

1995 RECONVENED SESSION

ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.1-1.3, 2.1-1.7, 2.1-20.4, 9-6.23, and 9-6.25:1 of the Code of Virginia and to amend the Code of Virginia by adding in Title 9 a chapter numbered 43, consisting of sections numbered 9-334 through 9-343, relating to the Virginia Government Competition Act of 1995, including the creation of the Commonwealth Competition Council.

[S 994]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.3, 2.1-1.7, 2.1-20.4, 9-6.23, and 9-6.25:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 9 a chapter numbered 43, consisting of sections numbered 9-334 through 9-343, as follows:

§ 2.1-1.3. Entities subject to standard nomenclature.

The following independent administrative entities are subject to the standard nomenclature provisions of § 2.1-1.2:

Chesapeake Bay Local Assistance Department.

Commonwealth Competition Council.

Department of Accounts.

Department for the Aging.

Department of Agriculture and Consumer Services.

Department of Alcoholic Beverage Control.

Department of Aviation.

Department of Conservation and Recreation.

Department of Correctional Education.

Department of Corrections.

Department of Criminal Justice Services.

Department for the Deaf and Hard-of-Hearing.

Department of Economic Development.

Department of Education.

Department of Emergency Services.

Department of Environmental Quality.

Department of Employee Relations Counselors.

Department of Fire Programs.

Department of Forestry.

Department of Game and Inland Fisheries.

Department of General Services.

Department of Health.

Department of Health Professions.

Department of Historic Resources.

Department of Housing and Community Development.

Department of Information Technology.

Department of Labor and Industry.

Department of Medical Assistance Services.

Department of Mental Health, Mental Retardation and Substance Abuse Services.

Department of Military Affairs.

Department of Mines, Minerals and Energy.

Department of Minority Business Enterprise.

Department of Motor Vehicles.

Department of Personnel and Training.

Department of Planning and Budget.

Department of Professional and Occupational Regulation.

Department of Rail and Public Transportation.

Department of Rehabilitative Services.

Department for Rights of Virginians With Disabilities.

Department of Social Services.

Department of State Police.

Department of Taxation.

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Department of Transportation.
 Department of the Treasury.
 Department of Veterans' Affairs.
 Department for the Visually Handicapped.
 Department of Youth and Family Services.
 Governor's Employment and Training Department.
 § 2.1-1.7. State councils.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies either affiliated with more than one agency or independent of an agency within the executive branch:

Adult Education and Literacy, Virginia Advisory Council for
 Agricultural Council, Virginia
 Alcohol and Drug Abuse Problems, Governor's Council on
 Apprenticeship Council
 Blue Ridge Regional Education and Training Council
 Child Day Care and Early Childhood Programs, Virginia Council on
 Child Day-Care Council
 Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
Commonwealth Competition Council
 Commonwealth's Attorneys' Services Council
 Developmental Disabilities Planning Council, Virginia
 Disability Services Council
 Equal Employment Opportunity Council, Virginia
 Health Services Cost Review Council, Virginia
 Housing for the Disabled, Interagency Coordinating Council on
 Human Rights, Council on
 Human Services Information and Referral Advisory Council
 Indians, Council on
 Interagency Coordinating Council, Virginia
 Job Training Coordinating Council, Governor's
 Land Evaluation Advisory Council
 Local Debt, State Council on
 Long-Term Care Council
 Maternal and Child Health Council
 Military Advisory Council, Virginia
 Needs of Handicapped Persons, Overall Advisory Council on the
 Prevention, Virginia Council on Coordinating
 Public Records Advisory Council, State
 Rate-setting for Children's Facilities, Interdepartmental Council on
 Revenue Estimates, Advisory Council on
 Southside Virginia Marketing Council
 Specialized Transportation Council
 State Health Benefits Advisory Council
 Status of Women, Council on the
 Technology Council, Virginia
 Virginia Business-Education Partnership Program, Advisory Council on the
 Virginia Recycling Markets Development Council.

B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall be referred to as councils:

Council on Information Management
 Higher Education, State Council of
 Independent Living Council, Statewide
 Rehabilitation Advisory Council, Statewide
 Rehabilitation Advisory Council for the Blind, Statewide
 World Trade Council, Virginia.

§ 2.1-20.4. Bodies receiving compensation.

