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HOUSE BILL NO. 1448

Offered January 22, 1996

A *BILL to amend and reenact §§ 2.1-1.1, 2.1-51.6:1, 2.1-51.6:2, 2.1-51.40, 2.1-384, 2.1-548.29, 2.1-548.32, 2.1-548.43, 9-6.14:4.1, 9-145.39:2, 9-145.39:7, 9-275, 9-276.1, 13.1-983, 13.1-985, 15.1-1638, 15.1-1653, 15.1-1664, 33.1-221.1:1, 36-139.6, 46.2-750, and 58.1-439 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 2.1-548.29:01, 2.1-548.29:02, and 2.1-548.29:03; 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 elimination of the Department of Economic Development and the transfer of responsibilities to the Virginia Economic Development Partnership.*

Patrons—Cantor and Kilgore; Senators: Colgan and Hawkins

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.1, 2.1-51.6:1, 2.1-51.6:2, 2.1-51.40, 2.1-384, 2.1-548.29, 2.1-548.32, 2.1-548.43, 9-6.14:4.1, 9-145.39:2, 9-145.39:7, 9-275, 9-276.1, 13.1-983, 13.1-985, 15.1-1638, 15.1-1653, 15.1-1664, 33.1-221.1:1, 36-139.6, 46.2-750, and 58.1-439 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 2.1-548.29:01, 2.1-548.29:02, and 2.1-548.29:03 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 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.

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60 Department of Professional and Occupational Regulation.
61 Department of Rail and Public Transportation.
62 Department of Rehabilitative Services.
63 Department for Rights of Virginians With Disabilities.
64 Department of Social Services.
65 Department of State Police.
66 Department of Taxation.
67 Department of Transportation.
68 Department of the Treasury.
69 Department of Veterans' Affairs.
70 Department for the Visually Handicapped.
71 Department of Workers' Compensation.
72 Department of Youth and Family Services.
73 Governor's Employment and Training Department.

74 § 2.1-51.6:1. Economic Development Contingency Fund.

75 There is hereby created a Governor's Economic Development Contingency Fund to be used in the
76 discretion of the Governor to attract economic development prospects and secure the expansion of
77 existing industry. The fund shall consist of any funds appropriated to it in the general appropriations act
78 or revenue from any other source. The fund shall be established on the books of the Comptroller and
79 any funds remaining in such fund at the end of a biennium shall not revert to the general fund but shall
80 remain in the fund. Interest earned on the fund shall be credited to the fund.

81 The ~~Department of Economic Development~~ *Virginia Economic Development Partnership* shall assist
82 the Governor in the development of guidelines for the use of the fund. The guidelines should include
83 provisions for geographic diversity and a cap on the amount of money available for a certain project.

84 The Governor shall report quarterly on the uses of the fund to the Chairmen of the House
85 Appropriations and Senate Finance Committees.

86 § 2.1-51.6:2. Governor's Development Closing Fund.

87 There is hereby created a Governor's Development Closing Fund to be used, in the sole discretion of
88 the Governor, to attract economic development prospects and secure the expansion of existing industry
89 in the Commonwealth. The fund shall consist of any funds appropriated to it in the general
90 appropriations act or revenue from any other source. The fund shall be established on the books of the
91 Comptroller and any funds remaining in such fund at the end of a biennium shall not revert to the
92 general fund but shall remain in the fund. Interest earned on the fund shall be credited to the fund.

93 The fund shall be used by the Governor for transportation improvements, expansion or construction
94 of water and sewer facilities or other capital facilities. The ~~Department of Economic Development~~
95 *Virginia Economic Development Partnership* shall assist the Governor in the development of guidelines
96 for the use of the fund. The guidelines should include provisions for geographic diversity and a cap on
97 the amount of money available for a certain project.

98 In each case where the Governor chooses to use any funds, the Governor shall report the following:
99 the dollars provided from the fund; the economic impact of the facility to the region; projected
100 employment, payroll and related benefits to the region; and the estimated impact on state and local
101 revenues. The Governor shall submit such report quarterly to the Chairmen of the House Appropriations
102 and Senate Finance Committees.

