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HOUSE BILL NO. 1165

Offered January 15, 2014

A *BILL to amend and reenact §§ 2.2-204, 2.2-205.1, 2.2-435.8, 2.2-1603, 2.2-1617, 2.2-2238.1, 2.2-2282, 2.2-2284, 2.2-2311, 2.2-3705.6, 2.2-4301 as it is currently effective, 2.2-4302.1, as it shall become effective, 2.2-4302.2, as it shall become effective, 2.2-4310, 3.2-201, 10.1-1425.7, 11-7.1, 15.2-965.1, 15.2-4904, 18.2-213.1, 23-9.6:1.01, 23-38.88, 23-135.7:7, 33.1-221, 36-139.6, 46.2-749.69:1, 58.1-439.6, 59.1-284.22, 63.2-601, and 63.2-610 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 14.1, consisting of sections numbered 2.2-1406 through 2.2-1412, and by adding a section numbered 2.2-1603.1; and to repeal §§ 2.2-1604, 2.2-1605, 2.2-1606, 2.2-1608, 2.2-1609, and 2.2-1610 of the Code of Virginia, relating to the elimination of the Department of Small Business and Supplier Diversity; creation of the Department of Minority Business Enterprise and the Department of Business Assistance.*

Patrons—Spruill, BaCote, Dance, Futrell, Hester, James, Joannou, McQuinn, Torian, Tyler and Ward;
Senators: Alexander, Locke, Lucas, Marsh and McEachin

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-205.1, 2.2-435.8, 2.2-1603, 2.2-1617, 2.2-2238.1, 2.2-2282, 2.2-2284, 2.2-2311, 2.2-3705.6, 2.2-4301, as it is currently effective, 2.2-4302.1, as it shall become effective, 2.2-4302.2, as it shall become effective, 2.2-4310, 3.2-201, 10.1-1425.7, 11-7.1, 15.2-965.1, 15.2-4904, 18.2-213.1, 23-9.6:1.01, 23-38.88, 23-135.7:7, 33.1-221, 36-139.6, 46.2-749.69:1, 58.1-439.6, 59.1-284.22, 63.2-601, and 63.2-610 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 14.1, consisting of sections numbered 2.2-1406 through 2.2-1412, and by adding a section numbered 2.2-1603.1 as follows:

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of ~~Small Business and Supplier Diversity~~ *Business Assistance, Department of Minority Business Enterprise*, Virginia Housing Development Authority, Virginia Resources Authority, Virginia Racing Commission, Tobacco Indemnification and Community Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-205.1. Economic Crisis Strike Force.

A. There is hereby established the Economic Crisis Strike Force (Strike Force) for the purpose of serving as a working group to respond as needed to economic disasters in Virginia communities by (i) immediately providing a single point of contact for citizens in affected communities to assist with accessing available government and private sector services and resources, (ii) assisting localities in developing short-term and long-term strategies for addressing the economic crisis, and (iii) identifying opportunities for workforce retraining, job creation, and new investment.

B. The Strike Force shall be chaired by the Secretary of Commerce and Trade and be deployed at the direction of the Governor. Membership shall include high level representatives designated by the Secretaries of Education and Health and Human Resources and by the respective heads of the following agencies: the Department of Agriculture and Consumer Services, the Department of Education, the Department of Housing and Community Development, the Department of Labor and Industry, the Department of Medical Assistance Services, the Department of ~~Small Business and Supplier Diversity~~ *Business Assistance, the Department of Minority Business Enterprise*, the Department of Social Services, the Virginia Community College System, the Virginia Employment Commission, the Virginia Economic Development Partnership, and the Virginia Tourism Authority. The Strike Force shall also include representatives from such other agencies as may be designated by the Governor to meet the needs of a particular affected community. In addition, the Governor may designate such citizens as he deems appropriate to advise the Strike Force.

C. Staff support for the Strike Force shall be provided by the Office of the Governor and the

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58 Secretary of Commerce and Trade. All agencies of the Commonwealth shall assist the Strike Force upon
59 request.

60 D. On or before December 1 of each year, the Strike Force shall report to the Governor and the
61 General Assembly on its activities.

62 E. For the purposes of this section, "economic disaster" means an employment loss of at least five
63 percent during the immediately preceding six-month period, the closure or downsizing of a major
64 regional employer in an economically distressed area, a natural disaster or act of terrorism for which the
65 Governor has declared a state of emergency, or other economic crisis situations, which in the opinion of
66 the Governor adversely affect the welfare of the citizens of the Commonwealth.

67 **§ 2.2-435.8. Workforce program evaluations; sharing of certain data.**

68 A. Notwithstanding any provision of law to the contrary, the agencies specified in subsection D may
69 share data from within their respective databases solely to (i) provide the workforce program evaluation
70 and policy analysis required by subdivision A 8 of § 2.2-435.7 and clause (i) of subdivision A 10 of
71 § 2.2-435.7 and (ii) conduct education program evaluations that require employment outcomes data to
72 meet state and federal reporting requirements.

73 B. Data shared pursuant to subsection A shall not include any personal identifying information, shall
74 be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the
75 Governor or his designee shall re-encrypt the data to prevent any participating agency from connecting
76 shared data sets with existing agency files. For the purposes of this section:

77 1. "Identifying information" means the same as that term is defined in § 18.2-186.3, and

78 2. "Encrypted" means the same as that term is defined in § 18.2-186.6.

79 C. The Governor or his designee and all agencies authorized under this section shall destroy or erase
80 all shared data upon completion of all required evaluations and analyses. The Governor or his designee
81 may retain a third-party entity to assist with the evaluation and analysis.

82 D. The databases from the following agencies relating to the specific programs identified in this
83 subsection may be shared solely to achieve the purposes specified in subsection A:

84 1. Virginia Employment Commission: Unemployment Insurance, Job Service, Trade Act, and
85 Veterans Employment Training Programs;

86 2. Virginia Community College System: Postsecondary Career and Technical Education, Workforce
87 Investment Act Adult, Youth and Dislocated Worker Programs;

88 3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior
89 Community Services Employment Program;

90 4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;

91 5. Department of Education: Adult Education and Family Literacy, Special Education, and Career
92 and Technical Education;

93 6. Department of Labor and Industry: Apprenticeship;

94 7. Department of Social Services: Supplemental Nutrition Assistance Program and Virginia Initiative
95 for Employment Not Welfare;

96 8. Department of ~~Small Business and Supplier Diversity~~ Business Assistance: Virginia Jobs
97 Investment Program;

98 9. Department of Juvenile Justice: Youth Industries and Institutional Work Programs and Career and
99 Technical Education Programs;

100 10. Department of Corrections: Career and Technical Education Programs; and

101 11. The State Council of Higher Education for Virginia.

102 **CHAPTER 14.1.**

103 **DEPARTMENT OF MINORITY BUSINESS ENTERPRISE.**

104 **§ 2.2-1406. Department of Minority Business Enterprise created; appointment of Director; offices;**
105 **personnel.**

106 A. There is hereby created a Department of Minority Business Enterprise (the Department), which
107 shall be headed by a Director appointed by the Governor to serve at his pleasure. The Director shall
108 also serve as a special assistant to the Governor for small, women-owned, and minority-owned business
109 development.

110 B. The Director of the Department shall, under the direction and control of the Governor, exercise
111 the powers and perform the duties conferred or imposed upon him by law and perform such other duties
112 as may be required by the Governor.

113 C. The Department shall have its main office in Richmond and may have branch offices as may be
114 necessary, as determined by the Director subject to the approval of the Secretary of Commerce and
115 Trade.

116 **§ 2.2-1407. Definitions.**

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

118 "Certification" means the process by which a business is determined to be a small, women-owned, or
119 minority-owned business for the purpose of reporting small, women-owned, and minority-owned business

participation in state contracts and purchases pursuant to §§ 2.2-1410 and 2.2-1412.

"Department" means the Department of Minority Business Enterprise or any division of the Department to which the Director has delegated or assigned duties and responsibilities.

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, the Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka, and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

"Small business" means a business that is at least 51 percent independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens and, together with affiliates, has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" does not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

§ 2.2-1408. Powers and duties of Department.

A. The Department shall have the following powers and duties:

1. Coordinate as consistent with prevailing law the plans, programs, and operations of the state government that affect or may contribute to the establishment, preservation, and strengthening of small, women-owned, and minority-owned businesses;

2. Promote the mobilization of activities and resources of state and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups toward the growth of small businesses and businesses owned by women and minorities, and facilitate the coordination of the efforts of these groups with those of state departments and agencies;

3. Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting procurement from small, women-owned, and minority-owned businesses;

4. Consistent with prevailing law and availability of funds, and according to the Director's discretion, provide technical and management assistance to small, women-owned, and minority-owned businesses and defray all or part of the costs of pilot or demonstration projects that are designed to overcome the special problems of small, women-owned, and minority-owned businesses;

5. Manage the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311 and, in cooperation with the Small Business Financing Authority, determine the qualifications, terms, and conditions for the use of such Fund; and

6. Implement any remediation or enhancement measure for small, women-owned, or minority-owned businesses as may be authorized by the Governor pursuant to subsection C of § 2.2-4310 and develop

181 regulations, consistent with prevailing law, for program implementation. Such regulations shall be
182 developed in consultation with the state agencies with procurement responsibility and promulgated by
183 those agencies in accordance with applicable law.

184 B. All agencies of the Commonwealth shall assist the Department upon request and furnish such
185 information and assistance as the Department may require in the discharge of its duties.

186 **§ 2.2-1409. Powers of Director.**

187 As deemed necessary or appropriate to better fulfill the duties of the Department, the Director may:

188 1. With the participation of other state departments and agencies, develop comprehensive plans and
189 specific program goals for small, women-owned, and minority-owned business programs; establish
190 regular performance monitoring and reporting systems to assure that goals of state agencies and
191 institutions are being achieved; and evaluate the impact of federal and state support in achieving
192 objectives.

193 2. Employ the necessary personnel or subcontract, according to his discretion, with localities to
194 supplement the functions of business development organizations.

195 3. Assure the coordinated review of all proposed state training and technical assistance activities in
196 direct support of small, women-owned, and minority-owned business programs to ensure consistency
197 with program goals and to avoid duplication.

198 4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or
199 their designees, whose programs and activities may affect or contribute to the purposes of this chapter.

200 5. Convene business leaders, educators, and other representatives of the private sector who are
201 engaged in assisting the development of small, women-owned, and minority-owned business programs or
202 who could contribute to their development for the purpose of proposing, evaluating, or coordinating
203 governmental and private activities in furtherance of the objectives of this chapter.

204 6. Provide the managerial and organizational framework through which joint undertakings with state
205 departments or agencies or private organizations can be planned and implemented.

206 7. Recommend appropriate legislative or executive actions.

207 8. Adopt regulations to implement certification programs for small, women-owned, and
208 minority-owned businesses and employment services organizations, which regulations shall be exempt
209 from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002. Such
210 certification programs shall allow applications for certification to be submitted by electronic means as
211 authorized by § 59.1-496 and the applicant to affix thereto his electronic signature, as defined in
212 § 59.1-480. Such certification programs shall deny certification to vendors from states that deny like
213 certifications to Virginia-based small, women-owned, or minority-owned businesses and employment
214 services organizations or that provide a preference for small, women-owned, or minority-owned
215 businesses and employment services organizations based in that state that is not available to
216 Virginia-based businesses. The regulations shall (i) establish minimum requirements for certification of
217 small, women-owned, and minority-owned businesses and employment services organizations; (ii)
218 provide a process for evaluating existing local, state, private sector, and federal certification programs
219 that meet the minimum requirements; and (iii) mandate certification, without any additional paperwork,
220 of any prospective state vendor that has obtained certification under any certification program that is
221 determined to meet the minimum requirements established in the regulations and of any employment
222 services organization that has been approved by the Department for Aging and Rehabilitative Services.

