

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 599

An Act to amend and reenact §§ 2.1-1.1, 2.1-1.3, 2.1-51.21:3, 2.1-51.40, 2.1-342, 9-6.25:1, 9-202, 9-204, 9-249.1, 9-285, 9-290, 9-333, 10.1-1425.7, 15.1-1377, 23-135.7:7, 36-139.6, 59.1-284.1, 63.1-133.41, and 63.1-133.45 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 32.2, consisting of articles numbered 1 and 2, consisting of sections numbered 2.1-548.44 through 2.1-548.52; and to repeal Articles 1 through 6 (§§ 2.1-548.6 through 2.1-548.25) of Title 2.1 of the Code of Virginia, relating to the creation of the Department of Business Assistance and the elimination of the Department of Economic Development.

[H 1449]

Approved April 5, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.1, 2.1-1.3, 2.1-51.21:3, 2.1-51.40, 2.1-342, 9-6.25:1, 9-202, 9-204, 9-249.1, 9-285, 9-290, 9-333, 10.1-1425.7, 15.1-1377, 23-135.7:7, 36-139.6, 59.1-284.1, 63.1-133.41, and 63.1-133.45 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 32.2, consisting of articles numbered 1 and 2, consisting of sections numbered 2.1-548.44 through 2.1-548.52, as follows:

§ 2.1-1.1. Departments generally.

There shall be, in addition to such others as may be established by law, the following administrative departments and divisions of the state government:

Chesapeake Bay Local Assistance Department.

Department of Accounts.

Department for the Aging.

Department of Agriculture and Consumer Services.

Department of Alcoholic Beverage Control.

Department of Aviation.

Department of Business Assistance.

Department of Conservation and Recreation.

Department of Corporations.

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 Employee Relations Counselors.

Department of Environmental Quality.

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 Law.

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.
Department of Transportation.
Department of the Treasury.
Department of Veterans' Affairs.
Department for the Visually Handicapped.
Department of Workers' Compensation.
Department of Youth and Family Services.
Governor's Employment and Training Department.

§ 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 Business Assistance.
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.
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.

§ 2.1-51.21:3. Virginia Advisory Council for Adult Education and Literacy established; membership; terms; powers and duties; biennial state plan; office space and agency cooperation.

A. There is hereby created the Virginia Advisory Council for Adult Education and Literacy, hereinafter referred to as the "Advisory Council." The Advisory Council shall, through the exercise of its powers and performance of its duties, recommend an integrated and coordinated multi-agency approach for the delivery of quality adult education and literacy programs, services, and philosophies.

For the purposes of this section, "adult education and literacy" means adult basic education, adult literacy education, adult secondary education, and the General Education Development (G.E.D.) preparation program.

The Advisory Council shall consist of fifteen members, eleven of whom are to be appointed by the Governor as follows: one representative each from the Board of Education, Board for Virginia Community Colleges, Board of Correctional Education, Board of Social Services, State Library Board, Governor's Job Training Coordinating Council, Department of ~~Economic Development~~ *Business Assistance*, Virginia Employment Commission, State Council of Higher Education, Virginia Literacy Foundation Board, and Virginia Board for People with Disabilities. The Secretaries of Education, Health and Human Resources, Public Safety, and Commerce and Trade or their designees shall serve as ex officio members. The chairman and vice chairman of the Advisory Council shall be appointed by the Governor from among its membership.

~~Of the members initially appointed by the Governor to the Advisory Council, four shall serve for two years, four for three years, and three for four years. Thereafter, All appointed members so appointed~~ shall serve for four-year terms. Appointments to fill vacancies shall be made for the unexpired terms. Members shall not be eligible to serve more than two consecutive four-year terms, except that any member appointed to fill an initial term of less than four years or any member appointed to fill an unexpired term of less than four years shall be eligible to serve two additional consecutive four-year terms.

The Advisory Council shall meet at least four times a year, upon the call of the chairman. Members of the Advisory Council shall not be compensated; however, such members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties on behalf of the Advisory Council pursuant to § 2.1-20.3.

