading and mathematics skills for all students.

1010 13.12. Incorporation of art, music, and physical education as a part of the instructional program at
1011 the elementary school level.

1012 14.13. A program of physical fitness available to all students with a goal of at least 150 minutes per
1013 week on average during the regular school year. Such program may include any combination of (i)
1014 physical education classes, (ii) extracurricular athletics, or (iii) other programs and physical activities
1015 deemed appropriate by the local school board. Each local school board shall incorporate into its local
1016 wellness policy a goal for the implementation of such program during the regular school year.

1017 15.14. A program of student services for grades kindergarten through 12 that shall be designed to aid
1018 students in their educational, social, and career development.

1019 16.15. The collection and analysis of data and the use of the results to evaluate and make decisions
1020 about the instructional program.

1021 E. From such funds as may be appropriated or otherwise received for such purpose, there shall be
1022 established within the Department of Education a unit to (i) conduct evaluative studies; (ii) provide the
1023 resources and technical assistance to increase the capacity for school divisions to deliver quality
1024 instruction; and (iii) assist school divisions in implementing those programs and practices that will
1025 enhance pupil academic performance and improve family and community involvement in the public
1026 schools. Such unit shall identify and analyze effective instructional programs and practices and
1027 professional development initiatives; evaluate the success of programs encouraging parental and family
1028 involvement; assess changes in student outcomes prompted by family involvement; and collect and
1029 disseminate among school divisions information regarding effective instructional programs and practices,
1030 initiatives promoting family and community involvement, and potential funding and support sources.
1031 Such unit may also provide resources supporting professional development for administrators and
1032 teachers. In providing such information, resources, and other services to school divisions, the unit shall
1033 give priority to those divisions demonstrating a less than 70 percent passing rate on the Standards of
1034 Learning assessments.

1035 § 22.1-275.1. School health advisory board.

1036 Each school board shall may establish a school health advisory board of no more than twenty
1037 members which shall consist of broad-based community representation including, but not limited to,
1038 parents, students, health professionals, educators, and others. ~~The~~ *If established, the* school health
1039 advisory board shall assist with the development of health policy in the school division and the
1040 evaluation of the status of school health, health education, the school environment, and health services.

1041 ~~The~~ *Any* school health advisory board shall hold meetings at least semi-annually and shall annually
1042 report on the status and needs of student health in the school division to any relevant school, the school

1043 board, the Virginia Department of Health, and the Virginia Department of Education.

1044 The local school board may request that the school health advisory board recommend to the local
1045 school board procedures relating to children with acute or chronic illnesses or conditions, including, but
1046 not limited to, appropriate emergency procedures for any life-threatening conditions and designation of
1047 school personnel to implement the appropriate emergency procedures. The procedures relating to
1048 children with acute or chronic illnesses or conditions shall be developed with due consideration of the
1049 size and staffing of the schools within the jurisdiction.

1050 § 37.2-504. Community services boards; local government departments; powers and duties.

1051 A. Every operating and administrative policy community services board and local government
1052 department with a policy-advisory board shall have the following powers and duties:

1053 1. Review and evaluate public and private community mental health, mental retardation, and
1054 substance abuse services and facilities that receive funds from it and advise the governing body of each
1055 city or county that established it as to its findings.

1056 2. Pursuant to § 37.2-508, submit to the governing body of each city or county that established it ~~an~~
1057 ~~annual~~ a performance contract for community mental health, mental retardation, and substance abuse
1058 services for its approval prior to submission of the contract to the Department.

1059 3. Within amounts appropriated for this purpose, provide services authorized under the performance
1060 contract.

1061 4. In accordance with its approved performance contract, enter into contracts with other providers for
1062 the delivery of services or operation of facilities.

1063 5. In the case of operating and administrative policy boards, make policies or regulations concerning
1064 the delivery of services and operation of facilities under its direction or supervision, subject to applicable
1065 policies and regulations adopted by the Board.

