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SENATE BILL NO. 679

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—Newman and Garrett

Introduced at the request of Governor

Referred to Committee on General Laws and Technology

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.

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

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

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

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

4. As otherwise provided in § 2.2-4308.

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

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

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

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

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

for competition wherever practicable.

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

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

§ 2.2-4304. Cooperative procurement.

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

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

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

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

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

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

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

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

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

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

of General Services;

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

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

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

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

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

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

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

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

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

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

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

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

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 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 2.2-4367 through 2.2-4377.

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

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

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

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

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

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of 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, 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 and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The regulations shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Security provisions to safeguard court personnel, participants and the public;
2. Efficient layout and circulation patterns to maximize public access, promote efficient operations, and accommodate the diverse users;
3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms, prison holding areas, and public information areas; and
4. Comfort, safety and obsolescence of the existing facility or any part thereof.

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

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

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

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

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

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

A. For purposes of this section:

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

"Commission" means the Commission on Local Government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the school division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

857 § 22.1-225. Authority of school boards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Local school boards shall also implement the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 22.1-275.1. School health advisory board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When any vending stand or other business enterprise operated in a public building becomes vacant or a vacancy is created through the construction or acquisition of new public buildings or renovation or expansion of existing public buildings, the existence of such vacancies shall be made known to the Department. The Department acting on behalf of the blind shall have first priority in assuming the operation of such vending stand or business enterprise through placement of a properly trained blind person in such vacancy. This section shall not apply to vending stands or other business enterprises operated (i) in local government buildings, (ii) in the State Capitol ~~nor~~, or (iii) in the legislative office buildings that shall be subject to the control of the Rules Committee of the House of Delegates and the Rules Committee of the Senate.

2. That § 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 are repealed.