A. Notwithstanding any other provision of law, the following commissions, boards, etc., shall be those which receive compensation from state funds pursuant to § 2.1-20.3:

Accountancy, Board for
 Agriculture and Consumer Services, Board of
 Air Pollution Control Board, State

118	Airports Authority, Virginia
119	Apprenticeship Council
120	Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
121	Athletic Board, Virginia
122	Auctioneers Board
123	Audiology and Speech-Language Pathology, Board of
124	Aviation Board, Virginia
125	Barbers, Board for
126	Branch Pilots, Board for
127	Building Code Technical Review Board, State
128	Chesapeake Bay Local Assistance Board
129	Child Day Care and Early Childhood Programs, Virginia Council on
130	Coal Mining Examiners, Board of
131	College Building Authority
132	<i>Commonwealth Competition Council</i>
133	Commonwealth Transportation Board
134	Conservation and Development of Public Beaches, Board on
135	Conservation and Recreation, Board of
136	Contractors, Board for
137	Correctional Education, Board of
138	Corrections, Board of
139	Cosmetology, Board for
140	Criminal Justice Services Board
141	Deaf and Hard-of-Hearing, Advisory Board for the
142	Dentistry, Board of
143	Education, State Board of
144	Education Loan Authority, Virginia - Board of Directors
145	Elections, State Board of
146	Environment, Council on the
147	Fire Services Board, Virginia
148	Funeral Directors and Embalmers, Board of
149	Game and Inland Fisheries, Board of
150	Geology, Board for
151	Health, State Board of
152	Health Professions, Board of
153	Hearing Aid Specialists, Board for
154	Higher Education, State Council of
155	Historic Resources, Board of
156	Housing and Community Development, Board of
157	Information Management, Council on
158	Marine Resources Commission
159	Medical Assistance Services, Board of
160	Medical Complaint Investigation Committee
161	Medicine, Board of
162	Mental Health, Mental Retardation and Substance Abuse Services Board, State
163	Milk Commission
164	Mineral Mining Examiners, Board of
165	Nursing, Board of
166	Nursing Home Administrators, Board of
167	Occupational Therapy, Advisory Board on
168	Oil and Gas Conservation Board, Virginia
169	Opticians, Board for
170	Optometry, Board of
171	Pesticide Control Board
172	Pharmacy, Board of
173	Physical Therapy, Advisory Board on
174	Port Authority, Board of Commissioners of the Virginia
175	Professional and Occupational Regulation, Board for
176	Professional Counselors, Board of
177	Professional Soil Scientists, Board for
178	Psychology, Board of

179 Public Defender Commission
 180 Public School Authority, Virginia
 181 Purchases and Supply Appeals Board
 182 Real Estate Appraiser Board
 183 Real Estate Board
 184 Recreation Specialists, Board of
 185 Rehabilitative Services, Board of
 186 Respiratory Therapy, Advisory Board on
 187 Safety and Health Codes Board
 188 Seed Potato Board
 189 Social Services, Board of
 190 Social Work, Board of
 191 State Health Department Sewage Handling and Disposal Appeal Review Board
 192 Substance Abuse Certification Board
 193 Surface Mining Review, Board of
 194 Treasury Board
 195 Veterans' Affairs, Board on
 196 Veterinary Medicine, Board of
 197 Virginia Board for Asbestos Licensing
 198 Virginia Health Planning Board
 199 Virginia Manufactured Housing Board
 200 Virginia Veterans Care Center Board of Trustees
 201 Virginia Waste Management Board
 202 Visually Handicapped, Virginia Board for the
 203 Waste Management Facility Operators, Board for
 204 Water Control Board, State
 205 Waterworks and Wastewater Works Operators, Board for
 206 Well Review Board, Virginia
 207 Youth and Family Services, State Board of.

208 B. Individual members of boards, commissions, committees, councils, and other similar bodies
 209 appointed at the state level and receiving compensation for their services on January 1, 1980, but who
 210 will not receive compensation under the provisions of this article, shall continue to receive compensation
 211 at the January 1, 1980, rate until such member's current term expires.

212 § 9-6.23. Prohibition against service by legislators on boards and commissions within the executive
 213 branch.

