

1995 SESSION

HOUSE SUBSTITUTE

LD3777202

HOUSE BILL NO. 2516

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture
on February 2, 1995)

(Patron Prior to Substitute—Delegate Deeds)

A BILL to amend and reenact §§ 2.1-1.6 and 9-6.25:3 of the Code of Virginia, and to amend the Code of Virginia by adding in Title 3.1 a chapter numbered 43, consisting of sections numbered 3.1-1065 through 3.1-1083, relating to the establishment of the Virginia Sheep Industry Board; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6 and 9-6.25:3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 3.1 a chapter numbered 43, consisting of sections numbered 3.1-1065 through 3.1-1083, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for

Aging, Advisory Board on the

Agriculture and Consumer Services, Board of

Air Pollution, State Advisory Board on

Alcoholic Beverage Control Board, Virginia

Apple Board, Virginia State

Appomattox State Scenic River Advisory Board

Aquaculture Advisory Board

Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for

Art and Architectural Review Board

Athletic Board, Virginia

Auctioneers Board

Audiology and Speech-Language Pathology, Board of

Aviation Board, Virginia

Barbers, Board for

Branch Pilots, Board for

Bright Flue-Cured Tobacco Board, Virginia

Building Code Technical Review Board, State

Catoctin Creek State Scenic River Advisory Board

Cattle Industry Board, Virginia

Cave Board

Certified Seed Board, State

Chesapeake Bay Local Assistance Board

Chickahominy State Scenic River Advisory Board

Child Abuse and Neglect, Advisory Board on

Chippokes Plantation Farm Foundation, Board of Trustees

Clinch Scenic River Advisory Board

Coal Mining Examiners, Board of

Coal Research and Development Advisory Board, Virginia

Coal Surface Mining Reclamation Fund Advisory Board

Conservation and Development of Public Beaches, Board on

Conservation and Recreation, Board of

Contractors, Board for

Corn Board, Virginia

Correctional Education, Board of

Corrections, State Board of

Cosmetology, Board for

Criminal Justice Services Board

Dark-Fired Tobacco Board, Virginia

Deaf and Hard-of-Hearing, Advisory Board for the Department for the

Dentistry, Board of

Education, State Board of

Egg Board, Virginia

Emergency Medical Services Advisory Board

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60	Employment Agency Advisory Board
61	Farmers Market Board, Virginia
62	Film Office Advisory Board
63	Fire Services Board, Virginia
64	Forensic Science Advisory Board
65	Forestry, Board of
66	Funeral Directors and Embalmers, Board of
67	Game and Inland Fisheries, Board of
68	Geology, Board for
69	Goose Creek Scenic River Advisory Board
70	Health Planning Board, Virginia
71	Health Professions, Board of
72	Health, State Board of
73	Hearing Aid Specialists, Board for
74	Hemophilia Advisory Board
75	Historic Resources, Board of
76	Housing and Community Development, Board of
77	Industrial Development Services Advisory Board
78	Insurance Advisory Board, State
79	Irish Potato Board, Virginia
80	Laboratory Services Advisory Board
81	Marine Products Board, Virginia
82	Medical Advisory Board, Department of Motor Vehicles
83	Medical Board of the Virginia Retirement System
84	Medicare and Medicaid, Advisory Board on
85	Medicine, Board of
86	Mental Health, Mental Retardation and Substance Abuse Services Board, State
87	Migrant and Seasonal Farmworkers Board
88	Military Affairs, Board of
89	Mineral Mining Examiners, Board of
90	Minority Business Enterprise, Interdepartmental Board of the Department of
91	Motor Vehicle Dealers' Advisory Board
92	Networking Users Advisory Board, State
93	Nottoway State Scenic River Advisory Board
94	Nursing, Board of
95	Nursing Home Administrators, Board of
96	Occupational Therapy, Advisory Board on
97	Oil and Gas Conservation Board, Virginia
98	Opticians, Board for
99	Optometry, Board of
100	Peanut Board, Virginia
101	Personnel Advisory Board
102	Pesticide Control Board
103	Pharmacy, Board of
104	Physical Therapy to the Board of Medicine, Advisory Board on
105	Plant Pollination Advisory Board
106	Polygraph Examiners Advisory Board
107	Pork Industry Board, Virginia
108	Poultry Products Board, Virginia
109	Private College Advisory Board
110	Private Security Services Advisory Board
111	Professional and Occupational Regulation, Board for
112	Professional Counselors, Board of
113	Professional Soil Scientists, Board for
114	Psychiatric Advisory Board
115	Psychology, Board of
116	Public Buildings Board, Virginia
117	Public Telecommunications Board, Virginia
118	Radiation Advisory Board
119	Real Estate Appraiser Board
120	Real Estate Board
121	Reciprocity Board, Department of Motor Vehicles