B. The powers and duties of the Advisory Council shall be to:

1. Facilitate the coordination of adult education and literacy services and programs among agencies of the Commonwealth;
2. Receive information and advice from state agency heads and representatives as necessary;
3. Recommend those policies, legislation, and funding that are needed to advance its purpose to the relevant Cabinet Secretaries, state agencies and boards;
4. Promote public/private partnerships and collaboration for adult education and literacy programs throughout the Commonwealth;
5. Promote education and literacy services for adults in need of such services;
6. Promote education and literacy services for foreign-born adults in need of such services; and
7. Represent and participate on behalf of the public sector in the Virginia Literacy Initiative, a public/private partnership for adult literacy education.

C. The Council shall develop a biennial state plan for adult education and literacy which shall include recommendations for policies and goals for adult education and literacy services; identify adult education and literacy needs and gaps in services; and address identified needs for adult education and literacy programs in the Commonwealth. The biennial state plan shall be submitted to the Secretaries of Education, ~~Economic Development~~ *Commerce and Trade*, Health and Human Resources, and Public Safety by July 1 of any year preceding each biennium budget year.

§ 2.1-51.40. Agencies for which Secretary of Commerce and Trade responsible.

The Secretary shall be responsible to the Governor for the following agencies: *Department of Business Assistance*, Department of Forestry, ~~Department of Economic Development~~, Department of Labor and Industry, Department of Mines, Minerals and Energy, Innovative Technology Authority, Virginia Employment Commission, Department of Professional and Occupational Regulation, Milk Commission, Department of Agriculture and Consumer Services, Department of Housing and Community Development, Department of Minority Business Enterprise, Virginia Agricultural Council, Virginia World Trade Council, Commission for the Arts, ~~Virginia Port Authority~~ and Virginia Marine Products Board.

The Governor, by executive order, may assign any state executive agency to the Secretary of Commerce and Trade, or reassign any agency listed in this section to another secretary.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.

A. Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives

of radio and television stations broadcasting in or into the Commonwealth. The custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within five work days after the receipt of the request by the public body which is the custodian of the requested records. Such citizen request shall designate the requested records with reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall not be necessary to invoke the provisions of this chapter and the time limits for response by the public body. The response by the public body within such five work days shall be one of the following responses:

1. The requested records shall be provided to the requesting citizen.

2. If the public body determines that an exemption applies to all of the requested records, it may refuse to release such records and provide to the requesting citizen a written explanation as to why the records are not available with the explanation making specific reference to the applicable Code sections which make the requested records exempt.

3. If the public body determines that an exemption applies to a portion of the requested records, it may delete or excise that portion of the records to which an exemption applies, but shall disclose the remainder of the requested records and provide to the requesting citizen a written explanation as to why these portions of the record are not available to the requesting citizen with the explanation making specific reference to the applicable Code sections which make that portion of the requested records exempt. Any reasonably segregatable portion of an official record shall be provided to any person requesting the record after the deletion of the exempt portion.

4. If the public body determines that it is practically impossible to provide the requested records or to determine whether they are available within the five-work-day period, the public body shall so inform the requesting citizen and shall have an additional seven work days in which to provide one of the three preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records. The public body may also make a reasonable charge for preparing documents produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records or documents, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the citizen requesting the information.

Official records maintained by a public body on a computer or other electronic data processing system which are available to the public under the provisions of this chapter shall be made reasonably accessible to the public at reasonable cost.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

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

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of

Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions of this chapter.

Criminal incident information relating to felony offenses shall not be excluded from the provisions of this chapter; however, where the release of criminal incident information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information.

2. (Effective until July 1, 1996) Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department or the Virginia Racing Commission.

2. (Effective July 1, 1996) Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

3. State income, business, and estate tax returns, personal property tax returns, scholastic records and personnel records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; however, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

Where the person who is the subject of medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall be reviewed only and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed to any person except the subject by the administrator or chief medical officer of the facility or except as provided by law.

For the purposes of this chapter such statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in subsection A of this section. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education, such right of access may be asserted by the subject person.

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or other papers held or requested by the mayor or other chief executive officer of any political subdivision which are specifically concerned with the evaluation of performance of the duties and functions of any locally elected official and were prepared after June 30, 1992, nor shall this exclusion apply to agenda packets prepared and distributed to public bodies for use at a meeting.

Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of the General Assembly held by the Division of Legislative Services shall not be released by the Division without the prior consent of the member.

5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the Commonwealth and any other writing protected by the attorney-client privilege.