223 9. Establish an interdepartmental board in accordance with § 2.2-1410 to supply the Director with
224 information useful in promoting small, women-owned, and minority-owned business activity.

225 **§ 2.2-1410. Interdepartmental Board; cooperation with Department.**

226 A. The Interdepartmental Board established by the Director shall be composed of heads of the
227 several departments and agencies of state government, or their respective designees, whose functions
228 affect small, women-owned, and minority-owned businesses. The participating departments and agencies
229 shall be determined by the Director of the Department. The Interdepartmental Board shall meet at the
230 call of the Director and shall supply the Director with information useful in promoting small,
231 women-owned, and minority-owned business development.

232 B. The head of each participating state department and agency or his designee shall furnish
233 information, assistance, and reports to, and shall otherwise cooperate with, the Director in the
234 performance of his duties as needed.

235 C. The head of each participating state department or agency shall, when so requested by the
236 Director, designate an assistant or such other similar official to have primary and continuing
237 responsibility for the participation and cooperation of that department or agency in matters concerning
238 small, women-owned, and minority-owned businesses.

239 D. Each participating state department or agency shall, within constraints of law and availability of
240 funding, continue all current efforts to foster and promote small, women-owned, and minority-owned
241 businesses and to support small, women-owned, and minority-owned business programs and shall
242 cooperate with the Director in increasing the total state effort.

§ 2.2-1411. Use of vendors identified by public institutions of higher education as small, women-owned, and minority-owned businesses.

For purposes of compliance with § 2.2-4310, a public institution of higher education that meets the conditions prescribed in subsection B of § 23-38.88 may procure goods, services, and construction from vendors identified by such public institutions of higher education as small, women-owned, or minority-owned businesses that the institution has certified as such based on criteria approved by the Department. An institution exercising the authority granted by this section shall establish and follow internal procedures and processes designed to verify whether or not a vendor qualifies to be certified as a small, women-owned, or minority-owned business under the Department-approved criteria and the certification requirements. The institution shall notify the Department promptly of the certification and shall provide the Department with a copy of its written certification identifying the vendor as a small, women-owned, or minority-owned business and all application materials submitted by the vendor to the institution. Such certification shall remain in effect unless and until the Department notifies the institution that the vendor does not meet the certification requirements.

§ 2.2-1412. Reports and recommendations; collection of data.

The Director shall, from time to time, submit directly or through an assistant to the Governor his recommendations for legislation or other action as he deems desirable to promote the purposes of this chapter.

The Director shall report, on or before November 1 of each year, to the Governor and the General Assembly the identity of the state departments and agencies failing to submit annual progress reports on small, women-owned, and minority-owned business procurement required by § 2.2-4310 and the nature and extent of such lack of compliance. The annual report shall include recommendations on the ways to improve compliance with the provisions of § 2.2-4310 and such other related matters as the Director deems appropriate.

The Director, with the assistance of the Comptroller, shall develop and implement a systematic data collection process that will provide information for a report to the Governor and General Assembly on state expenditures to small, women-owned, and minority-owned businesses during the previous fiscal year.

An institution exercising authority granted under this section shall promptly make available to the Department, upon request, copies of its procurement records, receipts, and transactions in regard to procurement from small, women-owned, and minority-owned businesses in order for the Department to ensure institution compliance with its approved reporting and certification criteria.

CHAPTER 16.1.

DEPARTMENT OF SMALL BUSINESS AND SUPPLIER DIVERSITY BUSINESS ASSISTANCE.

§ 2.2-1603. Department of Business Assistance created; appointment of Director; offices; personnel.

A. There is hereby created a Department of Small Business and Supplier Diversity Business Assistance (the Department), which shall be headed by a Director appointed by the Governor to serve at his pleasure. The Director shall also serve as a special assistant to the Governor for small, women-owned, and minority-owned business development.

B. The Director of the Department shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor.

C. The Department shall have its main office in Richmond and may have branch offices as may be necessary, as determined by the Director subject to the approval of the Secretary of Commerce and Trade.

§ 2.2-1603.1. Powers of the Department.

The Department shall serve as the liaison between the Commonwealth's existing businesses and state government in order to promote the development of Virginia's economy. To that end, the Department shall:

1. Provide for training or retraining of individuals for specific employment opportunities at new or expanding business facilities in the Commonwealth;

2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their growth and the creation and retention of jobs for Virginians;

3. Establish an industry program that is the principal point of communication between basic employers in the Commonwealth and the state government that will address issues of significance to business;

4. Make available to existing businesses, in conjunction and cooperation with localities, chambers of commerce, and other public and private groups, basic information and pertinent factors of interest and concern to such businesses;

5. Develop statistical reports on job creation and the general economic conditions in the

304 *Commonwealth; and*

305 6. *Administer any programs established under the Virginia Jobs Investment Program described in*
306 *Article 2 (§ 2.2-1611 et seq.) of this chapter.*

307 *All agencies of the Commonwealth shall assist the Department upon request and furnish such*
308 *information and assistance as the Department may require in the discharge of its duties.*

309 **§ 2.2-1617. One-stop small business permitting program.**

310 A. As used in this article, unless the context requires a different meaning:

311 "Business Permitting Center" or "Center" means the business registration and permitting center
312 established by this section and located in and under the administrative control of the Department.

313 "Comprehensive application" means a document incorporating pertinent data from existing
314 applications for permits covered under this section.

315 "Comprehensive permit" means the single document designed for public display issued by the
316 Business Permitting Center that certifies state agency permit approval and that incorporates the
317 endorsements for individual permits included in the comprehensive permitting program.

318 "Comprehensive permitting program" or "Program" means the mechanism by which comprehensive
319 permits are issued and renewed, permit and regulatory information is disseminated, and account data is
320 exchanged by state agencies.

321 "Permit" means the whole or part of any state agency permit, license, certificate, approval,
322 registration, charter, or any form or permission required by law, to engage in activity associated with or
323 involving the establishment of a small business in the Commonwealth.

324 "Permit information packet" means a collection of information about permitting requirements and
325 application procedures custom assembled for each request.

326 "Regulatory" means all permitting and other governmental or statutory requirements establishing a
327 small business or professional activities associated with establishing a small business.

328 "Regulatory agency" means any state agency, board, commission, or division that regulates one or
329 more professions, occupations, industries, businesses, or activities.

330 "Renewal application" means a document used to collect pertinent data for renewal of permits
331 covered under this section.

332 "Small business" means an independently owned and operated business that, together with affiliates,
333 has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the
334 previous three years.

335 "Veteran" means an individual who has served in the active military, naval, or air service and who
336 was discharged or released therefrom under conditions other than dishonorable.

337 B. There is created within the Department the comprehensive permitting program (the Program). The
338 Program is established to serve as a single access point to aid entrepreneurs in filling out the various
339 permit applications associated with establishing a small business in Virginia. The Program in no way
340 supersedes or supplants any regulatory authority granted to any state agency with permits covered by
341 this section. As part of the Program, the Department shall coordinate with the regulatory agency, and the
342 regulatory agency shall determine, consistent with applicable law, what types of permits are appropriate
343 for inclusion in the Program as well as the rules governing the submission of and payment for those
344 permits. The website of the Department shall provide access to information regarding the Program. The
345 Department shall have the power and duty to:

346 1. Create a comprehensive application that will allow an entrepreneur, or an agent thereof, seeking to
347 establish a small business, to create accounts that will allow them to acquire the appropriate permits
348 required in the Commonwealth. The comprehensive application shall:

349 a. Allow the business owner to choose a business type and to provide common information, such as
350 name, address, and telephone number, on the front page, eliminating the need to repeatedly provide
351 common information on each permit application;

352 b. Allow the business owner to preview and answer questions related to the operation of the
353 business;

354 c. Provide business owners with a customized to-do agency checklist, which checklist shall provide
355 the permit applications pertinent to each business type and provide the rules, regulations, and general
356 laws applicable to each business type as well as local licensing information;

357 d. Allow the business owner to submit permit applications by electronic means as authorized by
358 § 59.1-496 and to affix thereto his electronic signature as defined in § 59.1-480;

359 e. Allow the business owner to check on the status of applications online and to receive information
360 from the permitting agencies electronically; and

361 f. Allow a business owner to submit electronic payment of application or permitting fees for
362 applications that have been accepted by the permitting agency.

363 2. Develop and administer a computerized system program capable of storing, retrieving, and
364 exchanging permit information while protecting the confidentiality of information submitted to the
365 Department to the extent allowable by law. Information submitted to the Department shall be subject to

the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) as the same would apply were the information submitted directly to the Department or to any permitting agency.

3. Issue and renew comprehensive permits in an efficient manner.

4. Identify the types of permits appropriate for inclusion in the Program. The Department shall coordinate with the regulatory agency, and the regulatory agency shall determine, consistent with applicable law, what types of permits are appropriate for inclusion in the Program.

5. Incorporate permits into the Program.

6. Do all acts necessary or convenient to carry out the purposes of this chapter.

C. The Business Permitting Center shall compile information regarding the regulatory programs associated with each of the permits obtainable under the Program. This information shall include, at a minimum, a listing of the statutes and administrative rules requiring the permits and pertaining to the regulatory programs that are directly related to the permit. The Center shall provide information governed by this section to any person requesting it. Materials used by the Center to describe the services provided by the Center shall indicate that this information is available upon request.

D. Each state agency shall cooperate and provide reasonable assistance to the Department in the implementation of this section.

E. By June 30, 2018, the State Corporation Commission shall fully integrate processes and forms into the Center and shall process all forms within 48 business hours from the time the applicant submits the form electronically. The State Corporation Commission and the Center shall report on progress and any barriers to completion biannually to the Governor and the chairs of the Senate Committees on Finance, General Laws and Technology, and Commerce and Labor and of the House Committees on Appropriations and Commerce and Labor.

F. Any person requiring permits that have been incorporated into the Program may submit a comprehensive application to the Department requesting the issuance of the permits. The comprehensive application form shall contain in consolidated form information necessary for the issuance of the permits.

G. The applicant, if not a veteran, shall include with the application the handling fee established by the Department. An applicant who is a veteran shall be exempt from payment of the handling fee prescribed by this subsection. The amount of the handling fee assessed against the applicant shall be set by the Department at a level necessary to cover the costs of administering the comprehensive permitting program.

H. The authority for approving the issuance and renewal of any requested permit that requires investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally authorized to issue the permit shall remain with that agency. The Center may issue those permits for which proper fee payment and a completed application form have been received and for which no approval action is required by the regulatory agency.