- 122 Recreational Fishing Advisory Board, Virginia
- 123 Recreation Specialists, Board of
- 124 Reforestation Board
- 125 Rehabilitation Providers, Advisory Board on
- 126 Rehabilitative Services, Board of
- 127 Respiratory Therapy, Advisory Board on
- 128 Retirement System Review Board
- 129 Rockfish State Scenic River Advisory Board
- 130 Safety and Health Codes Board
- 131 Seed Potato Board
- 132 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 133 Shenandoah State Scenic River Advisory Board
- 134 Small Business Advisory Board
- 135 Small Business Environmental Compliance Advisory Board
- 136 Small Grains Board, Virginia
- 137 Social Services, Board of
- 138 Social Work, Board of
- 139 Soil and Water Conservation Board, Virginia
- 140 Soybean Board, Virginia
- 141 State Air Pollution Control Board
- 142 Substance Abuse Certification Board
- 143 Surface Mining Review, Board of
- 144 Sweet Potato Board, Virginia
- 145 Teacher Education and Licensure, Advisory Board on
- 146 Tourism and Travel Services Advisory Board
- 147 Toxic Substances Advisory Board
- 148 Transportation Board, Commonwealth
- 149 Transportation Safety, Board of
- 150 Treasury Board, The, Department of the Treasury
- 151 Veterans' Affairs, Board on
- 152 Veterinary Medicine, Board of
- 153 Virginia Board for Asbestos Licensing
- 154 Virginia Coal Mine Safety Board
- 155 Virginia Correctional Enterprises Advisory Board
- 156 Virginia Employment Commission, State Advisory Board for the
- 157 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
- 158 Virginia Horse Industry Board
- 159 Virginia Manufactured Housing Board
- 160 Virginia Retirement System, Board of Trustees
- 161 *Virginia Sheep Industry Board*
- 162 Virginia Waste Management Board
- 163 Visually Handicapped, Virginia Board for the
- 164 Voluntary Formulary Board, Virginia
- 165 War Memorial Foundation, Virginia, Board of Trustees
- 166 Waste Management Facility Operators, Board for
- 167 Water Resources Research Center Statewide Advisory Board, Virginia
- 168 Waterworks and Wastewater Works Operators, Board for
- 169 Well Review Board, Virginia
- 170 Youth and Family Services, State Board of.
- 171 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 172 referred to as boards:
- 173 Compensation Board
- 174 State Board of Elections
- 175 State Water Control Board
- 176 Virginia Parole Board
- 177 Virginia Veterans Care Center Board of Trustees.

CHAPTER 43.

VIRGINIA SHEEP INDUSTRY BOARD ACT.

§ 3.1- 1065. Definitions.

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

"Board" means the Virginia Sheep Industry Board.

183 "Commissioner" means the Commissioner of Agriculture and Consumer Services.

184 "Fund" means the Virginia Sheep Industry Promotion and Development Fund.

185 "Handler" means the operator of a stockyard, livestock dealership, slaughterhouse, packing plant or
186 livestock auction market, or any other person or business entity making a purchase from a sheep
187 producer, at the point at which the sheep or lamb is sold or traded.

188 "State Board" means the State Board of Agriculture and Consumer Services.

189 § 3.1-1066. Petition for referendum on question of assessment for market development, predator
190 control, education, research, promotion; action of State Board and Commissioner; amount of
191 assessment.