6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of an active administrative investigation concerning a matter which is properly the subject of an executive or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

7. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

8. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

9. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

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

15. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services and records, documents and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

17. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

18. Financial statements not publicly available filed with applications for industrial development financings.

19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of ~~Economic Development~~ *Business Assistance*, the Virginia Economic Development Partnership, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

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

22. Documents as specified in § 58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher

education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

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

27. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

29. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Youth and Family Services, the Virginia Department of Youth and Family Services or any facility thereof to the extent as determined by the Director of the Department of Youth and Family Services, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

- (i) Security manuals, including emergency plans that are a part thereof;
- (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;
- (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;
- (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
- (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;
- (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;
- (vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and
- (viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development

Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

34. Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body which has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of this title, or by any county, city, or town.

42. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Care System pursuant to § 32.1-112.

43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of information from the records of completed investigations shall include, but is not limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. In the event an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

46. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or expansion of existing clinical health services, acquisition of major medical

equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

47. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

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

49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

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

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

52. Patient level data collected by the Virginia Health Services Cost Review Council and not yet processed, verified, and released, pursuant to § 9-166.7, to the Council by the nonprofit organization with which the Executive Director has contracted pursuant to § 9-166.4.

53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

55. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

a. Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

b. Surveillance techniques;

c. Installation, operation, or utilization of any alarm technology;

d. Engineering and architectural drawings of the Museum or any warehouse;

e. Transportation of the Museum's collections, including routes and schedules; or

f. Operation of the Museum or any warehouse used by the Museum involving the:

(1) Number of employees, including security guards, present at any time; or

(2) Busiest hours, with the maximum number of visitors in the Museum.

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

(i) Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

(ii) Surveillance techniques;

(iii) The installation, operation, or utilization of any alarm technology;

(iv) Engineering and architectural drawings of such government stores or warehouses;

(v) The transportation of merchandise, including routes and schedules; and

(vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:

a. Number of employees present during each shift;

- b. Busiest hours, with the maximum number of customers in such government store; and
- c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to § 54.1-2506.1.

58. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

59. All information and records acquired during a review of any child death by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

60. Investigative notes, correspondence, documentation and information provided to or produced by or for the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of completed investigations or audits in a form that does not reveal the identity of complainants or persons supplying information.

61. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 3 of subsection B of this section, or to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to, any public officer, official or employee at any level of state, local or regional government in the Commonwealth or to the compensation or benefits paid by any corporation organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their officers or employees. The provisions of this subsection, however, shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

CHAPTER 32.2.

DEPARTMENT OF BUSINESS ASSISTANCE.

Article 1.

General Provisions.

§ 2.1-548.44. Creation of Department; appointment of Director.

There is hereby created the Department of Business Assistance. The Department shall be headed by a Director who shall be appointed by the Governor to serve at his pleasure and for a term coincident with the Governor's.

§ 2.1-548.45. Powers and duties of Director.

The Director of the Department of Business Assistance, under the direction and control of the Governor, shall exercise such powers and perform such duties as are conferred or imposed upon him by law, and he shall perform such other duties as may be required of him by the Governor. The Director shall receive such compensation as may be provided by law.

§ 2.1-548.46. General powers of Department.

The Department or, with the approval of the Director, a division of the Department shall have the power to:

- 1. Employ such personnel as may be required to carry out the purposes of this chapter;*
- 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth;*
- 3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;*
- 4. Promulgate regulations and issue guidelines necessary or incidental to the performance of the duties or execution of the powers conferred under this title and other relevant chapters, which regulations shall be promulgated by the Department in accordance with the provisions of Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act; and*
- 5. Do all acts necessary or convenient to carry out the purposes of this chapter.*

§ 2.1-548.47. Duties of the Department.

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

- 1. Provide for training or retraining of individuals for specific employment opportunities at new or expanding business facilities in the Commonwealth;*
- 2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their growth and the creation and retention of jobs for Virginians;*
- 3. Establish an industry program which is the principal point of communication between basic employers in the Commonwealth and the state government which will address issues of significance to*

business;

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

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

§ 2.1-548.48. State agencies to furnish information and assistance.

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

Article 2.

Small Business Advisory Board.

§ 2.1-548.49. Creation of Board; membership; terms.