103 § 2.1-51.40. Agencies for which Secretary of Commerce and Trade responsible.

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

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

113 § 2.1-384. Systems to which chapter inapplicable.

114 The provisions of this chapter shall not be applicable to personal information systems:

- 115 1. Maintained by any court of this Commonwealth;
- 116 2. Which may exist in publications of general circulation;
- 117 3. Contained in the Criminal Justice Information System as defined in §§ 9-184 through 9-196;
- 118 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
119 16.1-225;
- 120 5. Maintained by agencies concerning persons required to be licensed by law in this Commonwealth
121 to engage in the practice of any professional occupation, in which case the names and addresses of

persons applying for or possessing any such license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing such licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided such disseminating agency is reasonably assured that the use of such information will be so limited;

6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission and the Department of Alcoholic Beverage Control;

7. Maintained by the Department of State Police; police departments of cities, counties, and towns; and the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23, and which deal with investigations and intelligence gathering relating to criminal activity; and maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;

8. Maintained by the Virginia Port Authority as provided in § 62.1-134.1 or § 62.1-132.4;

9. Maintained by the ~~Department of Economic Development~~ *Virginia Economic Development Partnership* in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the ~~Department of Economic Development~~ *Virginia Economic Development Partnership* is reasonably assured that the use of such information will be so limited;

10. Maintained by the Divisions of Consolidated Laboratory Services and Forensic Science of the Department of General Services, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 2.1-434.11 may be applicable;

11. Maintained by the Department of Corrections which deal with investigations and intelligence gathering by persons acting under the provisions of § 53.1-16; and

12. Maintained by the Department of the State Internal Auditor or internal audit departments of state agencies or institutions which deal with communications and investigations relating to the State Employee Fraud, Waste and Abuse Hotline.

§ 2.1-548.29. Economic development services.

It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities:

1. To see that there are prepared and carried out effective economic development marketing and promotional programs;

2. To make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. To formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. To encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. To encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities; ~~and~~

6. To establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade; *and*

7. *To encourage the export of products and services from the Commonwealth to international markets.*

§ 2.1-548.29:01. *Tourism promotion and development.*

It shall also be the duty of the Authority to:

1. *See that there is prepared and carried out an effective tourism promotional program;*

2. *Make available, in conjunction and cooperation with public institutions, regions, private organizations, communities, and private industry engaged in similar or related work, basic information and pertinent factors of interest and concern to tourists and the travel industry;*

3. *Operate welcome centers and to establish such other offices within and without the Commonwealth that are necessary to inform public of places of interest within the Commonwealth and provide such other information and services deemed necessary; and*

4. *Assist, solicit, and encourage organizations involved in television broadcasts and motion pictures to utilize the attractions and features of the Commonwealth.*

§ 2.1-548.29:02. *Administration of tourism advertising funds.*

183 *The Executive Director of the Authority, with the permission of the Board, shall administer state*
184 *advertising funds and expend such funds for advertising the resources and advantages of the*
185 *Commonwealth and in the promotion of tourism.*

186 § 2.1-548.29:03. *Cooperative Tourism Advertising Fund.*

187 A. *There is hereby established the Cooperative Tourism Advertising Fund (Co-op Fund) for the*
188 *purpose of encouraging, stimulating, and supporting the tourism segment of the economy of the*
189 *Commonwealth and the direct and indirect benefits that flow from the success of such industry. To*
190 *create the public-private partnership envisioned by such Co-op Fund, the Co-op Fund shall be*
191 *established out of the sums appropriated from time to time by the General Assembly for the purpose of*
192 *matching private funds to be used for the promotion, marketing, and advertising of the Commonwealth's*
193 *many tourist attractions and locations. Proposals shall be eligible for matching funds under this section*
194 *only if they advertise locations or destinations solely within the territorial limits of the Commonwealth.*
195 *No advertising or marketing proposal or application which mentions a non-Virginia attraction or*
196 *location shall qualify for matching funds. The Co-op Fund shall be administered and managed by the*
197 *Authority and expended pursuant to a formula contained in the general appropriation act.*