192 The State Board, upon a petition being filed with it by the Virginia Sheep Federation requesting a
193 referendum, and upon finding that sufficient interest exists among the members of the sheep industry in
194 the Commonwealth to justify a referendum, shall authorize the holding of a referendum as provided in
195 this chapter. The Commissioner or his designee shall then be empowered and directed to conduct a
196 referendum on the question of whether or not the members of Virginia's sheep industry are of the
197 opinion that additional market development, predator control, education, research and promotion of the
198 sheep industry are required. If approved in a referendum authorized by this chapter, an assessment of
199 fifty cents for each sheep or lamb sold within the Commonwealth shall be imposed, and the Board shall
200 have the authority to increase the assessment no more than ten cents per year, up to a maximum
201 assessment of one dollar per head.

202 § 3.1-1067. Commissioner to manage referendum; notice to be posted.

203 The Commissioner shall manage any referendum conducted under this chapter. The Commissioner
204 shall, sixty days before the date upon which a referendum is to be held, mail notice to the clerk of the
205 circuit court in each county where those eligible to vote in the referendum reside. The notice shall
206 contain the date, hours, polling place and method of voting in the referendum, the amount of assessment
207 to be collected, means by which the assessment will be collected, the general purposes for which the
208 assessments will be used, and the rules and regulations adopted by the State Board pursuant to
209 § 3.1-1069. The clerk of the circuit court shall post the notice and rules and regulations on the front
210 door or public bulletin board of the courthouse and certify the posting to the Commissioner.

211 § 3.1-1068. Persons eligible to vote.

212 Each member of the Virginia sheep industry who has sold one or more sheep within the
213 Commonwealth during fiscal year 1993-1994 shall be eligible to vote in the referendum, provided that
214 he certifies that he has conducted such sale(s). A person eligible to vote may be a natural person,
215 partnership, or corporation, provided that such person is a resident or qualified to do business in the
216 Commonwealth. The vote of a partnership shall be cast by one of the general partners. A corporation
217 shall vote by its president, general manager or such other person as may be authorized by the
218 corporation to cast its vote.

219 § 3.1-1069. Rules governing ballots, conduct of referendum, canvassing, etc.

220 The State Board shall adopt rules governing the ballots to be used in the referendum, the conduct of
221 the referendum, the canvassing of the results thereof, and the declaration of the results of the
222 referendum.

223 § 3.1-1070. Date of referendum; area hours, voting places, etc.; publication of notice.

224 The State Board shall fix the date, areas, hours, voting places, rules and regulations with respect to
225 the holding of the referendum and the State Board may provide for voting by mail if it deems advisable.
226 The Commissioner shall give general notice of the referendum in a newspaper of general circulation in
227 Richmond, Virginia, and shall send a notice of the referendum to a newspaper of general circulation in
228 each area in which members of the sheep industry reside, at least sixty days prior to the holding of any
229 referendum under this chapter. Such notice shall contain the date, hours, and methods of voting in the
230 referendum; the amount of assessment to be collected, means by which such assessment will be
231 collected, and general purposes for which the assessments will be used; and the rules and regulations
232 adopted by the State Board pursuant to § 3.1-1069.

233 § 3.1-1071. Distribution of ballots; canvass; declaration and certification of results.

234 The Commissioner shall prepare and distribute in advance of the referendum all necessary ballots,
235 certificates and supplies required for the referendum and shall, under rules and regulations adopted and
236 promulgated by the Board, arrange for the use of polling places, if necessary. He shall, within ten days
237 after the referendum, canvass and publicly declare the results thereof and certify the same to the
238 Governor and the State Board.

239 § 3.1-1072. Action of Governor if a simple majority of voters favor assessment.

240 If the Governor finds the referendum in order and that at least a simple majority of those voting are
241 in favor of the assessment for the purpose of conducting programs in market development, predator
242 control, education, research and promotion of the sheep industry, he shall so proclaim and establish a
243 Virginia Sheep Industry Board within the Virginia Department of Agriculture and Consumer Services.

244 § 3.1-1073. Action of Governor if referendum out of order or less than a simple majority of voters

favor assessment.