There is hereby created the Small Business Advisory Board. The Board shall consist of the Chairman of the Small Business Financing Authority and the Director of the Department of Minority Business Enterprise or their designees as voting *ex officio* members; thirteen voting members appointed by the Governor and subject to confirmation by the General Assembly; and the Director of the Department of Business Assistance and the District Director for Virginia of the U.S. Small Business Administration or their designees as nonvoting *ex officio* members. The appointed members of the Board shall represent small businesses as defined by the Small Business Financing Act (§ 9-197 *et seq.*). There shall be at least one member appointed from each congressional district who does business in that district and three members appointed at large from within the Commonwealth.

Terms of the appointed members shall be for four years except that appointments to fill vacancies shall be for the unexpired terms. No member appointed by the Governor shall serve more than two complete terms in succession.

§ 2.1-548.50. Officers of Board.

The Governor shall appoint one member of the Board to be Chairman. The Board shall annually elect one of its members as Vice-Chairman, and shall also elect annually a Secretary, who may or may not be a member of the Board. The Chairman, or in his absence, the Vice-Chairman, shall preside at all meetings of the Board. In the absence of both the Chairman and the Vice-Chairman at any meeting, the Board shall elect a chairman *pro tempore*, who shall preside at such meeting.

The Board shall meet at least semiannually, at the call of the Chairman, Director of the Department of Business Assistance or Governor or at the request of a majority of the Board members. A majority of the members shall constitute a quorum for the transaction of the business of the Board, and no vacancy in the membership of the Board shall impair the right of a quorum to exercise all the duties of the Board. Members of the Board shall serve without compensation but shall be reimbursed for actual expenses incurred in the discharge of their official duties, pursuant to § 14.1-5.

§ 2.1-548.51. Functions of the Board.

The Board shall advise the Department of Business Assistance on the small business programs, including, but not limited to, locally based centers to assist and develop small businesses. It shall make recommendations to the Director, the Secretary of Commerce and Trade, and the Governor concerning the actions that the Department of Business Assistance and the state government might take to enhance the growth of small businesses. Additionally, the Board shall be a resource to the Department of Business Assistance, the Secretary of Commerce and Trade, the Executive Director of the Virginia Economic Development Partnership, and the Governor as they conduct the economic development efforts of the Commonwealth.

§ 2.1-548.52. State agencies to furnish information and assistance.

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

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

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

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

Advisory Board for the Department for the Aging

Advisory Board on Child Abuse and Neglect

Advisory Board on Medicare and Medicaid

Advisory Board on Occupational Therapy

Advisory Board on Physical Therapy to the Board of Medicine

Advisory Board on Rehabilitation Providers

Advisory Board on Respiratory Therapy to the Board of Medicine

Advisory Board on Teacher Education and Licensure

Advisory Council on Revenue Estimates

Advisory Council on the Virginia Business-Education Partnership Program

Appomattox State Scenic River Advisory Board

Aquaculture Advisory Board

Art and Architectural Review Board
 Board for the Visually Handicapped
 Board of Directors, Virginia Truck and Ornamentals Research Station
 Board of Forestry
 Board of Military Affairs
 Board of Rehabilitative Services
 Board of Transportation Safety
 Board of Trustees of the Family and Children's Trust Fund
 Board of Visitors, Gunston Hall Plantation
 Board on Veterans' Affairs
 Catoctin Creek State Scenic River Advisory Board
 Cave Board
 Chickahominy State Scenic River Advisory Board
 Clinch Scenic River Advisory Board
 Coal Surface Mining Reclamation Fund Advisory Board
 Coastal Land Management Advisory Council, Virginia
 Commonwealth Competition Council
 Council on Indians
 Council on the Status of Women
 Debt Capacity Advisory Committee
 Emergency Medical Services Advisory Board
 Falls of the James Committee
~~Film Office Advisory Board~~
 Forensic Science Advisory Board
 Goose Creek Scenic River Advisory Board
 Governor's Council on Alcohol and Drug Abuse Problems
 Governor's Mined Land Reclamation Advisory Committee
 Hemophilia Advisory Board
 Human Services Information and Referral Advisory Council
~~Industrial Development Services Advisory Board~~
 Interagency Coordinating Council on Housing for the Disabled
 Interdepartmental Board of the State Department of Minority Business Enterprise
 Laboratory Services Advisory Board
 Litter Control and Recycling Fund Advisory Board
 Local Advisory Board to the Blue Ridge Community College
 Local Advisory Board to the Central Virginia Community College
 Local Advisory Board to the Dabney S. Lancaster Community College
 Local Advisory Board to the Danville Community College
 Local Advisory Board to the Eastern Shore Community College
 Local Advisory Board to the Germanna Community College
 Local Advisory Board to the J. Sargeant Reynolds Community College
 Local Advisory Board to the John Tyler Community College
 Local Advisory Board to the Lord Fairfax Community College
 Local Advisory Board to the Mountain Empire Community College
 Local Advisory Board to the New River Community College
 Local Advisory Board to the Northern Virginia Community College
 Local Advisory Board to the Patrick Henry Community College
 Local Advisory Board to the Paul D. Camp Community College
 Local Advisory Board to the Piedmont Virginia Community College
 Local Advisory Board to the Rappahannock Community College
 Local Advisory Board to the Southwest Virginia Community College
 Local Advisory Board to the Thomas Nelson Community College
 Local Advisory Board to the Tidewater Community College
 Local Advisory Board to the Virginia Highlands Community College
 Local Advisory Board to the Virginia Western Community College
 Local Advisory Board to the Wytheville Community College
 Maternal and Child Health Council
 Medical Advisory Board, Department of Motor Vehicles
 Medical Board of the Virginia Retirement System
 Migrant and Seasonal Farmworkers Board
 Motor Vehicle Dealer's Advisory Board
 Nottoway State Scenic River Advisory Board
 Personnel Advisory Board
 Plant Pollination Advisory Board