I. Upon receipt of the application, and proper fee payment for any permit for which issuance is subject to regulatory agency action under subsection H, the Department shall immediately notify the State Corporation Commission or the regulatory agency with authority to approve the permit issuance or renewal requested by the applicant. The State Corporation Commission or the regulatory agency shall advise the Department within a reasonable time after receiving the notice of one of the following:

1. That the State Corporation Commission or the regulatory agency approves the issuance of the requested permit and will advise the applicant of any specific conditions required for issuing the permit;

2. That the State Corporation Commission or the regulatory agency denies the issuance of the permit and gives the applicant reasons for the denial;

3. That the application is pending; or

4. That the application is incomplete and further information from or action by the applicant is necessary.

J. The Department shall issue a comprehensive permit endorsed for all the approved permits to the applicant and advise the applicant of the status of other requested permits. The applicant shall be responsible for contesting any decision regarding conditions imposed or permits denied through the normal process established by statute or by the State Corporation Commission or the regulatory agency with the authority for approving the issuance of the permit.

K. Regulatory agencies shall be provided information from the comprehensive application for their permitting and regulatory functions.

L. The Department shall be responsible for directing the applicant to make all payments for applicable fees established by the regulatory agency directly to the proper agency.

M. There is hereby created in the state treasury a special nonreverting fund to be known as the Comprehensive Permitting Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of all moneys collected from the handling fee established by the Department pursuant to subsection G and such other funds as may be appropriated by

427 the General Assembly. Interest earned on moneys in the Fund shall remain in the Fund and be credited
428 to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall
429 not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to
430 administer the Program. Expenditures and disbursements from the Fund shall be made by the State
431 Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the
432 Department.

433 N. Unless otherwise directed by the regulatory agency, the Department shall not issue or renew a
434 comprehensive permit to any person under any of the following circumstances:

435 1. The person does not have a valid tax registration, if required;

436 2. The person is a corporation, limited liability company, business trust, limited partnership, or
437 registered limited liability partnership that (i) is delinquent in the payment of fees or penalties collected
438 by the State Corporation Commission pursuant to the business entity statutes it administers, (ii) does not
439 exist, or (iii) is not authorized to transact business in the Commonwealth pursuant to one of the business
440 entity statutes administered by the State Corporation Commission; or

441 3. The person has not submitted the sum of all fees and deposits required for the requested
442 individual permit endorsements, any outstanding comprehensive permit delinquency fee, or other fees
443 and penalties to be collected through the comprehensive permitting program.

444 O. The Department may adopt regulations in accordance with ~~§ 2.2-1606~~ *the Administrative Process*
445 *Act (§ 2.2-4000 et seq.)* as may be necessary to carry out the purposes of this section.

446 **§ 2.2-2238.1. Special economic development services in rural communities; strategic plan.**

447 A. In order to assist the rural communities of the Commonwealth, the Authority shall develop a
448 program for reviewing existing economic development programs of rural communities, upon request.
449 The program shall include (i) a review and evaluation of existing industrial sites and infrastructure,
450 including existing streets, water and sewer systems, electricity, natural gas and communications facilities
451 that will provide high-speed or broadband Internet access to rural and underserved areas of the
452 Commonwealth; (ii) an assessment of the existing workforce and the provision of information on state
453 and federal programs such as tax incentives that may be available to local or prospective employers to
454 assist in hiring and training in areas of high unemployment; (iii) assistance in identifying community
455 resources and the type of industries that may benefit from locating in a community with such resources;
456 and (iv) marketing assistance to help rural communities improve their visibility to expanding industries
457 looking for new facilities.

458 B. The Authority, the Center for Rural Virginia, the Virginia Department of Housing and Community
459 Development, the Virginia Resources Authority, the Department of ~~Small Business and Supplier~~
460 ~~Diversity Business Assistance~~, the Virginia Tobacco Indemnification and Community Revitalization
461 Commission, the Virginia Employment Commission, the Virginia Tourism Corporation, the Virginia
462 Community College System, institutions of higher education within rural regions of the Commonwealth,
463 and the Department of Agriculture and Consumer Services shall jointly develop and implement a rural
464 economic development strategic plan that at a minimum addresses: (i) education, including
465 pre-kindergarten, primary, secondary and post-graduate resources, and comprehensive workforce
466 development programs, as they may pertain to the Workforce Investment Act; (ii) infrastructure,
467 including capital for water and sewer upgrading, waste management, law enforcement, housing, primary
468 and secondary roads, and telecommunications; (iii) traditional industrial development and industry
469 retention programs, including assistance in financing and in workforce training; (iv) recreational and
470 cultural enhancement and related quality of life measures, including parks, civic centers, and theaters; (v)
471 agribusiness incentives to promote the use of new technologies, and the exploration of new market
472 opportunities; and (vi) a revolving loan fund or loan guarantee program to help start or expand
473 entrepreneurial activities, especially small business activities in rural communities.

474 **§ 2.2-2282. Board of directors; membership; terms, compensation and expenses; chairman,**
475 **vice-chairman, secretary and treasurer; quorum; staff.**

476 A. The Board shall consist of the State Treasurer or his designee, the Director of the Department of
477 ~~Small Business and Supplier Diversity Business Assistance~~, and nine members who are not employees of
478 the Commonwealth or of any political subdivision thereof who shall be appointed by the Governor and
479 who shall have such small business experience as he deems necessary or desirable. The appointment of
480 members of the Board by the Governor shall be subject to confirmation by the General Assembly. All
481 members of the Board shall be residents of the Commonwealth and shall have full voting privileges.
482 Appointments shall be for terms of four years, except that appointments to fill vacancies shall be made
483 for the unexpired terms. No member appointed by the Governor shall serve more than two complete
484 terms in succession. The members of the Board shall receive no salaries but shall be paid travel and
485 other expenses incurred to attend meetings or while otherwise engaged in the discharge of their duties,
486 all as may be deemed appropriate by the Board.

487 B. The Governor shall appoint one member as chairman for a two-year term. No member shall be
488 eligible to serve more than two consecutive terms as chairman. Five members of the Board shall

constitute a quorum for the transaction of all business of the Authority. The Board shall elect one member from the group of nine members appointed by the Governor as vice-chairman who shall exercise the powers of the chairman in the absence of the chairman. The Board shall elect a secretary and a treasurer, or a secretary-treasurer, who need not be members of the Board and who shall continue to hold such office until their respective successors are elected. The Department of ~~Small Business and Supplier Diversity~~ *Business Assistance* of the Commonwealth shall serve as staff to the Authority.

§ 2.2-2284. Executive Director; appointment; duties.

The Director of the Department of ~~Small Business and Supplier Diversity~~ *Business Assistance* shall appoint the Executive Director of the Authority. The Executive Director shall administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control and the direction of the Board and the Director of the Department of ~~Small Business and Supplier Diversity~~ *Business Assistance*. Except as otherwise stated in this article, the Executive Director shall approve all accounts for allowable expenses for the Authority or of any employee or consultant or other person providing services to the Board, and for expenses incidental to the operation of the Authority subject to approval of the Director of the Department of ~~Small Business and Supplier Diversity~~ *Business Assistance*. The Executive Director shall maintain and be custodian of all books, documents and papers of or filed with the Authority, including but not limited to the minute book or journal of the Authority, and of its official seal. The Executive Director may cause copies to be made of all minutes and other records and documents of the Authority and may in the place and stead of the Secretary of the Authority give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Executive Director also shall perform such other duties as prescribed by the Board in carrying out the purposes of this article.

§ 2.2-2311. Creation, administration, and management of the Capital Access Fund for Disadvantaged Businesses.

A. For the purposes of this section:

"Disadvantaged business" means a for-profit small business concern that is majority-owned by one or more economically disadvantaged individuals. In the case of a corporation, a majority of the stock shall be owned by one or more such individuals and the management and daily business operations shall be controlled by one or more of the economically disadvantaged individuals who own it.

"Economically disadvantaged individual" means an individual whose ability to compete in the free market has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business and competitive market area.

B. There is created in the state treasury a permanent nonreverting fund to be known as the Capital Access Fund for Disadvantaged Businesses (the Fund). The Fund shall be comprised of (i) moneys appropriated to the Fund by the General Assembly, (ii) all income from the investment of moneys held by the Fund, and (iii) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to provide loan guarantees, loan loss reserves, and interest rate write downs. The Fund shall be managed by the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise* (the Department) and administered by the Virginia Small Business Financing Authority (the Authority).

C. The operation of the Fund shall be as follows:

1. The Fund may be used as a special reserve fund to cover potential future losses from the loan portfolios of participating banks and lending institutions. The Authority shall (i) establish with one or more banks and lending institutions one or more accounts or pools for the Capital Access Fund for Disadvantaged Businesses and (ii) deposit into such accounts or pools moneys from the Fund in an amount at least equal to the total of the sum of the bank or lending institutions and the individual borrower's deposits, cash equivalents or other acceptable securities, including but not limited to letters of credit, for each loan sought to be covered for future losses. Such matching sum by the Authority shall not exceed 14 percent of the principal amount of the loan. The Authority may require up to 100 percent match by the individual borrowers pursuant to established guidelines.

2. The Fund may also be used to guarantee up to 90 percent of the principal amount of any loan to cover potential future losses from the loan portfolios of participating banks and lending institutions to cover specific loans on such terms and conditions as set forth in established guidelines. Such guarantees shall not exceed a term of five years.

3. The Fund may also be used to provide interest rate write downs or other payments to achieve a concessionary rate of interest that shall be limited to seven percent of the balance of the Fund that is unencumbered by any special reserves or guarantees or the income earned by the Fund from all sources including fees, interest, or other investment income. No interest rate write down or payment to achieve a concessionary rate shall extend for more than five years and such rates shall include provisions for an

550 increase in such rates to a near market rate but not more than the prime rate.

551 4. Provisions may be made for a borrower to use a combination of subdivisions C 1, C 2, and C 3
552 pursuant to established guidelines.

553 D. The determination of economic disadvantage shall be made by the Director of the Department of
554 ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise* pursuant to the guidelines developed
555 in accordance with subsections B and C.

556 E. The Department and the Authority, or their designated agents, shall determine the qualifications,
557 terms, and conditions for the use of the Fund and the accounts thereof. In connection with applications
558 for claims made against the Fund, the Department may require the production of any document,
559 instrument, certificate, legal opinion, or any other information it deems necessary or convenient. All
560 claims made against the Fund shall be approved by the Department and the Authority.

561 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

562 The following records are excluded from the provisions of this chapter but may be disclosed by the
563 custodian in his discretion, except where such disclosure is prohibited by law:

564 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4
565 or 62.1-134.1.

566 2. Financial statements not publicly available filed with applications for industrial development
567 financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

568 3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of
569 confidentiality from a public body, used by the public body for business, trade and tourism development
570 or retention; and memoranda, working papers or other records related to businesses that are considering
571 locating or expanding in Virginia, prepared by a public body, where competition or bargaining is
572 involved and where, if such records are made public, the financial interest of the public body would be
573 adversely affected.

574 4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239
575 et seq.), as such Act existed prior to July 1, 1992.

576 5. Fisheries data that would permit identification of any person or vessel, except when required by
577 court order as specified in § 28.2-204.

578 6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections
579 provided to the Department of Rail and Public Transportation, provided such information is exempt
580 under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws
581 administered by the Surface Transportation Board or the Federal Railroad Administration with respect to
582 data provided in confidence to the Surface Transportation Board and the Federal Railroad
583 Administration.

584 7. Confidential proprietary records related to inventory and sales, voluntarily provided by private
585 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy
586 contingency planning purposes or for developing consolidated statistical information on energy supplies.

587 8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the
588 Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of
589 Chapter 10 of Title 32.1.