214 Members of the General Assembly shall be ineligible to serve on boards and commissions within the
 215 executive branch which are responsible for administering programs established by the General Assembly.
 216 Such prohibition shall not extend to boards and commissions engaged solely in policy studies or
 217 commemorative activities. If any law directs the appointment of any member of the General Assembly
 218 to a board or commission in the executive branch which is responsible for administering programs
 219 established by the General Assembly, such portion of such law shall be void, and the Governor shall
 220 appoint another person from the Commonwealth at large to fill such a position. The provisions of this
 221 section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as
 222 provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as
 223 provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided
 224 for in § 9-138.1; to members of the Virginia Technology Council, who shall be appointed as provided
 225 for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia Higher Education
 226 Center, who shall be appointed as provided in § 23-231.3; to members of the Maternal and Child Health
 227 Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency
 228 Coordinating Council who shall be appointed as provided in § 2.1-750; to members of the Advisory
 229 Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided in
 230 § 9-326; to members of the Advisory Commission on Welfare Reform, who shall be appointed as
 231 provided in § 63.1-133.44; ~~or~~ to members of the Virginia Correctional Enterprises Advisory Board, who
 232 shall be appointed as provided in § 2.1-451.2; *or to members of the Commonwealth Competition*
 233 *Commission, who shall be appointed as provided in § 9-337.*

234 § 9-6.25:1. Advisory boards, commissions and councils.

235 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the
 236 following advisory boards, commissions and councils within the executive branch:

237 Advisory Board for the Department for the Deaf and Hard-of-Hearing
 238 Advisory Board for the Department for the Aging
 239 Advisory Board on Child Abuse and Neglect

240	Advisory Board on Medicare and Medicaid
241	Advisory Board on Occupational Therapy
242	Advisory Board on Physical Therapy to the Board of Medicine
243	Advisory Board on Rehabilitation Providers
244	Advisory Board on Respiratory Therapy to the Board of Medicine
245	Advisory Board on Teacher Education and Licensure
246	Advisory Council on Revenue Estimates
247	Advisory Council on the Virginia Business-Education Partnership Program
248	Appomattox State Scenic River Advisory Board
249	Aquaculture Advisory Board
250	Art and Architectural Review Board
251	(Effective until July 1, 1995) Board for the Visually Handicapped
252	Board of Directors, Virginia Truck and Ornamentals Research Station
253	Board of Forestry
254	Board of Military Affairs
255	Board of Rehabilitative Services
256	Board of Transportation Safety
257	Board of Trustees of the Family and Children's Trust Fund
258	Board of Visitors, Gunston Hall Plantation
259	Board on Veterans' Affairs
260	Catoctin Creek State Scenic River Advisory Board
261	Cave Board
262	Chickahominy State Scenic River Advisory Board
263	Clinch Scenic River Advisory Board
264	Coal Surface Mining Reclamation Fund Advisory Board
265	<i>Commonwealth Competition Council</i>
266	Council on Indians
267	Council on the Status of Women
268	Debt Capacity Advisory Committee
269	Emergency Medical Services Advisory Board
270	Falls of the James Committee
271	Film Office Advisory Board
272	Forensic Science Advisory Board
273	Goose Creek Scenic River Advisory Board
274	Governor's Council on Alcohol and Drug Abuse Problems
275	Governor's Mined Land Reclamation Advisory Committee
276	Hemophilia Advisory Board
277	Human Services Information and Referral Advisory Council
278	Industrial Development Services Advisory Board
279	Interagency Coordinating Council on Housing for the Disabled
280	Interdepartmental Board of the State Department of Minority Business Enterprise
281	Laboratory Services Advisory Board
282	Local Advisory Board to the Blue Ridge Community College
283	Local Advisory Board to the Central Virginia Community College
284	Local Advisory Board to the Dabney S. Lancaster Community College
285	Local Advisory Board to the Danville Community College
286	Local Advisory Board to the Eastern Shore Community College
287	Local Advisory Board to the Germanna Community College
288	Local Advisory Board to the J. Sargeant Reynolds Community College
289	Local Advisory Board to the John Tyler Community College
290	Local Advisory Board to the Lord Fairfax Community College
291	Local Advisory Board to the Mountain Empire Community College
292	Local Advisory Board to the New River Community College
293	Local Advisory Board to the Northern Virginia Community College
294	Local Advisory Board to the Patrick Henry Community College
295	Local Advisory Board to the Paul D. Camp Community College
296	Local Advisory Board to the Piedmont Virginia Community College
297	Local Advisory Board to the Rappahannock Community College
298	Local Advisory Board to the Southwest Virginia Community College
299	Local Advisory Board to the Thomas Nelson Community College
300	Local Advisory Board to the Tidewater Community College

