

2021 SPECIAL SESSION I

SENATE SUBSTITUTE

21104189D

SENATE BILL NO. 1365

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 3, 2021)

(Patron Prior to Substitute—Senator Barker)

A BILL to amend and reenact § 2.2-203.2:4 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 25 of Title 2.2 an article numbered 13, consisting of sections numbered 2.2-2558 through 2.2-2564, relating to data governance; Office of Data Governance and Analytics; Chief Data Officer; Virginia Data Commission; report.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-203.2:4 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Chapter 25 of Title 2.2 an article numbered 13, consisting of sections numbered 2.2-2558 through 2.2-2564 as follows:

§ 2.2-203.2:4. Office of Data Governance and Analytics; Chief Data Officer; creation; report.

A. As used in this section, "open unless the context requires a different meaning:

"Board" means the Executive Data Board.

"CDO" means the Chief Data Officer of the Commonwealth.

"Commonwealth Data Trust" means a secure, multi-stakeholder data exchange and analytics platform with common rules for data security, privacy, and confidentiality. The Commonwealth Data Trust shall include data from state, regional, and local governments, from public institutions of higher education, and from any other sources deemed necessary and appropriate.

"Council" means the Data Governance Council.

"Fund" means the Data Governance and Analytics Fund.

"Group" means the Data Stewards Group.

"Office" means the Office of Data Governance and Analytics.

"Open data" means data that is collected by an agency that is not prohibited from being made available to the public by applicable laws or regulations or other restrictions, requirements, or rights associated with such data.

B. There is created in the Office of the Secretary of Administration the position Office of Chief Data Officer of the Commonwealth Governance and Analytics to coordinate foster and oversee the effective sharing of data among state, regional, and local public entities and public institutions of higher education and to, implement effective data governance strategies to maintain data integrity and security, and promote access to open Commonwealth data. The purpose of the Office shall be to (i) improve compliance with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.); (ii) increase access to and sharing of Commonwealth data, including open data, between state, regional and local public entities and public institutions of higher education across all levels of government; (iii) Increase the use of data and data analytics to improve the efficiency and efficacy of government services and improve stakeholder outcomes; and (iv) establish the Commonwealth as a national leader in data-driven policy, evidence-based decision making, and outcome-based performance management.

C. The Office shall have the following powers and duties:

1. To support the collection, dissemination, analysis, and proper use of data by state agencies and public entities as defined in the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.);

2. To facilitate and guide data-sharing efforts between state, regional, and local public entities and public institutions of higher education;

3. To develop innovative data analysis and intelligence methodologies and best practices to promote data-driven policy making, decision making, research, and analysis;

4. To manage and administer the Commonwealth Data Trust;

5. To assist the Chief Data Officer and the Chief Information Officer of the Commonwealth in the development of a comprehensive six-year Commonwealth strategic plan for information technology;

6. In cooperation with the Chief Information Officer of the Commonwealth, to provide technical assistance to state agencies, local governments, and regional entities to establish and promote data sharing and analytics projects including data storage, data security, privacy, compliance with federal law, the de-identification of data for research purposes, and the appropriate access to and presentation of open data and datasets to the public;

7. To develop measures and targets related to the performance of the Commonwealth's data governance, sharing, analytics, and intelligence program;

8. To undertake, identify, coordinate, and oversee studies linking government services to stakeholder outcomes;

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60 9. To implement a website dedicated to (i) hosting open data from state, regional, and local public
61 entities and public institutions of higher education and (ii) providing links to any other additional open
62 data websites in the Commonwealth;

63 10. To provide staff and operational support to the Virginia Data Commission, Executive Data
64 Board, Data Governance Council, and Data Stewards Group;

65 11. To apply for and accept grants from the United States government and agencies and
66 instrumentalities thereof and any other source. To those ends, the Office shall have the power to comply
67 with such conditions and execute such agreements as may be necessary or desirable;