1066 6. In the case of an operating board, appoint an executive director of community mental health,
1067 mental retardation, and substance abuse services, who meets the minimum qualifications established by
1068 the Department, and prescribe his duties. The compensation of the executive director shall be fixed by
1069 the operating board within the amounts made available by appropriation for this purpose. The executive
1070 director shall serve at the pleasure of the operating board and be employed under an annually renewable
1071 contract that contains performance objectives and evaluation criteria. For an operating board, the
1072 Department shall approve the selection of the executive director for adherence to minimum qualifications
1073 established by the Department and the salary range of the executive director. In the case of an
1074 administrative policy board, the board shall participate with local government in the appointment and
1075 annual performance evaluation of an executive director of community mental health, mental retardation,
1076 and substance abuse services, who meets the minimum qualifications established by the Department, and
1077 prescribe his duties. The compensation of the executive director shall be fixed by local government in
1078 consultation with the administrative policy board within the amounts made available by appropriation for
1079 this purpose. In the case of a local government department with a policy-advisory board, the director of
1080 the local government department shall serve as the executive director. The policy-advisory board shall
1081 participate in the selection and the annual performance evaluation of the executive director, who meets
1082 the minimum qualifications established by the Department. The compensation of the executive director
1083 shall be fixed by local government in consultation with the policy-advisory board within the amounts
1084 made available by appropriation for this purpose.

1085 7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the
1086 jurisdiction or supervision of the board and establish procedures for the collection of those fees. All fees
1087 collected shall be included in the performance contract submitted to the local governing body or bodies
1088 pursuant to subdivision 2 of this section and § 37.2-508 and shall be used only for community mental
1089 health, mental retardation, and substance abuse purposes. Every board shall institute a reimbursement
1090 system to maximize the collection of fees from persons receiving services under its jurisdiction or
1091 supervision, consistent with the provisions of § 37.2-511, and from responsible third party payors.
1092 Boards shall not attempt to bill or collect fees for time spent participating in commitment hearings for
1093 involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

1094 8. Accept or refuse gifts, donations, bequests, or grants of money or property from any source and
1095 utilize them as authorized by the governing body of each city or county that established it.

1096 9. Seek and accept funds through federal grants. In accepting federal grants, the board shall not bind
1097 the governing body of any city or county that established it to any expenditures or conditions of
1098 acceptance without the prior approval of the governing body.

1099 10. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in
1100 accordance with such regulations as may be established by the governing body of each city or county
1101 that established it.

1102 11. Apply for and accept loans as authorized by the governing body of each city or county that
1103 established it.

1104 12. Develop joint written agreements, consistent with policies adopted by the Board, with local

1105 school divisions; health departments; boards of social services; housing agencies, where they exist;
1106 courts; sheriffs; area agencies on aging; and regional Department of Rehabilitative Services offices. The
1107 agreements shall specify the services to be provided to consumers. All participating agencies shall
1108 develop and implement the agreements and shall review the agreements annually.

1109 13. Develop and submit to the Department the necessary information for the preparation of the
1110 Comprehensive State Plan for mental health, mental retardation, and substance abuse services pursuant to
1111 § 37.2-315.

1112 14. Take all necessary and appropriate actions to maximize the involvement and participation of
1113 consumers and family members of consumers in policy formulation and services planning, delivery, and
1114 evaluation.

1115 15. Institute, singly or in combination with other community services boards or behavioral health
1116 authorities, a dispute resolution mechanism that is approved by the Department and enables consumers
1117 and family members of consumers to resolve concerns, issues, or disagreements about services without
1118 adversely affecting their access to or receipt of appropriate types and amounts of current or future
1119 services from the community services board.

1120 16. Notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, release data
1121 and information about individual consumers to the Department so long as the Department implements
1122 procedures to protect the confidentiality of that data and information.

1123 17. In the case of administrative policy boards and local government departments with
1124 policy-advisory boards, carry out other duties and responsibilities as assigned by the governing body of
1125 each city or county that established it.

1126 18. In the case of operating boards, have authority, notwithstanding any provision of law to the
1127 contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent,
1128 when authorized to do so by the governing body of each city or county that established it.

1129 By local agreement between the administrative policy board and the governing body of the city or
1130 county that established it, additional responsibilities may be carried out by the local government,
1131 including personnel or financial management. In the case of an administrative policy board established
1132 by more than one city or county, the cities and counties shall designate which local government shall
1133 assume these responsibilities.

1134 B. Every policy-advisory community services board, with staff support provided by the director of
1135 the local government department, shall have the following powers and duties:

1136 1. Advise the local government regarding policies or regulations for the delivery of services and
1137 operation of facilities by the local government department, subject to applicable policies and regulations
1138 adopted by the Board.

1139 2. Review and evaluate the operations of the local government department and advise the local
1140 governing body of each city or county that established it as to its findings.

1141 3. Review the community mental health, mental retardation, and substance abuse services provided
1142 by the local government department and advise the local governing body of each city or county that
1143 established it as to its findings.

1144 4. Review and comment on the ~~annual~~ performance contract, performance reports, and
1145 Comprehensive State Plan information developed by the local government department. The board's
1146 comments shall be attached to the performance contract, performance reports, and Comprehensive State
1147 Plan information prior to their submission to the local governing body of each city or county that
1148 established it and to the Department.