590 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and
591 cost projections provided by a private transportation business to the Virginia Department of
592 Transportation and the Department of Rail and Public Transportation for the purpose of conducting
593 transportation studies needed to obtain grants or other financial assistance under the Transportation
594 Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is
595 exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other
596 laws administered by the Surface Transportation Board or the Federal Railroad Administration with
597 respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad
598 Administration. However, the exemption provided by this subdivision shall not apply to any wholly
599 owned subsidiary of a public body.

600 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or
601 proprietary information by any person who has submitted to a public body an application for
602 prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

603 11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its
604 staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed
605 under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education
606 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public
607 prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17
608 notwithstanding, the financial interest or bargaining position of the public entity would be adversely
609 affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the
610 responsible public entity; and

611 b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or

affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the records specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and Infrastructure Act of 2002.

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary records that are not generally available to the public through regulatory disclosure or otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the records relate to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Documents and other information of a proprietary nature furnished by a supplier of charitable

gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

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

17. Records submitted as a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

18. Confidential proprietary records and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the records or portions thereof for which protection is sought, and (c) state the reasons why protection is necessary.

19. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

20. (Effective January 1, 2014) Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity *Minority Business Enterprise* as part of an application for (i) certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.) 14.1 (§ 2.2-1406 et seq.) or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

21. Documents and other information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Records submitted as a grant application, or accompanying a grant application, to the Virginia Tobacco Indemnification and Community Revitalization Commission to the extent such records contain

(i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (iii) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other records prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data, records or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial records or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Records of the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if public disclosure would adversely affect the financial interest or bargaining position of the Authority or a private entity providing records to the Authority; or

b. Records provided by a private entity to the Commercial Space Flight Authority, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public, the financial interest or bargaining position of the Authority or private entity would be adversely affected.

In order for the records specified in clauses (i), (ii), and (iii) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Documents and other information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Documents and other information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if the records were made public, the financial interest of the public-use airport would be adversely affected.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

1. Invoking such exclusion upon submission of the data or other materials for which protection from

796 disclosure is sought;

797 2. Identifying with specificity the data or other materials for which protection is sought; and

798 3. Stating the reasons why protection is necessary.

799 **§ 2.2-4301. (Effective until July 1, 2014) Definitions.**

800 As used in this chapter:

801 "Affiliate" means an individual or business that controls, is controlled by, or is under common
802 control with another individual or business. A person controls an entity if the person owns, directly or
803 indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition
804 "voting security" means a security that (i) confers upon the holder the right to vote for the election of
805 members of the board of directors or similar governing body of the business or (ii) is convertible into,
806 or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general
807 partnership interest shall be deemed to be a voting security.

808 "Best value," as predetermined in the solicitation, means the overall combination of quality, price,
809 and various elements of required services that in total are optimal relative to a public body's needs.

810 "Business" means any type of corporation, partnership, limited liability company, association, or sole
811 proprietorship operated for profit.

812 "Competitive negotiation" is a method of contractor selection that includes the following elements:

813 1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be
814 procured, specifying the factors that will be used in evaluating the proposal and containing or
815 incorporating by reference the other applicable contractual terms and conditions, including any unique
816 capabilities or qualifications that will be required of the contractor.

817 2. Public notice of the Request for Proposal at least 10 days prior to the date set for receipt of
818 proposals by posting on the Department of General Services' central electronic procurement website or
819 other appropriate websites. Additionally, public bodies shall publish in a newspaper of general
820 circulation in the area in which the contract is to be performed so as to provide reasonable notice to the
821 maximum number of offerors that can be reasonably anticipated to submit proposals in response to the
822 particular request. Posting on the Department of General Services' central electronic procurement website
823 shall be required of any state public body. Local public bodies are encouraged to utilize the Department
824 of General Services' central electronic procurement website to provide the public with centralized
825 visibility and access to the Commonwealth's procurement opportunities. In addition, proposals may be
826 solicited directly from potential contractors.

827 3. a. Procurement of professional services. The public body shall engage in individual discussions
828 with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial
829 responses and with emphasis on professional competence, to provide the required services. Repetitive
830 informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their
831 qualifications and performance data or staff expertise pertinent to the proposed project, as well as
832 alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by
833 the public body in addition to the review of the professional competence of the offeror. The Request for
834 Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At
835 the discussion stage, the public body may discuss nonbinding estimates of total project costs, including,
836 but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services.
837 Proprietary information from competing offerors shall not be disclosed to the public or to competitors.
838 At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published
839 in the Request for Proposal and all information developed in the selection process to this point, the
840 public body shall select in the order of preference two or more offerors whose professional qualifications
841 and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning
842 with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be
843 negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise,
844 negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with
845 the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable
846 price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the
847 Request for Proposal, a public body may award contracts to more than one offeror.

848 Should the public body determine in writing and in its sole discretion that only one offeror is fully
849 qualified, or that one offeror is clearly more highly qualified and suitable than the others under
850 consideration, a contract may be negotiated and awarded to that offeror.

851 A contract for architectural or professional engineering services relating to construction projects may
852 be negotiated by a public body, for multiple projects provided (i) the projects require similar experience
853 and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the
854 contract term is limited to one year or when the cumulative total project fees reach the maximum cost
855 authorized in this paragraph, whichever occurs first. For state public bodies, such contract, except those
856 awarded for environmental, location, design and inspection work regarding highways and bridges by the
857 Commissioner of Highways may be renewable for four additional one-year terms at the option of the

public body. For local public bodies, including metropolitan planning organizations or planning district commissions, such contract may be renewable for four additional one-year terms at the option of the public body. Under such contract, the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (a) except for those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commissioner of Highways, the sum of all projects performed in one contract term shall not exceed \$500,000 or, in the case of a state agency, as defined in § 2.2-4347, such greater amount as may be determined by the Director of the Department of General Services, not to exceed \$1 million, except that in any locality or any authority, sanitation district, metropolitan planning organization or planning district commission with a population in excess of 80,000, or any city within Planning District 8, the sum of all such projects shall not exceed \$5 million and those awarded for any airport as defined in § 5.1-1 and aviation transportation projects, the sum of all such projects shall not exceed \$1.5 million, and (b) except for those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commissioner of Highways or for architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation, the project fee of any single project shall not exceed \$100,000, or for architectural or engineering services for airports as defined in § 5.1-1 and aviation transportation projects, the project fee of any single project shall not exceed \$500,000, or, in the case of a state agency, such greater amount as may be determined by the Director of the Department of General Services not to exceed \$200,000, except that in any locality or any authority or sanitation district with a population in excess of 80,000, or any city within Planning District 8, such fee shall not exceed \$2 million. Any unused amounts from the first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term. Notwithstanding any other provision in this section, for contracts for environmental location, design and inspection work regarding highways and bridges by the Commissioner of Highways, the initial contract term shall be limited to two years or when the cumulative total project fees reach \$5 million, whichever occurs first. Such contract may be renewable for two additional one-year terms at the option of the Commissioner, and the sum of all projects in each one-year term shall not exceed \$5 million. For architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation, the sum of all projects in one contract term shall not exceed \$2 million and such contract may be renewable for two additional one-year terms at the option of the Commissioner.

Multiphase professional services contracts satisfactory and advantageous to the Department of Transportation for environmental, location, design and inspection work regarding highways and bridges may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

Multiphase professional services contracts satisfactory and advantageous to a local public body, including metropolitan planning organizations and planning district commissions, for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the local public body shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of such public body require awarding the contract.

b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

"Competitive sealed bidding" is a method of contractor selection, other than for professional services, which includes the following elements:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the public body has provided

919 for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite
920 qualifications of potential contractors. When it is impractical to prepare initially a purchase description
921 to support an award based on prices, an Invitation to Bid may be issued requesting the submission of
922 unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been
923 qualified under the criteria set forth in the first solicitation.

924 2. (Effective January 1, 2014) Public notice of the Invitation to Bid at least 10 days prior to the date
925 set for receipt of bids by posting on the Department of General Services' central electronic procurement
926 website or other appropriate websites. In addition, public bodies may publish in a newspaper of general
927 circulation. Posting on the Department of General Services' central electronic procurement website shall
928 be required of any state public body. Local public bodies are encouraged to utilize the Department of
929 General Services' central electronic procurement website to provide the public with centralized visibility
930 and access to the Commonwealth's procurement opportunities. In addition, bids may be solicited directly
931 from potential contractors. Any additional solicitations shall include businesses selected from a list made
932 available by the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise*.

933 3. Public opening and announcement of all bids received.

934 4. Evaluation of bids based upon the requirements set forth in the invitation, which may include
935 special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria
936 such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which
937 are helpful in determining acceptability.

938 5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple
939 awards are so provided in the Invitation to Bid, awards may be made to more than one bidder.

940 "Construction" means building, altering, repairing, improving or demolishing any structure, building
941 or highway, and any draining, dredging, excavation, grading or similar work upon real property.

942 "Construction management contract" means a contract in which a party is retained by the owner to
943 coordinate and administer contracts for construction services for the benefit of the owner, and may also
944 include, if provided in the contract, the furnishing of construction services to the owner.

945 "Design-build contract" means a contract between a public body and another party in which the party
946 contracting with the public body agrees to both design and build the structure, roadway or other item
947 specified in the contract.

948 "Employment services organization" means an organization that provides employment services to
949 individuals with disabilities that is an approved Commission on the Accreditation of Rehabilitation
950 Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

951 "Goods" means all material, equipment, supplies, printing, and automated data processing hardware
952 and software.

953 "Informality" means a minor defect or variation of a bid or proposal from the exact requirements of
954 the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity or
955 delivery schedule for the goods, services or construction being procured.

956 (Effective July 1, 2014) "Job order contracting" means a method of procuring construction services
957 by establishing a book of unit prices and then obtaining a contractor to perform work as needed using
958 the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be
959 selected through either competitive sealed bidding or competitive negotiation depending on the needs of
960 the public body procuring the construction services. A minimum amount of work may be specified in
961 the contract. The contract term and the project amount shall not exceed the limitations specified in
962 § 2.2-4302.2 or 2.2-4303.

963 "Multiphase professional services contract" means a contract for the providing of professional
964 services where the total scope of work of the second or subsequent phase of the contract cannot be
965 specified without the results of the first or prior phase of the contract.

966 "Nonprofessional services" means any services not specifically identified as professional services in
967 the definition of professional services.

968 "Potential bidder or offeror" for the purposes of §§ 2.2-4360 and 2.2-4364 means a person who, at
969 the time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or
970 lease of goods, or the sale of services, insurance or construction, of the type to be procured under the
971 contract, and who at such time is eligible and qualified in all respects to perform that contract, and who
972 would have been eligible and qualified to submit a bid or proposal had the contract been procured
973 through competitive sealed bidding or competitive negotiation.

974 "Professional services" means work performed by an independent contractor within the scope of the
975 practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law,
976 dentistry, medicine, optometry, pharmacy or professional engineering. "Professional services" shall also
977 include the services of an economist procured by the State Corporation Commission.

978 "Public body" means any legislative, executive or judicial body, agency, office, department, authority,
979 post, commission, committee, institution, board or political subdivision created by law to exercise some
980 sovereign power or to perform some governmental duty, and empowered by law to undertake the

activities described in this chapter. "Public body" shall include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

"Public contract" means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the Invitation to Bid.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

§ 2.2-4302.1. (Effective July 1, 2014) Process for competitive sealed bidding.