68 12. To solicit, receive, and consider proposals for funding projects or initiatives from any state or
69 federal agency, local or regional government, public institution of higher education, nonprofit
70 organization, or private person or corporation;

71 13. To enter into public-private partnerships and agreements with public institutions of higher
72 education in the Commonwealth to conduct data sharing and analytics projects;

73 14. To solicit and accept funds, goods, and in-kind services that are part of any accepted project
74 proposal;

75 15. To establish ad hoc committees or project teams to investigate related technology or technical
76 issues and provide results and recommendations for Office action; and

77 16. To establish such bureaus, sections, or units as the Office deems appropriate to carry out its
78 goals and responsibilities.

79 ~~C.~~ D. There is created in the Office of the Secretary of Administration the position of Chief Data
80 Officer of the Commonwealth to oversee the operation of the Office. The CDO shall exercise and
81 perform the duties conferred or imposed upon him by law and perform such other duties as may be
82 required by the Governor and the Secretary of Administration. The Chief Data Officer shall not be
83 considered the custodian of any public records in or derived from the Commonwealth Data Trust. The
84 Chief Data Officer CDO shall:

85 1. Establish business rules, guidelines, and best practices for the use of data, including open data, in
86 the Commonwealth. Such rules, guidelines, and best practices shall address, at a minimum, (i) the
87 sharing of data between state, regional, and local public entities and public institutions of higher
88 education, and, when appropriate, private entities; (ii) data storage; (iii) data security; (iv) privacy; (v)
89 compliance with federal law; (vi) the de-identification of data for research purposes; and (vii) the
90 appropriate access to and presentation of open data and datasets to the public;

91 2. Assist state, regional, and local public entities, public institutions of higher education, and
92 employees thereof, with the application of the Government Data Collection and Dissemination Practices
93 Act (§ 2.2-3800 et. seq.) and understanding the applicability of federal laws governing privacy and
94 access to data to the data sharing practices of the Commonwealth;

95 3. Assist the Chief Information Officer of the Commonwealth with matters related to the creation,
96 storage, and dissemination of data upon request;

97 4. Encourage and coordinate efforts of state, regional, and local public entities and public institutions
98 of higher education to access and share data, including open data, across all levels of government in an
99 effort to improve the efficiency and efficacy of services, improve outcomes, and promote data-driven
100 policy making, decision making, research, and analysis; and

101 5. Oversee the implementation of a website dedicated to (i) hosting open data from state, regional,
102 and local public entities and public institutions of higher education and (ii) providing links to any other
103 additional open data websites in the Commonwealth;

104 6. Receive and disburse funds and fix, alter, charge, and collect rates, rentals, and other charges for
105 the use or sale of products of, or services rendered by, the Office, at rates that reflect the fair market
106 value;

107 7. Enter into contracts for the purpose of carrying out the provisions of this section;

108 8. Rent office space and procure equipment, goods, and services necessary to carry out the
109 provisions of this section; and

110 9. Report on the activities of the Office, the Commonwealth Data Trust, and the Virginia Data
111 Commission established pursuant to Article 13 (§ 2.2-2558 et seq.) of Chapter 25 annually by December
112 1 to the Governor and the General Assembly.

113 D. The Commonwealth Data Trust shall be governed by a multi-level governance structure as
114 follows:

115 1. The Executive Data Board, shall consist of the directors or chief executives, or their designees, of
116 executive branch agencies engaged in data sharing and analytics projects with the Commonwealth Data
117 Trust. The CDO shall chair the Board. Members of the Board shall (i) translate the Commonwealth's
118 data-driven policy goals and objectives into performance targets at their respective agencies; (ii)
119 allocate appropriate resources at their respective agencies to support data governance, sharing, and
120 analytics initiatives; and (iii) provide any reports to the Office regarding their respective agencies' data
121 analytics work and implementation of recommendations.

