

LD2900180

SENATE BILL NO. 994

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 20, 1995)

(Patron Prior to Substitute—Senator Stosch)

A *BILL 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 9-344, relating to the Virginia Government Competition Act of 1995, including the creation of the Commonwealth Competition Council and establishment of the Taxpayer Dividend Fund and the Productivity Improvement Revolving Fund.*

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 a chapter numbered 43, consisting of sections numbered 9-334 through 9-344, 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.

60 Department of Transportation.

61 Department of the Treasury.

62 Department of Veterans' Affairs.

63 Department for the Visually Handicapped.

64 Department of Youth and Family Services.

65 Governor's Employment and Training Department.

66 § 2.1-1.7. State councils.

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

70 Adult Education and Literacy, Virginia Advisory Council for

71 Agricultural Council, Virginia

72 Alcohol and Drug Abuse Problems, Governor's Council on

73 Apprenticeship Council

74 Blue Ridge Regional Education and Training Council

75 Child Day Care and Early Childhood Programs, Virginia Council on

76 Child Day-Care Council

77 Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion

78 *Commonwealth Competition Council*

79 Commonwealth's Attorneys' Services Council

80 Developmental Disabilities Planning Council, Virginia

81 Disability Services Council

82 Equal Employment Opportunity Council, Virginia

83 Health Services Cost Review Council, Virginia

84 Housing for the Disabled, Interagency Coordinating Council on

85 Human Rights, Council on

86 Human Services Information and Referral Advisory Council

87 Indians, Council on

88 Interagency Coordinating Council, Virginia

89 Job Training Coordinating Council, Governor's

90 Land Evaluation Advisory Council

91 Local Debt, State Council on

92 Long-Term Care Council

93 Maternal and Child Health Council

94 Military Advisory Council, Virginia

95 Needs of Handicapped Persons, Overall Advisory Council on the

96 Prevention, Virginia Council on Coordinating

97 Public Records Advisory Council, State

98 Rate-setting for Children's Facilities, Interdepartmental Council on

99 Revenue Estimates, Advisory Council on

100 Southside Virginia Marketing Council

101 Specialized Transportation Council

102 State Health Benefits Advisory Council

103 Status of Women, Council on the

104 Technology Council, Virginia

105 Virginia Business-Education Partnership Program, Advisory Council on the

106 Virginia Recycling Markets Development Council.

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

109 Council on Information Management

110 Higher Education, State Council of

111 Independent Living Council, Statewide

112 Rehabilitation Advisory Council, Statewide

113 Rehabilitation Advisory Council for the Blind, Statewide

114 World Trade Council, Virginia.

115 § 2.1-20.4. Bodies receiving compensation.

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

118 Accountancy, Board for

119 Agriculture and Consumer Services, Board of

120 Air Pollution Control Board, State

121 Airports Authority, Virginia

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

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

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

215 § 9-6.23. (Effective July 1, 1995) Prohibition against service by legislators on boards and
216 commissions within the executive branch.

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

237 § 9-6.25:1. Advisory boards, commissions and councils.

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

240 Advisory Board for the Department for the Deaf and Hard-of-Hearing
241 Advisory Board for the Department for the Aging
242 Advisory Board on Child Abuse and Neglect
243 Advisory Board on Medicare and Medicaid
244 Advisory Board on Occupational Therapy

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

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

363 CHAPTER 43.

364 VIRGINIA GOVERNMENT COMPETITION ACT OF 1995.

365 § 9-334. Short title.

366 This chapter shall be known and may be cited as the "Virginia Government Competition Act of
367 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; conduct public and private performance analyses; and certify the savings or revenues, if applicable, from increased competition with the private sector.

8. Devise 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.

All agencies of the Commonwealth shall cooperate with the Council and, upon request, assist the Council in the performance of its duties and responsibilities.

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

429 A. The Council shall employ such staff as necessary to enable it to perform its duties. It shall
430 determine the duties, salaries and compensation of such staff with amounts appropriated for such
431 purpose from funds in the Taxpayer Dividend Fund and appropriated for such purpose as provided in
432 § 9-342.

433 B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private
434 sources to enable it to better carry out its objectives.

435 § 9-340. Unsolicited proposals.

436 The Governor or the General Assembly may direct any state agency to perform a public/private
437 performance analysis covering any service for which the Council has received a qualifying unsolicited
438 proposal from a private entity which is consistent with the Council's purposes and duties as provided in
439 § 9-336.

440 § 9-341. Public/private performance analysis.

441 A. The Council shall use the procurement methods cited in the Virginia Public Procurement Act
442 (§ 11-35 et seq.) to solicit proposals and bids from private entities in order to make cost comparison
443 decisions.

444 B. All state agencies are encouraged to compete for a contract to provide the public service by
445 submitting its own proposal or bid.

446 § 9-342. Taxpayer Dividend Fund.

447 There is hereby established a special fund in the state treasury to be designated the "Taxpayer
448 Dividend Fund" into which shall be transferred the amounts that are derived from the savings or
449 revenues, if applicable, realized from either privatizing government activities or from the cost savings
450 resulting from increased competition, as certified by the Council. Moneys shall be disbursed from the
451 Fund as shall be provided from time to time in the appropriation act.

452 § 9-343. Productivity Improvement Revolving Fund.

453 There is hereby created a special fund in the state treasury to be designated the "Productivity
454 Improvement Revolving Fund" which shall consist of any amounts transferred from the Taxpayer
455 Dividend Fund as provided in the appropriation act. Such Fund shall be used to make loans to state
456 agencies to improve technology and productivity. The Fund shall be administered and managed by the
457 Council. The Council may establish the terms and conditions of any loan as it deems appropriate.

458 § 9-344. Reports to Governor and General Assembly.

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