1149 5. Advise the local government as to the necessary and appropriate actions to maximize the
1150 involvement and participation of consumers and family members of consumers in policy formulation and
1151 services planning, delivery, and evaluation.

1152 6. Participate in the selection and the annual performance evaluation of the local government
1153 department director employed by the city or county.

1154 7. Carry out other duties and responsibilities as assigned by the governing body of each city or
1155 county that established it.

1156 § 37.2-508. Performance contract for mental health, mental retardation, and substance abuse services.

1157 A. The Department shall develop and initiate negotiation of the performance contracts through which
1158 it provides funds to community services boards to accomplish the purposes set forth in this chapter. In
1159 the case of operating boards, the Department may, notwithstanding any provision of law to the contrary,
1160 disburse state and federal funds appropriated to it for mental health, mental retardation, or substance
1161 abuse services directly to the operating board, when that operating board is authorized by the governing
1162 body of each city or county that established it to receive such funds. Six months prior to the *end of an*
1163 *existing contract or, if no contract exists, six months prior to the beginning* of each fiscal year, the
1164 Department shall make available to the public the standard performance contract form that it intends to
1165 use as the performance contract for that fiscal year and solicit public comments for a period of 60 days.

1166 *Such contracts shall be for a fixed term and shall provide for annual renewal by the Board if the term*
 1167 *exceeds one year.*

1168 B. Any community services board may apply for the assistance provided in this chapter by
 1169 submitting ~~annually~~ to the Department its proposed performance contract ~~for the next fiscal year~~ together
 1170 with (i) the approval of its board of directors for operating and administrative policy boards or the
 1171 comments of the local government department's policy-advisory board and (ii) the approval of the
 1172 contract by formal vote of the governing body of each city or county that established it. The community
 1173 services board shall make its proposed performance contract available for public review and solicit
 1174 public comments for a period of 30 days prior to submitting its proposed contract for the approval of its
 1175 board of directors for operating and administrative policy boards or the comments of the local
 1176 government department's policy-advisory board. To avoid disruptions in service continuity and allow
 1177 sufficient time to complete public review and comment about the contract and negotiation and approval
 1178 of the contract, the Department may provide ~~up to six~~ semi-monthly payments of state-controlled funds
 1179 to the community services board. If the governing body of each city or county does not approve the
 1180 proposed performance contract by September 30 of each year, the performance contract shall be deemed
 1181 approved *or renewed*.

1182 C. The performance contract shall (i) delineate the responsibilities of the Department and the
 1183 community services board; (ii) specify conditions that must be met for the receipt of state-controlled
 1184 funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) contain
 1185 specific consumer outcome, provider performance, consumer satisfaction, and consumer and family
 1186 member participation and involvement measures; (v) contain mechanisms that have been identified or
 1187 developed jointly by the Department and community services board and that will be employed
 1188 collaboratively by the community services board and the state hospital to manage the utilization of state
 1189 hospital beds; (vi) establish an enforcement mechanism, should a community services board fail to be in
 1190 substantial compliance with its performance contract, including notice and appeal processes and
 1191 provisions for remediation, withholding or reducing funds, methods of repayment of funds, and the
 1192 Department's exercise of the provisions of subsection E; and (vii) include reporting requirements and
 1193 revenue, cost, service, and consumer information displayed in a consistent, comparable format
 1194 determined by the Department.

1195 The Department may provide for performance monitoring in order to determine whether the
 1196 community services boards are in substantial compliance with their performance contracts.

1197 D. No community services board shall be eligible to receive state-controlled funds for mental health,
 1198 mental retardation, or substance abuse services after September 30 of each year unless (i) its
 1199 performance contract has been approved *or renewed* by the governing body of each city or county that
 1200 established it and by the Department; (ii) it provides service, cost, revenue, and aggregate and individual
 1201 consumer data and information, notwithstanding the provisions of § 37.2-400 or any regulations adopted
 1202 thereunder, to the Department in the format prescribed by the Department; and (iii) it uses standardized
 1203 cost accounting and financial management practices approved by the Department.

1204 E. If, after unsuccessful use of a remediation process described in the performance contract, a
 1205 community services board remains in substantial noncompliance with its performance contract with the
 1206 Department, the Department may, after affording the community services board an adequate opportunity
 1207 to use the appeal process described in the performance contract, terminate all or a portion of the
 1208 contract. Using the state-controlled resources associated with that contract, the Department, after
 1209 consulting with the governing body of each city or county that established the board, may negotiate a
 1210 performance contract with another board, a behavioral health authority, or a private nonprofit or
 1211 for-profit organization or organizations to obtain services that were the subject of the terminated
 1212 performance contract.