The process for competitive sealed bidding shall include the following:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the public body has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation;

2. Public notice of the Invitation to Bid at least 10 days prior to the date set for receipt of bids by posting on the Department of General Services' central electronic procurement website or other appropriate websites. In addition, public bodies may publish in a newspaper of general circulation. 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. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include certified businesses selected from a list made available by the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise*.

3. Public opening and announcement of all bids received;

4. Evaluation of bids based upon the requirements set forth in the Invitation to Bid, which may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability; and

5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the Invitation to Bid, awards may be made to more than one bidder.

§ 2.2-4302.2. (Effective July 1, 2014) Process for competitive negotiation.

A. The process for competitive negotiation shall include the following:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities, specifications or qualifications that will be required;

2. Public notice of the Request for Proposal at least 10 days prior to the date set for receipt of proposals by posting on the Department of General Services' central electronic procurement website or other appropriate websites. Additionally, public bodies shall publish in a newspaper of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. 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. In addition, proposals may be solicited directly from potential contractors. Any additional solicitations shall include certified businesses selected from a list made available by the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise*; and

3. For goods, nonprofessional services, and insurance, selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole or primary determining factor. After negotiations have been conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best proposal and provides the best value, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror; or

4. For professional services, the public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the public body in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. In accordance with § 2.2-4342, proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, a public body may award contracts to more than one offeror.

Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

B. For multiple projects, a contract for architectural or professional engineering services relating to construction projects, or a contract for job order contracting, may be negotiated by a public body, provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract is limited to a one-year term or when the cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs first.

Such contracts may be renewable for four additional one-year terms at the option of the public body. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed and the sum of all projects performed in a one-year contract term shall not exceed \$500,000, except that for:

1. A state agency, as defined in § 2.2-4347, the sum of all projects performed in a one-year contract term shall not exceed \$1 million as may be determined by the Director of the Department of General Services;

2. Any locality or any authority, sanitation district, metropolitan planning organization or planning district commission with a population in excess of 80,000, or any city within Planning District 8, the sum of all projects performed in a one-year contract term shall not exceed \$5 million and those awarded for any airport as defined in § 5.1-1 and aviation transportation projects, the sum of all such projects shall not exceed \$1.5 million;

3. Architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation, the sum of all projects in a one-year contract term shall not exceed \$2 million. Such contract may be renewable for two additional one-year terms at the option of the Director;

4. Environmental location, design and inspection work regarding highways and bridges by the Commissioner of Highways, the initial contract term shall be limited to two years or when the cumulative total project fees reach \$5 million, whichever occurs first. Such contract may be renewable for two additional one-year terms at the option of the Commissioner, and the sum of all projects in each

one-year contract term shall not exceed \$5 million; and

5. Job order contracting, the sum of all projects performed in a one-year contract term shall not exceed \$2 million.

Competitive negotiations for such contracts may result in awards to more than one offeror provided (i) the Request for Proposal so states and (ii) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term.

C. For any single project, for (i) architectural or professional engineering services relating to construction projects, or (ii) job order contracting, the project fee shall not exceed \$100,000, or for architectural or engineering services for airports as defined in § 5.1-1 and aviation transportation projects, the project fee of any single project shall not exceed \$500,000, except that for:

1. A state agency as defined in § 2.2-4347, the project fee shall not exceed \$200,000, as may be determined by the Director of the Department of General Services;

2. Any locality or any authority or sanitation district with a population in excess of 80,000, or any city within Planning District 8, the project fee shall not exceed \$2 million; and

3. Job order contracting, the project fee shall not exceed \$400,000.

D. For the purposes of subsections B and C, any unused amounts from the first contract term shall not be carried forward to the additional term.

E. Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, where the completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the entering into any such contract, the public body shall (i) state the anticipated intended total scope of the project and (ii) determine in writing that the nature of the work is such that the best interests of the public body require awarding the contract.

§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business.

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise*.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses and businesses owned by women, minorities, and service disabled veterans in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State agencies shall submit annual progress reports on small, women-owned, and minority-owned business procurement and on service disabled veteran-owned business procurement to the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise* in a form specified by the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise*. The Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise* shall make information on service disabled veteran-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law.

D. In the solicitation or awarding of contracts, no state agency, department or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

E. As used in this section:

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of

1165 which this person claims to be a part.

1166 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of
1167 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and
1168 who is regarded as such by the community of which this person claims to be a part.

1169 4. "Native American" means a person having origins in any of the original peoples of North America
1170 and who is regarded as such by the community of which this person claims to be a part or who is
1171 recognized by a tribal organization.

1172 "Minority-owned business" means a business that is at least 51 percent owned by one or more
1173 minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation,
1174 partnership, or limited liability company or other entity, at least 51 percent of the equity ownership
1175 interest in the corporation, partnership, or limited liability company or other entity is owned by one or
1176 more minority individuals who are U.S. citizens or legal resident aliens, and both the management and
1177 daily business operations are controlled by one or more minority individuals.

1178 "Service disabled veteran" means a veteran who (i) served on active duty in the United States
1179 military ground, naval, or air service, (ii) was discharged or released under conditions other than
1180 dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of
1181 Veterans Affairs.

1182 "Service disabled veteran business" means a business that is at least 51 percent owned by one or
1183 more service disabled veterans or, in the case of a corporation, partnership, or limited liability company
1184 or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or
1185 limited liability company or other entity is owned by one or more individuals who are service disabled
1186 veterans and both the management and daily business operations are controlled by one or more
1187 individuals who are service disabled veterans.

1188 "Small business" means a business, independently owned and controlled by one or more individuals
1189 who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees,
1190 or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of
1191 the individual owners shall control both the management and daily business operations of the small
1192 business.

1193 "State agency" means any authority, board, department, instrumentality, institution, agency, or other
1194 unit of state government. "State agency" shall not include any county, city, or town.

1195 "Women-owned business" means a business that is at least 51 percent owned by one or more women
1196 who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited
1197 liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or
1198 more women who are U.S. citizens or legal resident aliens, and both the management and daily business
1199 operations are controlled by one or more women.

1200 **§ 3.2-201. Powers and duties of Office of Farmland Preservation.**

1201 A. The Office of Farmland Preservation shall have the following powers and duties:

1202 1. To develop, in cooperation with the Department of ~~Small Business and Supplier Diversity~~
1203 *Business Assistance*, the Virginia Farm Bureau Federation, the American Farmland Trust, the Virginia
1204 Land Conservation Foundation, the Virginia Outdoors Foundation, the Virginia Association of Counties,
1205 and the Virginia Cooperative Extension: (i) model policies and practices that may be used as a guide to
1206 establish local purchase of development rights programs; (ii) criteria for the certification of local
1207 purchase of development rights programs as eligible to receive grants, loans or other funds from public
1208 sources; and (iii) methods and sources of revenue for allocating funds to localities to purchase
1209 agricultural conservation easements;

1210 2. To create programs to educate the public about the importance of farmland preservation to the
1211 quality of life in the Commonwealth;

1212 3. To provide technical, professional, and other assistance to farmers on matters related to farmland
1213 preservation;

1214 4. To provide technical, professional, and other assistance to local governments interested in
1215 developing additional farmland preservation policies and programs. Such policies and programs shall
1216 include (i) use value assessment and taxation pursuant to §§ 58.1-3230 and 58.1-3231; (ii) transfer of
1217 development rights pursuant to Article 7.1 (§ 15.2-2316.1 et seq.) of Chapter 22 of Title 15.2; (iii)
1218 agricultural and forestal districts pursuant to Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2; and (iv)
1219 establishment of local lease of development rights; and

1220 5. To administer the Virginia Farm Link program established pursuant to § 3.2-202.

1221 B. State grants shall be distributed to local purchase of development rights programs under policies,
1222 procedures, and guidelines developed by the Office of Farmland Preservation. In general, for each \$1 in
1223 grant moneys awarded by the Office, the applicable local purchase of development rights program of the
1224 county or city shall be required to provide a \$1 match. However, as part of these policies, procedures,
1225 and guidelines developed by the Office, the Office shall include incentives that recognize and encourage
1226 counties and cities participating in use value taxation pursuant to Article 4 (§ 58.1-3229 et seq.) of

Chapter 32 of Title 58.1.

C. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Farmland Preservation Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of all moneys appropriated to it by the General Assembly and such moneys as may be made available from any other source, public or private. All moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 10.1-1425.7. Duty of the Department of Business Assistance.

The Department of ~~Small Business and Supplier Diversity~~ *Business Assistance* shall assist the Department by encouraging and promoting the establishment of appropriate recycling industries in the Commonwealth.

§ 11-7.1. Certain entities' authority to extend performance agreements.

A. The Department of ~~Small Business and Supplier Diversity~~ *Business Assistance*, the Virginia Economic Development Partnership Authority, the Virginia Tourism Authority, the Tobacco Indemnification and Community Revitalization Commission, a nonprofit, nonstock corporation created pursuant to § 2.2-2240.1, any county, city, or town, or local or regional industrial or economic development authorities created in accordance with law have the authority, upon the agreement of the parties, to extend the performance period for any performance agreement.

B. For the purposes of this section, "performance agreement" means any agreement, contract, or memorandum of understanding that imposes an obligation for minimum private investment or the creation of new jobs in exchange for grants or other funds, or loans of money from an entity specified in subsection A.

C. Nothing in this section shall be construed or interpreted to authorize or allow for any payment or appropriation of funds except as provided in the general appropriation act.

§ 15.2-965.1. Participation of small, women-owned, and minority-owned businesses.

A. Any locality may enact an ordinance providing that whenever there exists (i) a rational basis for small business enhancement, or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the chief executive of the local governing entity shall be authorized and encouraged to require implementation of appropriate enhancement and remedial measures consistent with prevailing law.

B. A small, women-owned, or minority-owned business that is certified by the Department of ~~Small Business and Supplier Diversity~~ *Minority Business Enterprise* pursuant to § ~~2.2-1606~~ 2.2-1409 shall not be required by any locality to obtain any additional certification to participate in any program designed to enhance the participation of such businesses as vendors or to remedy any documented disparity.

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, however, the town council may at its option return to a seven member board by removing the last three members appointed, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial

development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members, Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one at-large, with terms staggered as agreed upon by the board of supervisors, Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority, the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs, and one at-large member, with terms staggered as agreed upon by the city council, the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council, and the city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except in towns under 3,500 people where members of the town governing body may serve as directors provided they do not comprise a majority of the board and except in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. (Effective January 1, 2014) The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of ~~Small Business and Supplier Diversity~~ *Business Assistance*.

§ 18.2-213.1. Obtaining certification as small, women-owned, or minority-owned business, or disadvantaged business by deception; penalty.

A. Except as otherwise provided by § 18.2-498.3, a person shall be guilty of a Class 1 misdemeanor if, in the course of business, he:

1. Fraudulently obtains or retains certification as a small, women-owned, or minority-owned business or disadvantaged business;

2. Willfully makes a false statement knowing it to be untrue, whether by affidavit, report or other representation, to an official or employee of a public body for the purpose of influencing the certification or denial of certification of any business entity as a small, women-owned, or minority-owned business, or disadvantaged business;

3. Willfully obstructs or impedes any agency official or employee who is investigating the qualifications of a business entity which has requested certification as a small, women-owned, or minority-owned business, or disadvantaged business; or

4. Fraudulently obtains public moneys reserved for or allocated or available to small, women-owned, or minority-owned businesses or disadvantaged business.