2. The Data Governance Council shall consist of employees of the agencies represented on the Board, selected by the Board members from their respective agencies. The CDO, or his designee, shall chair the Council. The Council shall (i) liaise between state agency operations and the CDO; (ii) advise the CDO on data technology, policy, and governance structure; (iii) administer data governance policies, standards, and best practices, as set by the Board; (iv) oversee data sharing and analytics projects; (v) review open data assets prior to publication; (vi) provide to the Board any reports on the Council's recommendations and work as required by the Board; (vii) develop necessary privacy and ethical standards and policies for Commonwealth Data Trust resources; (viii) monitor the sharing of Commonwealth Data Trust Member-Contributed data resources; (ix) review and approve new Commonwealth Data Trust-managed data resources; and (x) conduct any other business the CDO deems necessary for Commonwealth Data Trust governance.

3. The Data Stewards Group shall consist of employees from executive branch agencies with technical experience in data management or data analytics. Executive branch agencies shall be encouraged to designate at least one agency data steward to serve on the Group and may designate multiple data stewards as appropriate based upon organizational or data system responsibilities. The Group shall (i) provide the Board and Council with technical subject matter expertise in support of data policies, standards, and best practices; (ii) implement data sharing and analytics projects promoting data accessibility, sharing, and reuse, thereby reducing redundancy across the Commonwealth; (iii) coordinate and resolve technical stewardship issues for standardized data; (iv) ensure data quality processes and standards are implemented consistently by agencies in the Commonwealth; (v) provide communication and education to data users on the appropriate use, sharing, and protection of the Commonwealth's data assets; (vi) promote the collection and sharing of metadata by registering data assets in the Virginia Data Catalog; (vii) liaise with agency project managers and information technology investment staff to ensure adherence to Commonwealth data standards and data sharing requirements; and (viii) support informed, data-driven decision making through compliance with Commonwealth data policies, standards, and best practices.

E. In carrying out the provisions of this section, the Office shall coordinate and collaborate with, to the fullest extent authorized by federal law and notwithstanding any state law to the contrary, all agencies set forth in subsection A of § 2.2-212 and subsection A of § 2.2-221; any other state, regional, and local public bodies, including community services boards; local law-enforcement agencies; any health and human services-related entity of a political subdivision that receives state funds; public institutions of higher education; and, when appropriate, private entities.

F. The Office shall be considered an agent of any state agency in the executive branch of government that shares information or data with the office, and shall be an authorized recipient of information under any statutory or administrative law governing the information or data. Interagency data shared pursuant to this section shall not constitute a disclosure or release of information or data under any statutory or administrative law governing the information or data.

G. There is hereby created in the state treasury a special nonreverting fund to be known as the Data Governance and Analytics Fund. The Fund shall be established on the books of the Comptroller. Any funds received by the CDO for the use or sale of products of, or services rendered by, the Office 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 to support the Office in carrying out its powers and duties, subject to appropriation.

Article 13.

Virginia Data Advisory Commission.

§ 2.2-2558. Virginia Data Advisory Commission; purpose.

The Virginia Data Advisory Commission (the Commission) is established as an advisory Commission in the executive branch of state government. The Commission shall advise the Office of Data Governance and Analytics (the Office), established pursuant to § 2.2-203.2:4, on issues related to data sharing, including open data, data analytics, and data governance. The Commission shall (i) set, plan, and prioritize data sharing performance goals for the Commonwealth, (ii) review agency accomplishments, and (iii) recommend solutions that will establish the Commonwealth as a national leader in data-driven policy, evidence-based decision making, and out-based performance management.

§ 2.2-2559. Membership; terms; vacancies; chairman and vice-chairman.