1213 § 42.1-36.1. Power and duty of library boards and certain governing bodies regarding acceptable
 1214 Internet use policies.

1215 A. ~~On or before December 1, 1999, and biennially thereafter, (i) every~~ *Every (i)* library board
 1216 established pursuant to § 42.1-35 or (ii) ~~the~~ governing body of any county, city, or town that, pursuant
 1217 to § 42.1-36, has not established a library board pursuant to § 42.1-35, shall ~~file with the Librarian of~~
 1218 ~~Virginia an acceptable use policy for the Internet. At a minimum, the policy shall contain provisions that~~
 1219 ~~(i) are~~ *establish an acceptable use policy for the Internet* designed to (a) prohibit use by library
 1220 employees and patrons of the library's computer equipment and communications services for sending,
 1221 receiving, viewing, or downloading illegal material via the Internet, ~~(ii) seek to~~ (b) prevent access by
 1222 library patrons under the age of 18 to material that is harmful to juveniles, and ~~(iii)~~ (c) establish
 1223 appropriate measures to be taken against persons who violate the policy. For libraries established under
 1224 § 42.1-33, the policy shall also require the selection, installation and activation of, on those computers
 1225 that are accessible to the public and have Internet access, a technology protection measure to filter or
 1226 block Internet access through such computers to child pornography as defined in § 18.2-374.1:1,
 1227 obscenity as defined in § 18.2-372, and, with respect to minors, materials deemed harmful to juveniles

1228 as defined in § 18.2-390. Such policy shall provide that a person authorized by the library board shall
 1229 disable or otherwise bypass the technology protection measure required by this section at the request of
 1230 a patron to enable access for bona fide research or other lawful purposes. *The policy required by this*
 1231 *section shall be posted online; however, if the library does not have a website, the policy shall be*
 1232 *available to the public upon request.*

1233 The library board or the governing body may include such other terms, conditions, and requirements
 1234 in the library's policy as it deems appropriate, such as requiring written parental authorization for
 1235 Internet use by juveniles or differentiating acceptable uses between elementary, middle, and high school
 1236 students.

1237 B. The library board or the governing body shall take such steps as it deems appropriate to
 1238 implement and enforce the library's policy which may include, but are not limited to, (i) the use of
 1239 software programs designed to block access by (a) library employees and patrons to illegal material or
 1240 (b) library patrons under the age of 18 to material that is harmful to juveniles or (c) both; (ii) charging
 1241 library employees to casually monitor patrons' Internet use; or (iii) installing privacy screens on
 1242 computers that access the Internet. For libraries established under § 42.1-33, the library board or
 1243 governing body shall direct such libraries to select and install on those computers that are accessible to
 1244 the public and have Internet access a technology protection measure as required by the policy
 1245 established pursuant to subsection A. No state funding shall be withheld and no other adverse action
 1246 taken against a library by the Librarian of Virginia or any other official of state government when the
 1247 technology protection measure fails, provided that such library promptly has taken reasonable steps to
 1248 rectify and prevent such failures in the future.

1249 C. ~~On or before December 1, 2000, and biennially thereafter, the Librarian of Virginia shall submit a~~
 1250 ~~report to the Chairmen of the House Committee on Education, the House Committee on Science and~~
 1251 ~~Technology, and the Senate Committee on Education and Health which summarizes the acceptable use~~
 1252 ~~policies filed with the Librarian pursuant to this section and the status thereof.~~

1253 § 51.5-89. Placement of blind persons in vacancies by Department; vending stands in Capitol;
 1254 regulations.

1255 When any vending stand or other business enterprise operated in a public building becomes vacant or
 1256 a vacancy is created through the construction or acquisition of new public buildings or renovation or
 1257 expansion of existing public buildings, the existence of such vacancies shall be made known to the
 1258 Department. The Department acting on behalf of the blind shall have first priority in assuming the
 1259 operation of such vending stand or business enterprise through placement of a properly trained blind
 1260 person in such vacancy. This section shall not apply to vending stands or other business enterprises
 1261 operated (i) in local government buildings, (ii) in the State Capitol ~~or~~, or (iii) in the legislative office
 1262 buildings that shall be subject to the control of the Rules Committee of the House of Delegates and the
 1263 Rules Committee of the Senate.

1264 **2. That § 22.1-200.03 of the Code of Virginia and § 2 of the first enactment of Chapter 814 of the**
 1265 **Acts of Assembly of 2010 are repealed.**