198 B. *In the event more than one person seeks to take advantage of the benefits conferred by this*
199 *section and the Co-op Fund is insufficient to accommodate all such requests, the matching formula shall*
200 *be adjusted, to the extent practicable, to afford each request for which there is a valid public purpose*
201 *an equitable share.*

202 C. *All persons seeking to receive or qualify for such matching funds shall apply to the Authority in*
203 *August of the year preceding the fiscal year for which funds are sought, and to the extent the Governor*
204 *concurs in such funding request, it shall be reflected in the Governor's Budget Bill filed pursuant to*
205 *§ 2.1-399. Such application shall be set forth in the applicant's proposals in detail. The Authority shall*
206 *develop guidelines setting forth the criteria it will weigh in considering such applications; such*
207 *guidelines may indicate a preference for proposals submitted by nonprofit organizations.*

208 § 2.1-548.32. *Powers and duties of the Executive Director.*

209 The Executive Director shall employ or retain such agents or employees subordinate to the Executive
210 Director as may be necessary to fulfill the duties of the Authority conferred upon the Executive
211 Director, subject to the Board's approval. *Employees of the Authority shall be eligible for membership in*
212 *the Virginia Retirement System and the health and related insurance for state employees as provided in*
213 *§ 2.1-20.1. The Executive Director shall also exercise such of the powers and duties relating to the*
214 *direction of the Commonwealth's economic development efforts conferred upon the Authority as may be*
215 *delegated to him by the Board, including powers and duties involving the exercise of discretion. The*
216 *Executive Director shall also exercise and perform such other powers and duties as may be lawfully*
217 *delegated to him or as may be conferred or imposed upon him by law.*

218 § 2.1-548.43. *Nonstock corporation to assist economic development.*

219 The Board is hereby authorized to establish nonprofit, nonstock corporations under Chapter 10
220 (§ 13.1-801 et seq.) of Title 13.1 as public instrumentalities exercising public and essential governmental
221 functions, to assist the Board and the Authority in (i) promoting Virginia's economic development *and*
222 *tourism promotion* efforts in the national and international corporate community; (ii) raising money in
223 the corporate and nonprofit community to pay for advertising and promotion of the Commonwealth; (iii)
224 raising nonstate dollars to complement state and local economic development activities; or (iv)
225 conducting or undertaking other activities useful in carrying out the provisions of this article.

226 The Board of Directors of any such corporation shall be composed of the Executive Director of the
227 Virginia Economic Development Partnership and eight members appointed by the Board. *However, any*
228 *such corporation established to promote the tourism industry in the Commonwealth shall be composed*
229 *of the Executive Director of the Authority, six members appointed by the Board, and six members who*
230 *represent the tourism industry appointed by the Governor. The terms of the members of any corporation*
231 *established to promote the tourism industry in the Commonwealth appointed by the Governor shall be*
232 *four years.*

233 The Board shall require any such corporation to report to it *at least* annually on its activities.

234 § 9-6.14:4.1. *Exemptions and exclusions.*

235 A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the
236 following agencies are exempted from the provisions of this chapter, except to the extent that they are
237 specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

238 1. The General Assembly.

239 2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly
240 granted any of the powers of a court of record.