- 301 Local Advisory Board to the Virginia Highlands Community College
- 302 Local Advisory Board to the Virginia Western Community College
- 303 Local Advisory Board to the Wytheville Community College
- 304 Long-Term Care Council
- 305 Maternal and Child Health Council
- 306 Medical Advisory Board, Department of Motor Vehicles
- 307 Medical Board of the Virginia Retirement System
- 308 Migrant and Seasonal Farmworkers Board
- 309 Motor Vehicle Dealer's Advisory Board
- 310 Nottoway State Scenic River Advisory Board
- 311 Personnel Advisory Board
- 312 Plant Pollination Advisory Board
- 313 Private College Advisory Board
- 314 Private Enterprise Commission
- 315 Private Security Services Advisory Board
- 316 Psychiatric Advisory Board
- 317 Radiation Advisory Board
- 318 Rappahannock Scenic River Advisory Board
- 319 Recreational Fishing Advisory Board, Virginia
- 320 Reforestation Board
- 321 Retirement System Review Board
- 322 Rockfish State Scenic River Advisory Board
- 323 Shenandoah State Scenic River Advisory Board
- 324 Small Business Advisory Board
- 325 Small Business Environmental Compliance Advisory Board
- 326 St. Mary's Scenic River Advisory Committee
- 327 State Advisory Board on Air Pollution
- 328 State Advisory Board for the Virginia Employment Commission
- 329 State Building Code Technical Review Board
- 330 State Council on Local Debt
- 331 State Health Benefits Advisory Council
- 332 State Insurance Advisory Board
- 333 State Land Evaluation Advisory Council
- 334 State Networking Users Advisory Board
- 335 State Public Records Advisory Council
- 336 Statewide Independent Living Council
- 337 Statewide Rehabilitation Advisory Council
- 338 Statewide Rehabilitation Advisory Council for the Blind
- 339 Staunton Scenic River Advisory Committee
- 340 Telecommunications Relay Service Advisory Board
- 341 Tourism and Travel Services Advisory Board
- 342 Toxic Substances Advisory Board
- 343 Virginia Advisory Commission on Intergovernmental Relations
- 344 Virginia Advisory Council for Adult Education and Literacy
- 345 Virginia Coal Mine Safety Board
- 346 Virginia Coal Research and Development Advisory Board
- 347 Virginia Commission for the Arts
- 348 Virginia Commission on the Bicentennial of the United States Constitution
- 349 Virginia Correctional Enterprises Advisory Board
- 350 Virginia Council on Coordinating Prevention
- 351 Virginia Equal Employment Opportunity Council
- 352 Virginia Interagency Coordinating Council
- 353 Virginia Military Advisory Council
- 354 Virginia Public Buildings Board
- 355 Virginia Recycling Markets Development Council
- 356 Virginia Technology Council
- 357 Virginia Transplant Council
- 358 Virginia Water Resources Research Center, Statewide Advisory Board
- 359 Virginia Winegrowers Advisory Board.

CHAPTER 43.

VIRGINIA GOVERNMENT COMPETITION ACT OF 1995.

§ 9-334. Short title.

This chapter shall be known and may be cited as the "Virginia Government Competition Act of 1995."

§ 9-335. Definitions.

As used in this chapter, unless the context otherwise requires:

"Council" means the Commonwealth Competition Council.

"Privatization" means a variety of techniques and activities which promote more involvement of the private sector in providing services that have traditionally been provided by government. It also includes methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector.

"State agency" means any board, council, authority, department, agency, or institution of the Commonwealth which employs state or nonstate personnel.

§ 9-336. Commonwealth Competition Council created; duties.

There is hereby created in the executive branch the Commonwealth Competition Council. The Council shall:

1. Examine and promote methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector by a competitive contracting program, and advise the Governor, the General Assembly, and executive branch agencies of the Council's findings and recommendations.

2. Develop an institutional framework for a statewide competitive program to encourage innovation and competition within state government.

3. Establish a system to encourage the use of feasibility studies and innovation to determine where competition could reduce government costs without harming the public.