Private College Advisory Board
 Private Enterprise Commission
 Private Security Services Advisory Board
 Psychiatric Advisory Board
 Radiation Advisory Board
 Rappahannock Scenic River Advisory Board
 Recreational Fishing Advisory Board, Virginia
 Reforestation Board
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 St. Mary's Scenic River Advisory Committee
 State Advisory Board on Air Pollution
 State Advisory Board for the Virginia Employment Commission
 State Building Code Technical Review Board
 State Council on Local Debt
 State Health Benefits Advisory Council
 State Insurance Advisory Board
 State Land Evaluation Advisory Council
 State Networking Users Advisory Board
 State Public Records Advisory Council
 Statewide Independent Living Council
 Statewide Rehabilitation Advisory Council
 Statewide Rehabilitation Advisory Council for the Blind
 Staunton Scenic River Advisory Committee
 Telecommunications Relay Service Advisory Board
~~Tourism and Travel Services Advisory Board~~
 Virginia Advisory Commission on Intergovernmental Relations
 Virginia Advisory Council for Adult Education and Literacy
 Virginia Coal Mine Safety Board
 Virginia Coal Research and Development Advisory Board
 Virginia Commission for the Arts
 Virginia Commission on the Bicentennial of the United States Constitution
 Virginia Correctional Enterprises Advisory Board
 Virginia Council on Coordinating Prevention
 Virginia Equal Employment Opportunity Council
 Virginia Interagency Coordinating Council
 Virginia Military Advisory Council
 Virginia Public Buildings Board
 Virginia Recycling Markets Development Council
 Virginia Technology Council
 Virginia Transplant Council
 Virginia Veterans Cemetery Board
 Virginia Water Resources Research Center, Statewide Advisory Board
 Virginia Winegrowers Advisory Board.

§ 9-202. Membership; terms, compensation and expenses; Chairman, vice-chairman, secretary and treasurer; quorum; staff.

A. The Board shall consist of the State Treasurer or his designee and nine members who are not employees of the Commonwealth or of any political subdivision thereof who shall be appointed by the Governor and who shall have such small business experience as he may deem necessary or desirable. The appointment of members of the Board by the Governor shall be subject to confirmation by the General Assembly, if in session when such appointments are made, and if not in session, at the General Assembly's first session subsequent to the date such appointments are made. Unconfirmed appointments shall expire thirty days after the convening of the General Assembly. All members of the Board shall be residents of the Commonwealth. ~~Initial appointments shall be for terms as follows: one director for one year; two directors for two years; three directors for three years; and three directors for four years. Subsequent~~ Appointments shall be for terms of four years, except that appointments to fill vacancies shall be made for the unexpired terms. No member appointed by the Governor shall serve more than two complete terms in succession. The members of the Board shall receive no salaries but shall be paid travel and other expenses incurred to attend meetings or while otherwise engaged in the discharge of their duties, all as may be deemed appropriate by the Board.

B. The Governor shall appoint one member as Chairman. Five members of the Board shall constitute

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

§ 9-204. Executive Director; appointment; duties.