If the Governor finds the referendum out of order, or that at least a simple majority of those voting are not in favor of the assessment for the purpose of conducting programs of market development, predator control, education, research and promotion of the sheep industry, he shall not establish a Virginia Sheep Industry Board within the Virginia Department of Agriculture and Consumer Services under this chapter.

§ 3.1-1074. Subsequent referenda.

A. If the Governor issues a proclamation under § 3.1-1072, then no other referendum shall be held on the creation of the Virginia Sheep Industry Board and assessment except that the State Board, upon petition by at least ten percent of the members of the sheep industry who voted in the preceding referendum, may provide for a referendum on the continuation of the Board and the assessment. The State Board shall not act on such a petition to conduct such a referendum until at least five years have passed since the Virginia Sheep Industry Board was established or the last referendum was held.

B. If the Governor determines that a simple majority is not in favor of the assessment, the State Board shall hold no new referendum for at least one year after the Governor's determination. After the expiration of such year and upon petition by ten percent of the members of the Commonwealth's sheep industry which voted in the most recent referendum, the State Board may provide for a new referendum.

C. The cost of conducting any referendum under this section shall be from funds paid into the Virginia Sheep Industry Promotion and Development Fund as established in § 3.1-1078. Any referendum held under this section shall be conducted in the manner provided in §§ 3.1-1067 through 3.1-1071.

§ 3.1-1075. Question to be printed on ballots.

A. The question to be printed on the ballots used in any referendum held under this chapter, except the referendum authorized in § 3.1-1074 A, shall be as follows:

"Do you favor additional market development, predator control, education, research, and promotion of the Virginia sheep industry, the creation of a Virginia Sheep Industry Board, and the levy of an assessment of fifty cents per head, with the Board retaining the authority to increase the assessment no more than ten cents per year, up to a maximum assessment of one dollar per head, for all sheep and lambs sold within the Commonwealth of Virginia to be used by such Board in accordance with the provisions of the Virginia Sheep Industry Board Act?"

☐ Yes

☐ No."

B. The question to be printed on the ballots used in the referendum authorized in § 3.1-1074 A on the continuation of the Board and assessment shall be as follows:

"Do you favor the continuation of the Virginia Sheep Industry Board and the continuation of the levy of an assessment of up to one dollar per head for all sheep and lambs sold within the Commonwealth of Virginia?"

☐ Yes

☐ No."

§ 3.1-1076. Virginia Sheep Industry Board established; purposes; duties and responsibilities.

A. There is hereby established within the Virginia Department of Agriculture and Consumer Services the Virginia Sheep Industry Board. The Board shall be responsible for the promotion and economic development of the sheep industry in Virginia. To accomplish this function the Board is authorized to:

1. Provide funding for predator control;

2. Produce economic reports;

3. Develop a sheep industry directory;

4. Provide funding for educational programs;

5. Provide funding for research;

6. Engage in media liaison;

7. Collect and analyze data on the sheep industry;

8. Disseminate industry-related data; and

9. Enter into contracts and agreements to accomplish the purposes of this chapter.

§ 3.1-1077. Board membership; quorum.

A. The Board shall consist of twelve members representing the sheep industry and industry support services. The Governor shall appoint three individuals from nominations submitted by the Virginia Sheep Federation or other Virginia farm organizations representing sheep producers. Of the three members nominated by the Governor, one shall represent the packing/processing/retailing segment of the industry, one shall represent the Virginia Livestock Markets Association, and one shall represent the purebred segment of the industry. One member shall be elected by each of the nine wool pool organizations which represent the following areas: Augusta, Christiansburg/New River Valley, Southside Virginia, Rockingham, Clarke, Orange, Wythe/Bland, Highland, Russell/Tazewell/Scott. Terms of membership shall be for three years. Vacancies may be filled in the same manner as the original appointment. No member

306 shall serve more than two consecutive terms.

307 The extension sheep specialist from Virginia Polytechnic Institute and State University and the
308 Commissioner of Agriculture and Consumer Services or his designee shall serve as nonvoting members.

309 B. Board members not representing agencies of the Commonwealth shall be reimbursed from the
310 Fund for all reasonable and necessary expenses incurred in the performance of their duties as members
311 of the Board.