B. For the purposes of this section, "minority-owned business," and "small business" and "women-owned business" shall have the same meaning as those terms are defined in § 2.2-1604 2.2-1407 and "disadvantaged business" shall mean the same as that term is defined in § 2.2-2311.

§ 23-9.6:1.01. Assessments of institutional performance.

A. 1. The State Council shall develop and revise from time to time, in consultation with the respective chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health or their designees, representatives of public institutions of higher education, and such other state officials as may be designated by the Governor, objective measures of educational-related performance and institutional performance benchmarks for such objective measures. At a minimum, the State Council shall develop objective measures and institutional performance benchmarks for the goals and objectives set forth in subdivisions B 1 through B 10 of § 23-38.88.

The State Council shall develop the initial objective measures and performance benchmarks for consideration by the Governor and the General Assembly no later than October 1, 2005.

2. The Governor shall develop and revise from time to time objective measures of financial and administrative management performance and related institutional performance benchmarks for the goals and objectives set forth in subdivision B 11 of § 23-38.88. The Governor shall develop the initial measures and performance benchmarks and report his recommendations to the General Assembly prior to November 15, 2005.

B. The Governor shall include objective measures of financial and administrative management and educational-related performance and related institutional performance benchmarks as described in subsection A in "The Budget Bill" submitted as required by subsection A of § 2.2-1509 or in his proposed gubernatorial amendments to the general appropriation act pursuant to subsection E of § 2.2-1509.

C. The State Council shall annually assess the degree to which each individual public institution of higher education has met the financial and administrative management and educational-related performance benchmarks set forth in the appropriation act in effect. Such annual assessment shall be based upon the objective measures and institutional performance benchmarks included in the annual appropriation act in effect. The State Council shall request assistance from the Secretaries of Finance and Administration, who shall provide such assistance, for purposes of assessing whether or not public institutions of higher education have met the financial and administrative management performance benchmarks.

No later than June 1 of every fiscal year beginning with the fiscal year that immediately follows the fiscal year of implementation as defined in § 2.2-5005, the State Council shall provide a certified written report of the results of such annual assessment to the Governor and the respective chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health.

Those institutions that are certified by the State Council as having met the financial and administrative management and educational-related performance benchmarks in effect for the fiscal year as set forth in the general appropriation act shall be entitled to the financial benefits set forth in § 2.2-5005. Such benefits shall first be provided as determined under such section.

D. Notwithstanding any other provision of this section, no institution shall be required to submit documentation that it has met the financial and administrative management and educational-related performance benchmarks set forth in the general appropriations act for the fiscal years 2011-2012 and 2012-2013. If an institution is certified by the State Council as having met the financial and administrative management and educational-related performance benchmarks for the fiscal year 2010-2011, then such institution shall be entitled to the financial benefits set forth in subdivision B 14 of § 2.2-1124, subsection C of § 2.2-1132, subdivisions 4 and 5 of § 2.2-1149, subsection C of § 2.2-1150, subdivision C 2 of § 2.2-1153, § 2.2-1609 2.2-1411, subdivision A 4 of § 2.2-2007, subsection E of § 2.2-2901, § 2.2-5005, subdivisions 1 and 3 of § 23-38.90, and subsection C of § 36-98.1 for the fiscal years 2011-2012 and 2012-2013.

§ 23-38.88. Eligibility for restructured financial and administrative operational authority.

A. Public institutions of higher education shall be eligible for the following restructured financial and operational authority:

1. To dispose of their surplus materials at the location where the surplus materials are held and to retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

2. To have the option, as provided in subsection C of § 2.2-1132 and pursuant to the conditions and provisions under such subsection, to contract with a building official of the locality in which construction is taking place and for such official to perform any inspection and certifications required for

1411 the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to
1412 subsection C of § 36-98.1;

1413 3. For those public institutions of higher education that have in effect a signed memorandum of
1414 understanding with the Secretary of Administration regarding participation in the nongeneral fund
1415 decentralization program as set forth in the appropriation act, as provided in subsection C of §
1416 2.2-1132, to enter into contracts for specific construction projects without the preliminary review and
1417 approval of the Division of Engineering and Buildings of the Department of General Services, provided
1418 such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§
1419 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement approved
1420 by the Division and the Office of the Attorney General;

1421 4. To acquire easements as provided in subdivision 4 of § 2.2-1149;

1422 5. To enter into an operating/income lease or capital lease pursuant to the conditions and provisions
1423 provided in subdivision 5 of § 2.2-1149;

1424 6. To convey an easement pertaining to any property such institution owns or controls as provided in
1425 subsection C of § 2.2-1150;

1426 7. In accordance with the conditions and provisions of subdivision C 2 of § 2.2-1153, to sell surplus
1427 real property valued at less than \$5 million, which is possessed and controlled by the institution;

1428 8. For purposes of compliance with § 2.2-4310, to procure goods, services, and construction from a
1429 vendor that the institution has certified as a small, women-owned, and minority-owned business
1430 enterprise pursuant to the conditions and provisions provided in § ~~2.2-1609~~ 2.2-1411;

1431 9. To be exempt from review of their budget request for information technology by the CIO as
1432 provided in subdivision A 4 of § 2.2-2007;

1433 10. To be allowed to establish policies for the designation of administrative and professional faculty
1434 positions at the institution pursuant to the conditions and provisions provided in subsection E of
1435 § 2.2-2901;

1436 11. To receive the financial benefits described under § 2.2-5005 pursuant to the conditions and
1437 provisions of such section;

1438 12. To be exempt from reporting its purchases to the Secretary of Education, provided that all
1439 purchases, including sole source purchases, are placed through the Commonwealth's electronic
1440 procurement system using proper system codes for the methods of procurement;

1441 13. To utilize as methods of procurement a fixed price, design-build or construction management
1442 contract notwithstanding the provisions of § 2.2-4306; and

1443 14. The restructured financial and operational authority set forth in Article 2 (§ 23-38.90) and Article
1444 3 (§ 23-38.91 et seq.).

1445 No such authority shall be granted unless the institution meets the conditions set forth in this chapter.

1446 B. The Board of Visitors of a public institution of higher education shall commit to the Governor
1447 and the General Assembly by August 1, 2005, through formal resolution adopted according to its own
1448 bylaws, to meeting the state goals specified below, and shall be responsible for ensuring that such goals
1449 are met, in addition to such other responsibilities as may be prescribed by law. Each such institution
1450 shall commit to the Governor and the General Assembly to:

1451 1. Consistent with its institutional mission, provide access to higher education for all citizens
1452 throughout the Commonwealth, including underrepresented populations, and, consistent with subdivision
1453 4 of § 23-9.6:1 and in accordance with anticipated demand analysis, meet enrollment projections and
1454 degree estimates as agreed upon with the State Council of Higher Education for Virginia. Each such
1455 institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is
1456 met;

1457 2. Consistent with § 23-38.87:17, ensure that higher education remains affordable, regardless of
1458 individual or family income, and through a periodic assessment, determine the impact of tuition and fee
1459 levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment
1460 of tuition and fees;

1461 3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with
1462 its mission and assess regularly the extent to which the institution's curricula and degree programs
1463 address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific
1464 academic disciplines, professions, and geographic regions;

1465 4. Ensure that the institution's academic programs and course offerings maintain high academic
1466 standards, by undertaking a continuous review and improvement of academic programs, course
1467 availability, faculty productivity, and other relevant factors;

1468 5. Improve student retention such that students progress from initial enrollment to a timely
1469 graduation, and that the number of degrees conferred increases as enrollment increases;

1470 6. Consistent with its institutional mission, develop articulation agreements that have uniform
1471 application to all Virginia community colleges and meet appropriate general education and program
1472 requirements at the four-year institution, provide additional opportunities for associate degree graduates

to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement set forth in Article 3 (§ 23-38.91 et seq.), in areas that lag the Commonwealth in terms of income, employment, and other factors;

8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;

9. Work actively and cooperatively with elementary and secondary school administrators, teachers, and students in public schools and school divisions to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;

10. Prepare a six-year financial plan consistent with § 23-38.87:17;

11. Conduct the institution's business affairs in a manner that maximizes operational efficiencies and economies for the institution, contributes to maximum efficiencies and economies of state government as a whole, and meets the financial and administrative management standards as specified by the Governor pursuant to § 2.2-5004 and included in the appropriation act that is in effect, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-owned, and minority-owned business enterprises; and

12. Seek to ensure the safety and security of the Commonwealth's students on college and university campuses.

Upon making such commitments to the Governor and the General Assembly by August 1, 2005, the public institution of higher education shall be allowed to exercise the restructured financial and operational authority set forth in subdivisions A 1 through A 13, subject to such conditions as may be provided under the enabling statutes granting the additional authority.

C. As provided in § 23-9.6:1.01, the State Council of Higher Education shall in consultation with the respective chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health or their designees, representatives of public institutions of higher education, and such other state officials as may be designated by the Governor, develop objective measures of educational-related performance and institutional performance benchmarks for such objective measures. At a minimum, the State Council shall develop such objective measures and institutional performance benchmarks for the goals and objectives set forth in subdivisions B 1 through B 10 and B 12. In addition, the Governor shall develop objective measures of financial and administrative management performance and related institutional performance benchmarks for the goals and objectives set forth in subdivision B 11.

As provided in subsection C of § 23-9.6:1.01, any public institution of higher education that has been certified during the fiscal year by the State Council of Higher Education for Virginia as meeting the institutional performance benchmarks in effect for the fiscal year as set forth in the general appropriation act shall be provided the financial benefits under § 2.2-5005. Such benefits shall first be provided as determined under such section. Objective criteria for measuring performance with regard to the state goals and objectives developed pursuant to subsection B, and benefits or consequences for meeting or not meeting those goals and objectives, shall be developed as provided in subdivision B 5 of § 23-38.87:20.

D. 1. The restructured financial and operational authority set forth in Article 3 (§ 23-38.91 et seq.) shall only be granted in accordance with the expressed terms of a management agreement between the public institution of higher education and the Commonwealth.

No restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.) shall be granted to a public institution of higher education unless such authority is expressly included in the management agreement. In addition, the only implied authority that shall be granted from entering into a management agreement is that implied authority that is actually necessary to carry out the expressed grant of restructured financial or operational authority. As a matter of law, the initial presumption shall be that any restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.) is not included in the management agreement. These requirements shall also apply to any other provision included in Article 3 (§ 23-38.91 et seq.).

2. No public institution of higher education shall enter into a management agreement unless:

a. (i) Its most current and unenhanced bond rating received from (a) Moody's Investors Service, Inc., (b) Standard & Poor's, Inc., or (c) Fitch Investor's Services, Inc. is at least AA- (i.e., AA minus) or its equivalent, provided that such bond rating has been received within the last three years of the date that the initial agreement is entered into or (ii) the institution has (a) participated in decentralization pilot programs in the areas of finance and capital outlay, (b) demonstrated management competency in those two areas as evidenced by a written certification from the Cabinet Secretary or Secretaries designated by

the Governor, (c) received additional operational authority under a memorandum of understanding pursuant to § 23-38.90 in at least one functional area, and (d) demonstrated management competency in that area for a period of at least two years. In submitting "The Budget Bill" for calendar year 2005 pursuant to subsection A of § 2.2-1509, the Governor shall include criteria for determining whether or not an institution has demonstrated the management competency required by clause (ii);

b. An absolute two-thirds, or more, of the institution's governing body shall have voted in the affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and should be, governed by the provisions of Article 3 (§ 23-38.91 et seq.), which resolution shall be included in the initial management agreement;

c. The institution agrees to reimburse the Commonwealth for any additional costs to the Commonwealth in providing health or other group insurance benefits to employees, and in undertaking any risk management program, that are attributable to the institution's exercise of any restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.). The institution's agreement to reimburse the Commonwealth for such additional costs shall be expressly included in each management agreement with the institution. The Secretary of Finance and the Secretary of Administration, in consultation with the Virginia Retirement System and the affected institutions, shall establish procedures for determining any amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly and solely to the programs whose costs have been affected.