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

§ 9-249.1. Nonstock corporation to assist small businesses.

The Department of ~~Economic Development~~ *Business Assistance* is hereby authorized to establish a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.), Title 13.1 as an instrumentality to assist the Department in providing support to the small business segment of the economy of the Commonwealth. The Department is further authorized to do all things necessary to qualify such corporation as a certified development company under Subchapter V of the Small Business Investment Act of 1958 (15 U.S.C. § 695 et seq.), or any amendment or successor statute thereto, as well as regulations promulgated thereunder by the United States Small Business Administration. Any action by the Department to establish such a corporation prior to July 1, 1986, is hereby ratified and approved.

§ 9-285. Technical Advisory Committee.

There is created a Technical Advisory Committee to the Council which shall consist of the Commissioner of Social Services, the Commissioner of the Virginia Employment Commission, the Director of the Department of ~~Economic Development~~ *Business Assistance*, and the Superintendent of Public Instruction or their designees. The Technical Advisory Committee shall provide technical and support services on child day care and early childhood development as the Council may deem appropriate, and advise the Council in carrying out its powers and duties. Members of the Technical Advisory Committee shall receive no compensation for their services but shall be paid their necessary expenses incurred in the discharge of their duties.

§ 9-290. Agency support to the Council.

The Department of ~~Economic Development~~ *Business Assistance*, the Department for Education, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Social Services, the State Department of Health and the Virginia Employment Commission shall, at the request of the Council, provide administrative support to the Council and perform such other services as the Council may direct in executing its powers and duties. In addition, all agencies and state institutions of higher education of the Commonwealth shall cooperate with the Council upon its request.

§ 9-333. Commission staff.

The Department of ~~Economic Development~~ *Business Assistance* shall serve as staff to the Commission. All agencies of the Commonwealth shall assist the Commission upon request.

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

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

§ 15.1-1377. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

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

whose term of office shall have expired shall continue to hold office until his successor shall be appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1. No director shall be an officer or employee of the municipality except in towns under 3,500 people where members of the town governing body may serve as directors provided they do not comprise a majority of the board. Every director shall, at the time of his appointment and thereafter, reside in the municipality or municipalities with respect to which the authority is organized; however, any person residing within any municipality adjoining the boundaries of the municipality or municipalities with respect to which the authority is organized shall be deemed a resident of such municipality for the purposes of this chapter. When a director ceases to be a resident of the municipality or any adjoining municipality with respect to which the authority upon which he serves is organized, such director's office shall be vacant and a new director may be appointed for the remainder of the term so vacated. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors shall be elected. The directors shall receive no salary but the directors may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed fifty dollars per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 2.1-164, it shall arrange to have the same audited annually. Copies of each such audit shall be furnished to the governing body of the municipality and shall be open to public inspection.

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

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

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

1. The Advisory Board shall be authorized to advise on those matters set forth in § 23-135.7:2.
2. Representatives to the Advisory Board shall be appointed by the Board of Visitors of Virginia Polytechnic Institute and State University.
3. The Board of Visitors of Virginia Polytechnic Institute and State University shall also appoint such other individuals as they deem necessary to the work of the Advisory Board.
4. Representatives from the Department of Conservation and Historic Resources, the Department of ~~Economic Development~~ *Business Assistance*, the Department of Mines, Minerals and Energy, the Department of Labor and Industry, the Virginia Port Authority, the institutions of higher education, excluding Virginia Polytechnic Institute and State University, and the Community College System shall serve as the Advisory Board.

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

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

1. To recommend to the Governor the level of state general appropriation funding for each planning district commission, taking into consideration the minimum funding level necessary for operation, the population of each district, and other factors considered appropriate;
2. To distribute state general appropriation funding to planning district commissions consistent with the provisions of this chapter and Chapter 34 (§ 15.1-1400 et seq.) of Title 15.1;
3. To administer the Regional Cooperation Incentive Fund in accordance with § 15.1-1412.1;
4. To provide technical assistance to planning district commissions regarding regional approaches to area-wide problems. Assistance may be initiated by the Department, individual local governments, or planning district commissions;
5. To require the submission of annual programmatic and financial information by each planning district commission in a format prescribed by the Director;
6. To prepare a biennial report to the Governor and the General Assembly which identifies the activities and other information deemed appropriate by the Director concerning planning district commissions, including findings as to planning district commissions which are not complying with

Chapter 34 (§ 15.1-1400 et seq.) of Title 15.1. Copies of the biennial report shall also be sent to the Commission on Local Government, *Department of Business Assistance*, Department of Conservation and Recreation, ~~Department of Economic Development~~, Department of Environmental Quality, Department of Planning and Budget, Department of Transportation, Virginia Employment Commission, and others upon request; and

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

§ 59.1-284.1. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Small Business Financing Authority established in § 9-201.