312 C. Seven members shall constitute a quorum for the transaction of business.

313 D. The Board shall elect from its membership a chairman, a vice chairman and such other officers
314 as it deems appropriate.

315 § 3.1-1078. Virginia Sheep Industry Promotion and Development Fund created; purpose.

316 A. The Board shall establish, administer, manage and make expenditures and allocations from a
317 special, nonreverting fund in the state treasury to be known as the Virginia Sheep Industry Promotion
318 and Development Fund. The Board shall establish and administer the Fund solely for the purpose of
319 carrying out the provisions of this chapter. The Fund shall consist of assessments paid pursuant to
320 § 3.1-1080. The unexpended balance of the Fund at the end of the biennium shall not be transferred
321 to the general fund of the state treasury.

322 B. The Auditor for Public Accounts shall audit all the accounts of the Board as provided in
323 § 2.1-155.

324 C. All money collected under this chapter shall be expended by the Board by warrants of the State
325 Comptroller on vouchers signed by a duly authorized officer of the Board.

326 § 3.1-1079. Rules and regulations; expenditures for legislative and political activity not authorized.

327 The Board is authorized to promulgate rules and regulations necessary to carry out the intent and
328 purpose of this chapter. No provision of this chapter shall be construed to give the Board the authority
329 to expend funds for legislative or political activity.

330 § 3.1-1080. Tax Commissioner authorized to collect assessment on sheep sold.

331 In order for the Board to carry out the provisions of this chapter, the Tax Commissioner shall
332 collect from the handler the assessment authorized by this chapter for all sheep and lambs sold in
333 Virginia. Any handler purchasing sheep or lambs in Virginia for resale within ten days shall be exempt
334 from the assessment on the subsequent sale,

335 § 3.1-1081. Reports to Tax Commissioner; collection and disposition of assessment; records to be
336 kept by handlers.

337 A. Handlers shall make reports to the Tax Commissioner on forms furnished and prescribed by the
338 Tax Commissioner. Each form shall include a statement of the number of sheep and lambs which have
339 been handled; the amount of money which has been collected; and any other information deemed
340 necessary by the Tax Commissioner to carry out his duties under this chapter. Notwithstanding the
341 provisions of § 58.1-3, upon request, the Tax Commissioner is authorized to provide the Board with a
342 list of assessment payers and amounts paid.

343 B. Handlers shall deduct from the proceeds of sale owed by them to the respective owners of sheep
344 the assessment as authorized by § 3.1-1080 of this chapter.

345 C. The funds collected by the handler from proceeds of sales are due to the Tax Commissioner on or
346 before the last day of the month following the end of each calendar quarter.

347 D. The handler shall keep a complete record of the number of sheep subject to payment bought by
348 him for a period of not less than three years. Such records shall be open for inspection by the Tax
349 Commissioner or his duly authorized agents, and shall be established and maintained as required by the
350 Tax Commissioner.

351 § 3.1-1082. Collection of delinquent assessments; misdemeanors; prosecutions.

352 A. If assessment money due pursuant to this chapter is not paid when due, the Tax Commissioner
353 shall immediately notify the violator of such deficiency and shall add thereto a penalty of five percent of
354 the amount due. If such deficiency is not paid within thirty days from the date of such notice, it shall
355 bear interest, in accordance with § 58.1-15, from the date it was due, which shall be collected as part
356 of the delinquent amount. The Tax Commissioner may waive or remit the penalty of five percent, or
357 portion thereof, in his discretion for good cause shown. If any person is delinquent in any payment of
358 the money owed or interest thereon, the amount shall be collected by civil action in the name of the
359 Commonwealth of Virginia at the direction of the Tax Commissioner, and the person adjudged to be in
360 default shall pay the cost of such action. The Attorney General, at the request of the Tax Commissioner,
361 shall without delay institute action in the proper court for the collection of the amount of any money
362 past due under this chapter, including interest thereon.

363 B. It shall be a Class 1 misdemeanor for any handler to fail to submit to the Tax Commissioner any
364 statement or report required in this chapter within sixty days from the time such statement or report is
365 required to be submitted to the Tax Commissioner under this chapter.