In developing management agreements, public institutions of higher education shall give consideration to potential future impacts of tuition increases on the Virginia College Savings Plan (§ 23-38.75) and shall discuss such potential impacts with parties participating in development of such agreements. The chief executive officer of the Virginia College Savings Plan shall provide to the institution and such parties the Plan's assumptions underlying the contract pricing of the program; and

d. Before executing a management agreement with the Commonwealth that affects insurance or benefit programs administered by the Virginia Retirement System, the Governor shall transmit a draft of the relevant provisions to the Board of Trustees of the Virginia Retirement System, which shall review the relevant provisions in order to ensure compliance with the applicable provisions of Title 51.1, administrative policies and procedures and federal regulations governing retirement plans. The Board shall advise the Governor and appropriate Cabinet Secretaries of any conflicts.

3. Each initial management agreement with an institution shall remain in effect for a period of three years. Subsequent management agreements with the institution shall remain in effect for a period of five years.

If an existing agreement is not renewed or a new agreement executed prior to the expiration of the three-year or five-year term, as applicable, the existing agreement shall remain in effect on a provisional basis for a period not to exceed one year. If, after the expiration of the provisional one-year period, the management agreement has not been renewed or a new agreement executed, the institution shall no longer be granted any of the financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.), unless and until such time as a new management agreement is entered into between the institution and the Commonwealth.

The Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public Accounts, shall conduct a review relating to the initial management agreement with each public institution of higher education. The review shall cover a period of at least the first 24 months from the effective date of the management agreement. The review shall include, but shall not be limited to, the degree of compliance with the expressed terms of the management agreement, the degree to which the institution has demonstrated its ability to manage successfully the administrative and financial operations of the institution without jeopardizing the financial integrity and stability of the institution, the degree to which the institution is meeting the objectives described in subsection B, and any related impact on students and employees of the institution from execution of the management agreement. The Joint Legislative Audit and Review Commission shall make a written report of its review no later than June 30 of the third year of the management agreement. The Joint Legislative Audit and Review Commission is authorized, but not required, to conduct a similar review of any management agreement entered into subsequent to the initial agreement.

4. The right and power by the Governor to void a management agreement shall be expressly included in each management agreement. The management agreement shall provide that if the Governor makes a written determination that a public institution of higher education that has entered into a management agreement with the Commonwealth is not in substantial compliance with the terms of the agreement or with the requirements of this chapter in general, (i) the Governor shall provide a copy of that written determination to the chairmen of the Board of Visitors or other governing body of the public institution of higher education and to the members of the General Assembly, and (ii) the institution shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of the management agreement and with the requirements of this chapter, as soon as practicable, and shall provide a copy of such corrective action plan to the members

of the General Assembly. If after a reasonable period of time after the corrective action plan has been implemented by the institution, the Governor determines that the institution is not yet in substantial compliance with the management agreement or the requirements of this chapter, the Governor may void the management agreement. Upon the Governor voiding a management agreement, the affected public institution of higher education shall not be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Article 3 (§ 23-38.91 et seq.) unless and until the institution enters into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the void management agreement is reinstated by the General Assembly.

5. A management agreement with a public institution of higher education shall not grant any of the restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.) to the Virginia Cooperative Extension and Agricultural Experiment Station, the University of Virginia College at Wise, or the Virginia Institute of Marine Sciences or to an affiliated entity of the institution unless such intent, as well as the degree of the restructured financial or operational authority to be granted, is expressly included in the management agreement.

6. Following the execution of each management agreement with a public institution of higher education and submission of that management agreement to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health pursuant to § 23-38.97, the Governor shall include a recommendation for approval of the management agreement in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his gubernatorial amendments submitted pursuant to subsection E of § 2.2-1509 due by the December 20 that immediately follows the date of submission of the management agreement to such Committees. Following the General Assembly's consideration of whether to approve or disapprove the management agreement as recommended, if the management agreement is approved as part of the general appropriation act, it shall become effective on the effective date of such general appropriation act. However, no management agreement shall be entered into by a public institution of higher education and the Secretary or Secretaries designated by the Governor after November 15 of a calendar year.

E. A covered institution and the members of its governing body, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if the institution were not governed by this chapter; provided further, that the Virginia Tort Claims Act (§ 8.01-195.1 et seq.) and its limitations on recoveries shall remain applicable with respect to institutions governed by this chapter.

§ 23-135.7:7. Advisory Committee continued as Advisory Board.

The Virginia Coal Research and Development Advisory Committee is continued and shall hereafter be known as the Virginia Coal Research and Development Advisory Board. The Advisory Board shall serve in an advisory capacity to the Executive Director of the Virginia Center for Coal and Energy Research.

1. The Advisory Board shall be authorized to advise on those matters set forth in § 23-135.7:2.

2. Representatives to the Advisory Board shall be appointed by the Board of Visitors of Virginia Polytechnic Institute and State University.

3. The Board of Visitors of Virginia Polytechnic Institute and State University shall also appoint such other individuals as they deem necessary to the work of the Advisory Board.

4. Representatives from the Department of Conservation and Historic Resources, the Department of Small Business and Supplier Diversity Business Assistance, the Department of Mines, Minerals and Energy, the Department of Labor and Industry, the Virginia Port Authority, the institutions of higher education, excluding Virginia Polytechnic Institute and State University, and the Community College System shall serve as the Advisory Board.

§ 33.1-221. Funds for access roads to economic development sites and airports; construction, maintenance, etc., of such roads.

A. Notwithstanding any other provision of law, there shall be appropriated to the Commonwealth Transportation Board funds derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes or any other state revenue allocated for highway purposes, which shall be used by the Board for the purposes hereinafter specified, after deducting the costs of administration before any of such funds are distributed and allocated for any road or street purposes.

Such funds shall be expended by the Board for constructing, reconstructing, maintaining or improving access roads within counties, cities and towns to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity Business Assistance will be built under firm contract or are already constructed and to licensed, public-use airports; in the event there is no such

establishment or airport already constructed or for which the construction is under firm contract, a county, city, or town may guarantee to the Board by bond or other acceptable device that such will occur and, should no establishment or airport acceptable to the Board be constructed or under firm contract within the time limits of the bond, such bond shall be forfeited. The time limits of the bond shall be based on regular review and consideration by the Board. Towns which receive highway maintenance payments under § 33.1-41.1 shall be considered separately from the counties in which they are located when receiving allocations of funds for access roads.

B. In deciding whether or not to construct or improve any such access road, and in determining the nature of the road to be constructed, the Board shall base its considerations on the cost thereof in relation to the volume and nature of the traffic to be generated as a result of developing the airport or the economic development site. Within any economic development site or airport, the total volume of traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such access road shall be constructed or improved on a privately owned economic development site.

C. Any access road constructed or improved under this section shall constitute a part of the secondary system of state highways or the road system of the locality in which it is located and shall thereafter be constructed, reconstructed, maintained and improved as other roads in such system.

§ 36-139.6. Additional powers and duties of Director; oversight of planning district commissions.

The Director of the Department of Housing and Community Development shall have the following powers and duties relating to oversight of planning district commissions:

1. To recommend to the Governor the level of state general appropriation funding for each planning district commission, taking into consideration the minimum funding level necessary for operation, the population of each district, and other factors considered appropriate;

2. To distribute state general appropriation funding to planning district commissions consistent with the provisions of this chapter and Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2;

3. To administer the Regional Cooperation Incentive Fund in accordance with § 15.2-4217;

4. To provide technical assistance to planning district commissions regarding regional approaches to area-wide problems. Assistance may be initiated by the Department, individual local governments, or planning district commissions;

5. To require the submission of annual programmatic and financial information by each planning district commission in a format prescribed by the Director;

6. To prepare a biennial report to the Governor and the General Assembly which identifies the activities and other information deemed appropriate by the Director concerning planning district commissions, including findings as to planning district commissions which are not complying with Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2. Copies of the biennial report shall also be sent to the Commission on Local Government, Department of ~~Small Business and Supplier Diversity Business~~ *Assistance*, Department of Conservation and Recreation, Department of Environmental Quality, Department of Planning and Budget, Department of Transportation, Virginia Economic Development Partnership, and others upon request; and

7. To establish the Virginia Planning District Commission Council made up of the chairman or designated representative from each planning district commission to advise Department staff on programs, rules and regulations for the planning district commissions. Technical committees of planning district commission staff, state and local agency staff, and private sector individuals as needed, may be created.

§ 46.2-749.69:1. Special license plates bearing the names, numbers, and color schemes used by professional stock car drivers; fees.

A. On receipt of an application and payment of the fee prescribed by this section, the Commissioner shall issue special license plates to supporters of the Virginia Motor Sports Initiative.

B. The Commissioner may enter into agreements for the purchase of distinctive license plates bearing the name of a specific professional stock car driver and the race car number and color scheme used by that driver, or for distinctive general motor sports-themed license plates, for issuance as provided in this section. The design of such license plates shall be as mutually agreed by the Commissioner and the supplier of such license plates. The purchase price of such plates shall be as agreed between the Commissioner and the supplier or other entity, but shall in no case exceed a total, one-time cost of \$15 for each set of license plates. In the event that a race car number, color scheme, or both, change for a driver with a currently issued series, a new series for that driver may be issued subject to the requirements of this section.

The provisions of subdivision B 1 of § 46.2-725 shall not apply to license plates issued under this section.

C. The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to the special nonreverting fund known

as the Virginia Motor Sports Initiative Fund established within the Department of Accounts and paid annually in equal amounts to the Virginia Economic Development Partnership Authority and the Virginia Department of ~~Small Business and Supplier Diversity Business Assistance~~ and used to support their programs related to the Virginia Motor Sports Initiative.

In calculating the amount to be paid into such fund each year, however, there shall be deducted an amount equal to the amount paid in that year by the Department for the purchase of license plates for which the additional \$25 fees have been collected for that year.

§ 58.1-439.6. Worker retraining tax credit.

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Virginia Apprenticeship Council.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as determined by the Department of Small Business and Supplier Diversity in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.

B. For taxable years beginning on and after January 1, 1999, but prior to January 1, 2018, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. However, for taxable years beginning prior to January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually. For taxable years beginning on or after January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline including but not limited to industry-recognized credentials, certificates, and certifications. The total amount of tax credits granted to employers under this section for each fiscal year shall not exceed \$2,500,000.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. An employer shall be entitled to the credit granted under this section only for those courses at a community college or a private school which courses have been certified as eligible worker retraining to the Department of Taxation by the Department of ~~Small Business and Supplier Diversity Business Assistance~~. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. The Department of ~~Small Business and Supplier Diversity Business Assistance~~ shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining and, if it qualifies, whether the course or program is in a STEM or STEAM discipline.