4. Monitor the products and services of state agencies to bring an element of competition and to ensure a spirit of innovation and entrepreneurship to compete with the private sector.

5. Advocate, develop and accelerate implementation of a competitive program for state entities to ensure competition for the provision or production of government services, or both, from both public and private sector entities.

6. Establish approval, planning, and reporting processes required to carry out the functions of the Council.

7. Determine the privatization potential of a program or activity; perform cost/benefit analyses; and conduct public and private performance analyses. The Secretary of Finance shall independently certify the results of the comparison.

8. Devise, in consultation with the Secretary of Finance, evaluation criteria to be used in conducting performance reviews of any program or activity which is subject to a privatization recommendation.

9. To the extent practicable and to the extent that resources are available, make its services available for a fair compensation to any political subdivision of the Commonwealth.

§ 9-337. Membership; appointment; terms; vacancies; chairman; quorum; compensation.

A. The Council shall be composed of ten members to be appointed as follows: four employees of executive branch agencies to be appointed by the Governor; one member of the House of Delegates to be appointed by the Speaker of the House; one member of the Senate to be appointed by the Senate Committee on Privileges and Elections; two members of the private sector to be appointed by the Governor; one member of the private sector to be appointed by the Speaker of the House; and one member of the private sector to be appointed by the Senate Committee on Privileges and Elections.

B. Legislative members shall serve on the Council until the expiration of their terms of office or until their successors shall qualify. Two of the members who are employees of executive branch agencies and one member from the private sector appointed by the Governor shall be appointed for terms of one year. Two of the members who are employees of executive branch agencies and one member from the private sector appointed by the Governor shall be appointed for terms of two years. The nonlegislative members appointed by the Speaker of the House of Delegates and the Senate Committee on Privileges and Elections shall be appointed for terms of three years. Thereafter all nonlegislative members of the Council shall be appointed for terms of three years.

C. Appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to serve for or during more than two successive three-year terms. Executive branch agency members shall serve only as long as they retain their positions.

D. The Council shall annually elect its chairman and vice chairman from among its members.

E. Six members of the Council shall constitute a quorum. No action shall be taken by the Council without the concurrence of at least six members.

F. Legislative members shall be compensated as specified in § 14.1-18, and all members of the Council shall be reimbursed for their actual expenses incurred in the performance of their duties.

§ 9-338. Cooperation of other state agencies.

423 All agencies of the Commonwealth shall cooperate with the Council and, upon request, assist the
424 Council in the performance of its duties and responsibilities. The Council shall not impose unreasonable
425 burdens or costs in connection with requests of agencies.

426 § 9-339. Staff support; application for an acceptance of gifts and grants.

427 A. The Council shall employ such staff as necessary to enable it to perform its duties as directed in
428 the appropriation act.

429 B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private
430 sources to enable it to better carry out its objectives. No entity which provides a gift, donation or grant
431 shall be eligible for a contract award which results from action of a Council recommendation.

432 § 9-340. Unsolicited proposals.

433 The Governor or the General Assembly may direct any state agency to perform a public/private
434 performance analysis covering any service for which the Council has received a qualifying unsolicited
435 proposal from a private entity which is consistent with the Council's purposes and duties as provided in
436 § 9-336.

437 § 9-341. Public/private performance analysis.

438 A. The Council shall use the procurement methods cited in the Virginia Public Procurement Act
439 (§ 11-35 et seq.) to solicit proposals and bids from private entities in order to make cost comparison
440 decisions. However, the Council shall not execute contracts.

441 B. The Council shall explore methods to encourage state agencies to compete for contracts.

442 § 9-342. Duties of the Department of Planning and Budget.

443 The Department of Planning and Budget shall determine the amount of the existing appropriation no
444 longer needed by the state agency or institution and shall unallot such funding. The Department shall
445 also ensure that all appropriate reporting requirements to the Governor and the General Assembly are
446 met. Nothing in this section shall preclude the Governor from recommending in future budget
447 submissions the restoration of a portion of the original appropriation to the state agency or institution.

448 § 9-343. Reports to Governor and General Assembly.

449 The Council shall annually by December 1 report its findings and recommendations to the Governor
450 and the General Assembly. The Council may make interim reports to the Governor and the General
451 Assembly as it deems advisable.