366 C. It shall be a Class 1 misdemeanor for any handler knowingly to report falsely to the Tax
367 Commissioner the number of taxable sheep handled by him during any period or to falsify the records.

D. Prosecution shall be initiated by the attorney for the Commonwealth or otherwise, in any city or county within the Commonwealth.

§ 3.1-1083. Fees for initial referendum to be paid to the Department of Agriculture and Consumer Services; expiration.

A. Beginning on July 1, 1995, and until sufficient moneys are collected to pay the cost of conducting the initial referendum, a fee of fifty cents per head shall be assessed on any sheep or lamb sold within the Commonwealth of Virginia. Such fees shall be collected by the Tax Commissioner to be paid to the Department of Agriculture and Consumer Services for the purpose of conducting an initial referendum on the question of establishing the Virginia Sheep Industry Board and the levy of an assessment of fifty cents per head, with the Board retaining the authority to increase the assessment no more than ten cents per year, up to a maximum assessment of one dollar per head of sheep or lamb sold within the Commonwealth of Virginia.

B. If the initial referendum fails, any fees collected in excess of the amount necessary to conduct such referendum shall be paid to the USDA Predator Control Department. If such referendum is approved, such fees shall be collected and administered in accordance with this chapter.

C. The provisions of this section shall expire on the date the Governor proclaims that the referendum has been approved.

§ 9-6.25:3. Supervisory boards.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following supervisory boards:

- Alcoholic Beverage Control Board
- Board for Branch Pilots
- Board of Commissioners, Virginia Port Authority
- Board of Game and Inland Fisheries
- Board of Regents, Gunston Hall Plantation
- Board of Regents, James Monroe Memorial Law Office and Library
- Board of Trustees, Chippokes Plantation Farm Foundation
- Board of Trustees, Frontier Culture Museum of Virginia
- Board of Trustees, Jamestown-Yorktown Foundation
- Board of Trustees, the Science Museum of Virginia
- Board of Trustees, Virginia Museum of Fine Arts
- Board of Trustees, Virginia Retirement System
- Board of Trustees, Virginia Veterans Care Center
- Board of Trustees, Virginia War Memorial Foundation
- (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund
- Board of Visitors, Christopher Newport University
- Board of Visitors, George Mason University
- Board of Visitors, James Madison University
- Board of Visitors, Longwood College
- Board of Visitors, Mary Washington College
- Board of Visitors, Norfolk State University
- Board of Visitors, Old Dominion University
- Board of Visitors, Radford University
- Board of Visitors, The College of William and Mary in Virginia
- Board of Visitors, University of Virginia
- Board of Visitors, Virginia Commonwealth University
- Board of Visitors, Virginia Military Institute
- Board of Visitors, Virginia Polytechnic Institute and State University
- Board of Visitors, Virginia State University
- Commonwealth's Attorneys' Services Council
- Compensation Board
- Governing Board, Virginia College Building Authority
- Governing Board, Virginia Public School Authority
- State Board for Community Colleges, Virginia Community College System
- State Board of Education
- State Certified Seed Board
- State Council of Higher Education for Virginia
- Virginia Agricultural Council
- Virginia Bright Flue-Cured Tobacco Board
- Virginia Board for People with Disabilities
- Virginia Cattle Industry Board

429 Virginia Corn Board
430 Virginia Dark-Fired Tobacco Board
431 Virginia Egg Board
432 Virginia Horse Industry Board
433 Virginia Marine Products Board
434 Virginia Peanut Board
435 Virginia Pork Industry Board
436 *Virginia Sheep Industry Board*
437 Virginia Soybean Board
438 Virginia State Apple Board
439 Virginia Sweet Potato Board.

440 2. That the provisions of this act which assess fifty cents per head, with the Board retaining the
441 authority to increase the assessment no more than ten cents per year, up to a maximum
442 assessment of one dollar per head, on sheep and lambs sold within the Commonwealth shall
443 become effective only after a referendum as provided for in Chapter 43 (§ 3.1-1065 et seq.) of Title
444 3.1 has passed, except that the provisions of § 3.1-1083 shall become effective on July 1, 1995.