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer that is subject to the

1780 tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section
1781 of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered
1782 to have first utilized any credit allowed which does not have a carryover provision, and then any credit
1783 which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed
1784 pursuant to this section.

1785 F. No employer shall be eligible to claim a credit under this section for worker retraining undertaken
1786 by any program operated, administered, or paid for by the Commonwealth.

1787 G. The Director of the Department of ~~Small Business and Supplier Diversity~~ *Business Assistance*
1788 shall report annually to the chairmen of the House Finance and Senate Finance Committees on the status
1789 and implementation of the credit established by this section, including certifications for eligible worker
1790 retraining.

1791 **§ 59.1-284.22. Aerospace Engine Manufacturer Workforce Training Grant Fund; eligible**
1792 **county.**

1793 A. As used in this section:

1794 "Affiliate" means the same as that term is defined in § 59.1-284.20.

1795 "Capital investment" means the same as that term is defined in § 59.1-284.20.

1796 "Eligible county" means Prince George County.

1797 (Effective January 1, 2014) "Full-time" means employment of an indefinite duration for which the
1798 standard fringe benefits are paid, requiring a minimum of either (i) 35 hours of an employee's time per
1799 week for the entire normal year of the employer's operations, which "normal year" shall consist of at
1800 least 48 weeks, or (ii) 1,680 hours per year. The term "full-time" shall not include seasonal or temporary
1801 positions or positions created when a job function is shifted from an existing location in the
1802 Commonwealth.

1803 "Grant" means the special training grant or supplemental training grant as described in this section.

1804 "Qualified employee" means an individual hired in the Commonwealth on or after November 20,
1805 2007, by an entity that is a qualified manufacturer or by an affiliate thereof, who (i) is employed by the
1806 qualified manufacturer or by an affiliate for at least 90 days, and (ii) works on a full-time basis for the
1807 qualified manufacturer or for an affiliate for at least such 90-day period.

1808 "Qualified manufacturer" means the same as such term is defined in § 59.1-284.20.

1809 "Secretary" means the Secretary of Commerce and Trade or his designee.

1810 "Special training grant" means a \$9,000 allocation from the Aerospace Engine Manufacturer
1811 Workforce Training Grant Fund per new qualified employee, as described in this section. The aggregate
1812 amount of special training grants under this section shall not exceed \$5,778,000.

1813 "Supplemental training grant" means a one-time \$3 million allocation from the Aerospace Engine
1814 Manufacturer Workforce Training Grant Fund, as described in this section.

1815 B. Grants paid to the qualified manufacturer pursuant to this section are intended to be used for
1816 workforce development, instructional, or training purposes so as to enhance the skill sets of qualified
1817 employees.

1818 C. Any qualified manufacturer that is eligible to receive a special training grant shall (i) report to the
1819 Secretary quarterly the number of new qualified employees hired and trained who have been employed
1820 for at least 90 days and for whom a special training grant has not been previously paid pursuant to this
1821 section, and (ii) provide evidence of the hiring and training of the new qualified employees described in
1822 clause (i). The application and evidence shall be filed with the Secretary in person or by mail. For
1823 filings by mail, the postmark cancellation shall govern the date of the filing determination. Within 30
1824 days after such evidence has been provided by the qualified manufacturer, the Secretary shall certify to
1825 (a) the Comptroller and (b) each qualified manufacturer the amount of the special training grant to
1826 which such qualified manufacturer is entitled under this section for payment within 60 days after such
1827 certification. Payment of such grant shall be made by check issued by the Treasurer of Virginia on
1828 warrant of the Comptroller.

1829 The special training grants under this section (1) shall be paid, subject to appropriation by the
1830 General Assembly, from a fund entitled the Aerospace Engine Manufacturer Workforce Training Grant
1831 Fund, which Fund is hereby established on the books of the Comptroller, (2) shall not exceed
1832 \$5,778,000 in the aggregate, and (3) shall be paid to or for the benefit of the qualified manufacturer on
1833 a quarterly basis.

1834 D. A supplemental training grant shall be paid to any qualified manufacturer that has made an
1835 aggregate capital investment of at least \$153.9 million in the eligible county and has hired at least 176
1836 new qualified employees, excluding any qualified employee who has been rehired by the qualified
1837 manufacturer or an affiliate thereof or who is employed in a different position with the qualified
1838 manufacturer or an affiliate thereof. On or before June 30, 2010, and on or before each June 30
1839 thereafter until the supplemental training grant has been paid, the qualified manufacturer shall provide
1840 written notification to the Secretary whether it has met or expects to meet the aggregate capital
1841 investment and employee requirements by the end of the current calendar year. If it has met or expects

to meet such requirements by the end of the calendar year, the qualified manufacturer shall provide evidence of the same, satisfactory to the Secretary, with the written notification. The written notification and evidence shall be filed with the Secretary in person or by mail. For filings by mail, the postmark cancellation shall govern the date of the filing determination. Within 10 days after such notification and evidence have been provided by the qualified manufacturer, the Secretary shall certify to (i) the Comptroller and (ii) each qualified manufacturer the amount of the supplemental training grant to which such qualified manufacturer is entitled under this section for payment in the current fiscal year. Payment of such grant shall be made by check issued by the Treasurer of Virginia on warrant of the Comptroller.

The supplemental training grant shall not be paid prior to July 1, 2010. The supplemental training grant (a) shall be paid, subject to appropriation by the General Assembly, from the Aerospace Engine Manufacturer Workforce Training Grant Fund, (b) shall be equal to \$3 million, and (c) shall, subject to appropriation by the General Assembly, be paid to the qualified manufacturer by the end of the applicable fiscal year, as described herein. No more than \$3 million in supplemental training grants shall be paid pursuant to this section.

E. If grants to be paid to qualified manufacturers under this section in a fiscal year exceed the aggregate amount available in the Aerospace Engine Manufacturer Workforce Training Grant Fund for that year, each qualified manufacturer's grants for the year shall equal the amount of grants to which the qualified manufacturer would otherwise be eligible multiplied by a fraction. The numerator of the fraction shall equal the aggregate amount available for payment from the Aerospace Engine Manufacturer Workforce Training Grant Fund for that fiscal year, and the denominator shall equal the aggregate dollar amount of grants to which all qualified manufacturers otherwise would be eligible for such fiscal year.

F. Notwithstanding any other provision of this section, in lieu of payment of special training grants by check to qualified manufacturers, the Secretary may determine that such special training grants shall be administered in a manner similar to existing training grant programs such as those permitted by § 2.2-1605.2.2-1603.1.

G. As a condition of receipt of a grant, a qualified manufacturer shall make available to the Secretary or his designee for inspection upon his request all relevant and applicable documents to determine the aggregate number of new qualified employees hired and the aggregate amount of capital investment. The Comptroller shall not draw any warrants to issue checks for a special training grant or a supplemental training grant under this section without a specific appropriation for the same. All such documents appropriately identified by the qualified manufacturer shall be considered confidential and proprietary.

§ 63.2-601. Virginia Temporary Assistance for Needy Families Program; goals.

The goals of the Temporary Assistance for Needy Families Program are to:

1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;

2. Provide families living in poverty with the opportunities and work skills necessary for self-sufficiency;

3. Allow families living in poverty to contribute materially to their own self-sufficiency;

4. Set out the responsibilities of and expectations for recipients of public assistance and the government; and

5. Provide families living in poverty with the opportunity to obtain work experience through the Virginia Initiative for Employment Not Welfare (VIEW).

None of the provisions of this chapter shall be construed or interpreted to create any rights, causes of action, administrative claims or exemptions to the provisions of the Program, except as specifically provided in §§ 63.2-609, 63.2-613, and 63.2-618.

The Department of ~~Small Business and Supplier Diversity~~ *Business Assistance* and the Virginia Employment Commission shall assist the Department in the administration of the Program.

§ 63.2-610. Participation in VIEW; coordinated services.

A. In administering VIEW, the Department shall ensure that local departments provide delivery and coordination of all services through intensive case management. VIEW participants shall be referred to a case manager. The case manager shall fully explain VIEW to the participant and shall provide the participant with written materials explaining VIEW.

B. The Department shall assist local departments in improving the delivery of services, including intensive case management, through the utilization of public, private and nonprofit organizations, to the extent permissible under federal law.

C. The Department shall be responsible for the coordination of the intensive case management. Job finding and job matching leading to independent employment shall be facilitated by the Virginia Employment Commission and the Department of ~~Small Business and Supplier Diversity~~ *Business Assistance*.

1903 D. The Secretary of Health and Human Resources, assisted by the Secretary of Commerce and Trade,
1904 shall prepare and maintain an annual plan for coordinating and integrating all appropriate services in
1905 order to promote successful outcomes. The plan shall encourage the use of local and regional service
1906 providers and permit a variety of methods of providing services. Emphasis shall be placed on
1907 coordinating and integrating career counseling, job development, job training and skills, job placement,
1908 and academic and technical education. Public and private institutions of higher education and other
1909 agencies which offer similar or related services shall be invited to participate as fully as possible in
1910 developing, implementing and updating the annual coordination plan.

1911 E. The Secretary of Health and Human Resources shall:

1912 1. Increase public awareness of the federal earned income credit and encourage families who may be
1913 eligible to apply for this tax credit;

1914 2. Pursue aggressive child-support initiatives as established by the General Assembly;

1915 3. Work with community providers to develop adoption, education, family planning, marriage,
1916 parenting, and training options for Program participants;

1917 4. Increase public awareness of the tax advantages of relocating one's residence in order to secure
1918 employment;

1919 5. Provide leadership for the development of community work experience opportunities in VIEW;

1920 6. Develop strategies to educate, assist and stimulate employers to hire participants and to provide
1921 community work experience opportunities, in consultation with representatives of employers and relevant
1922 public and private agencies on the state and local level; and

1923 7. Provide technical assistance to local departments to assist them in working with employers in the
1924 community to develop job and community work experience opportunities for participants.

1925 2. That §§ 2.2-1604, 2.2-1605, 2.2-1606, 2.2-1608, 2.2-1609, and 2.2-1610 of the Code of Virginia
1926 are repealed.

1927 3. That the Department of Business Assistance and the Department of Minority Business
1928 Enterprise shall be deemed successors in interest to the Department of Small Business and
1929 Supplier Diversity to the extent that this act transfers powers and duties. All rights, title, and
1930 interest in and to any real or tangible personal property vested in the Department of Small
1931 Business and Supplier Diversity shall be transferred to and taken as standing in the name of the
1932 Department of Business Assistance or the Department of Minority Business Enterprise as
1933 appropriate.

1934 4. That the Governor may transfer an appropriation or any portion thereof within a state agency
1935 established, abolished, or otherwise affected by the provisions of this act, or from one such agency
1936 to another, to support the changes in organization or responsibility resulting from or required by
1937 the provisions of this act.

1938 5. That the Governor may transfer any employee within a state agency established, abolished, or
1939 otherwise affected by the provisions of this act or from one such agency to another to support the
1940 changes in organization or responsibility resulting from or required by the provisions of this act.

1941 6. That all rules and regulations adopted by the Director of the Department of Small Business and
1942 Supplier Diversity that are in effect as of July 1, 2014, and that pertain to the subject of this act
1943 shall remain in full force and effect until altered, amended, or rescinded by the Department of
1944 Business Assistance or the Director of the Department of Minority Business Enterprise, as
1945 appropriate.