A. The Commission shall have a total membership of 27 members that shall consist of six legislative members, seven nonlegislative citizen members, and 14 ex officio members. Members shall be appointed as follows: three members of the Senate, to be appointed by the Senate Committee on Rules; three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of

183 Delegates; and seven nonlegislative citizen members to be appointed by the Governor. The Executive
184 Secretary of the Supreme Court of Virginia, the Chief Workforce Advisor to the Governor, the Chief
185 Data Officer of the Commonwealth, the Secretary of Administration, the Secretary of Health and Human
186 Resources, the Secretary of Public Safety and Homeland Security, the Secretary of Finance, the
187 Secretary of the Commonwealth, the Secretary of Agriculture and Forestry, the Secretary of Natural
188 Resources, the Secretary of Commerce and Trade, the Secretary of Education, the Secretary of Defense
189 and Veterans Affairs, and the Secretary of Transportation, or their designees, shall serve ex officio with
190 voting privileges. Nonlegislative citizen members appointed by the Governor shall represent the seven
191 geographic areas of the Commonwealth. Of the nonlegislative citizen members, at least one shall
192 represent a baccalaureate public institution of higher education in the Commonwealth, at least one shall
193 be an elected official representing a local government in the Commonwealth, and at least one shall
194 represent a private business with expertise and experience in the establishment, operation, and
195 maintenance of a data intelligence platform.

196 B. Each nonlegislative citizen member may designate a representative of his organization as an
197 alternate. Each alternate may attend meetings in place of the appointed member and shall be counted as
198 a member of the Commission for purposes of establishing a quorum. Nonlegislative citizen members of
199 the Commission, and their alternates, shall be citizens of the Commonwealth.

200 C. Legislative members and ex officio members of the Commission shall serve terms coincident with
201 their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the
202 unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All
203 members may be reappointed. After the initial staggering of terms, nonlegislative citizen members shall
204 be appointed for a term of four years. No Senate member shall serve more than two consecutive
205 four-year terms, no House member shall serve more than four consecutive two-year terms, and no
206 nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of
207 any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the
208 member's eligibility for reappointment.

209 D. The Commission shall elect a chairman and vice-chairman from among its membership.

210 E. Any members of the Commission who represent private businesses that provide data-related
211 products and services, and such private businesses that the members represents, are precluded from
212 contracting to provide goods or services to the Office of Data Governance and Analytics.

213 **§ 2.2-2560. Quorum; meetings.**

214 A majority of the members shall constitute a quorum. The Commission shall meet at least biennially
215 or at the call of the chairman or the Chief Data Officer.

216 **§ 2.2-2561. Compensation; expenses.**

217 Legislative members of the Commission shall receive such compensation as provided in § 30-19.12.
218 Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for
219 all reasonable and necessary expenses incurred in the performance of their duties as provided in
220 §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be
221 provided by the Office of Data Governance and Analytics.

222 **§ 2.2-2562. Powers and duties of the Commission.**

223 The Commission shall have the following powers and duties:

224 1. Promote and facilitate, subject to all applicable federal and state laws, rules, and regulations, the
225 secure and appropriate sharing and use of data assets in the Commonwealth in support of data-driven
226 policy making, research, analysis, study, and economic development;

227 2. Maximize the value and utility of Commonwealth data-related investments and assets;

228 3. Promote increased data sharing between state agencies and localities that provides tangible
229 operational improvements in assisting state agencies and localities to fulfill their missions in a more
230 coordinated, cost-efficient manner;

231 4. Leverage government data, using appropriate security and privacy standards, to support
232 evidence-based policy making that addresses high-priority public policy issues;

233 5. Provide for public access to certain data assets, where lawful and appropriate, to enhance
234 research, innovation, and insight; and

235 6. Make any other recommendations deemed necessary related to performance goals and objectives
236 to require engagement from organizations across the Commonwealth.

237 **§ 2.2-2563. Staffing.**

238 The Office of Data Governance and Analytics shall provide staff support to the Commission. All
239 agencies of the Commonwealth shall provide assistance to the Commission, upon request.

240 **§ 2.2-2564. Sunset.**

241 This article shall expire on July 1, 2024.

242 2. That the initial appointments of nonlegislative citizen members by the Governor shall be
243 staggered as follows: three members for a term of two years, two members for a term of three
244 years, and two members for a term of four years.