"Board" means the Board of Directors of the Authority.

"Department" means the Virginia Department of ~~Economic Development~~ *Business Assistance*.

"Fund" means the Virginia Economic Development Revolving Fund.

"Local government" means any county, city, town, municipal corporation, authority, district commission, or political subdivision created by the General Assembly or pursuant to the Constitution or laws of the Commonwealth or any combination of any two or more of the foregoing.

"Project" means any economic development project undertaken by a local government or a business to assist in creation or retention of jobs.

§ 63.1-133.41. Virginia Independence Program (VIP); purpose; administration.

There is hereby created the Virginia Independence Program, hereinafter in this chapter referred to as the "Program." The Job Opportunities and Basic Skills Training Program shall be implemented in the Commonwealth as the Virginia Independence Program and the Virginia Initiative for Employment not Welfare.

The goals of the Program are to:

1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;
2. Provide Virginia families living in poverty with the opportunities and work skills necessary for self-sufficiency;
3. Allow Virginia families living in poverty to contribute materially to their own self-sufficiency;
4. Set out the responsibilities of and expectations for recipients of public assistance and the government; and
5. Provide Virginia families living in poverty with the opportunity to obtain work experience through the Virginia Initiative for Employment not Welfare (VIEW).

None of the provisions of this chapter shall be construed or interpreted to create any rights, causes of action, administrative claims or exemptions to the provisions of the Program, except as specifically provided in §§ 63.1-133.43, 63.1-133.48, 63.1-133.51 and 63.1-133.53.

The Department of Social Services (the Department) shall administer the Program. The Department shall be assisted by the Department of ~~Economic Development~~ *Business Assistance*, the Virginia Employment Commission and the Governor's Employment and Training Department.

§ 63.1-133.45. Participation; coordinated services.

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

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

C. The Department shall be responsible for the coordination of the intensive case management. Job training shall be facilitated by the Governor's Employment and Training Department. Job finding and job matching leading to independent employment shall be facilitated by the Virginia Employment Commission and the Department of ~~Economic Development~~ *Business Assistance*.

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

E. The Secretary of Health and Human Resources shall:

1. Increase public awareness of the federal earned income credit and encourage families who may be

eligible to apply for this tax credit.

2. Pursue aggressive child-support initiatives as established by the General Assembly.
3. Work with community providers to develop adoption, education, family planning, marriage, parenting, and training options for Program participants.
4. Increase public awareness of the tax advantages of relocating one's residence in order to secure employment.
5. Provide leadership for the development of community work experience opportunities in VIEW.
6. Develop strategies to educate, assist and stimulate employers to hire participants and to provide community work experience opportunities, in consultation with the Advisory Commission on Welfare Reform, representatives of employers, and other relevant public and private agencies on the state and local level.
7. Provide technical assistance to local departments of social services to assist them in working with employers in the community to develop job and community work experience opportunities for participants.

2. That Articles 1 through 6 (§§ 2.1-548.6 through 2.1-548.25) of Title 2.1 of the Code of Virginia are repealed.

3. That the Secretary of Commerce and Trade, in cooperation with the Director of the Department of Business Assistance, the Commissioner of the Department of Labor and Industry, the Commissioner of the Virginia Employment Commission, and representatives of labor and business organizations, shall examine the (i) Commonwealth's apprenticeship programs and (ii) operations of the Virginia Employment Commission in order to enhance employment opportunities and foster on-the-job training for the citizens of the Commonwealth. As part of this examination, consideration shall be given to ways to coordinate the creation of apprenticeship programs at businesses in Virginia with the Commonwealth's overall business retention efforts in a manner that promotes the development of new skills by apprentices. The Secretary shall also examine ways to more fully integrate the Virginia Employment Commission into the Commonwealth's existing business retention and expansion programs. The Secretary shall report his findings in a report to be submitted to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 1996.