241 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the
242 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2
243 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7
244 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.
 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities, except for those created under Chapter 27 (§ 15.1-1228 et seq.) of Title 15.1.
 6. Educational institutions operated by the Commonwealth provided that, with respect to § 9-6.14:22, such educational institutions shall be exempt from the publication requirements only with respect to regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.
 7. The Milk Commission in promulgating regulations regarding (i) producers' license and base, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.
 8. The Virginia Resources Authority.
 9. Agencies expressly exempted by any other provision of this Code.
 10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments to the Formulary pursuant to § 32.1-81.
 11. The Council on Information Management.
 12. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.1-526.14.
 - 13, 14. [Repealed.]
 15. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23-9.6:2.
 16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.1-726.
 17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4, subsection B of § 3.1-126.12:1, § 3.1-271.1, subsections B and C of § 3.1-828.4, and subsection A of § 3.1-884.21:1.
 18. The Board of Medicine when specifying therapeutic pharmaceutical agents for the treatment of certain conditions of the human eye and its adnexa by certified optometrists pursuant to § 54.1-2957.2.
 19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating amendments to the Physician's Assistant Formulary established pursuant to § 54.1-2952.1.
 20. The Boards of Medicine and Nursing in promulgating amendments to the Nurse Practitioner Formulary established pursuant to § 54.1-2957.01.
 21. The Virginia War Memorial Foundation.
 22. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
 23. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-280.3.
 24. *The Virginia Economic Development Partnership Authority.*
- B. Agency action relating to the following subjects is exempted from the provisions of this chapter:
 1. Money or damage claims against the Commonwealth or agencies thereof.
 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
 3. The location, design, specifications or construction of public buildings or other facilities.
 4. Grants of state or federal funds or property.
 5. The chartering of corporations.
 6. Customary military, naval or police functions.
 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
 8. The conduct of elections or eligibility to vote.
 9. Inmates of prisons or other such facilities or parolees therefrom.
 10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
 11. Traffic signs, markers or control devices.
 12. Instructions for application or renewal of a license, certificate, or registration required by law.
 13. Content of, or rules for the conduct of, any examination required by law.
 14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter 14 of Title 2.1.
 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the State Lottery Board, and provided that such regulations are

306 published and posted.

307 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
308 finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8, Title 28.2.

309 17. Any operating procedures for review of child deaths developed by the State Child Fatality
310 Review Team pursuant to § 32.1-283.1.

311 C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia
312 Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

313 1. Agency orders or regulations fixing rates or prices.

314 2. Regulations which establish or prescribe agency organization, internal practice or procedures,
315 including delegations of authority.

316 3. Regulations which consist only of changes in style or form or corrections of technical errors. Each
317 promulgating agency shall review all references to sections of the Code of Virginia within their
318 regulations each time a new supplement or replacement volume to the Code of Virginia is published to
319 ensure the accuracy of each section or section subdivision identification listed.

320 4. Regulations which:

321 (a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no
322 agency discretion is involved;

323 (b) Are required by order of any state or federal court of competent jurisdiction where no agency
324 discretion is involved; or

325 (c) Are necessary to meet the requirements of federal law or regulations, provided such regulations
326 do not differ materially from those required by federal law or regulation, and the Registrar has so
327 determined in writing; notice of the proposed adoption of these regulations and the Registrar's above
328 determination shall be published in the Virginia Register not less than thirty days prior to the effective
329 date thereof.

330 5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of
331 this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public
332 health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law
333 or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of
334 the law or the appropriation act or the effective date of the federal regulation, and the regulation is not
335 exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in
336 writing the nature of the emergency and of the necessity for such action and may adopt such regulations
337 with the prior approval of the Governor. Such regulations shall be limited to no more than twelve
338 months in duration. During the twelve-month period, an agency may issue additional emergency
339 regulations as needed addressing the subject matter of the initial emergency regulation, but any such
340 additional emergency regulations shall not be effective beyond the twelve-month period from the
341 effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject
342 matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace
343 the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this
344 chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be
345 published within sixty days of the effective date of the emergency regulation, and the proposed
346 replacement regulation shall be published within 180 days after the effective date of the emergency
347 regulation.

348 6. [Repealed.]

349 7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to
350 subsection C of § 10.1-1322.2.

351 8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or
352 clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board
353 meetings and one public hearing.

354 Whenever regulations are adopted under this subsection C, the agency shall state as part thereof that
355 it will receive, consider and respond to petitions by any interested person at any time with respect to
356 reconsideration or revision. The effective date of regulations adopted under this subsection shall be in
357 accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall
358 become effective as provided in subsection A of § 9-6.14:9.

359 D. The following agency actions otherwise subject to this chapter are excluded from the operation of
360 Article 3 (§ 9-6.14:11 et seq.) of this chapter:

361 1. The assessment of taxes or penalties under the tax laws.

362 2. The award or denial of claims for workers' compensation.

363 3. The grant or denial of public assistance.

364 4. Temporary injunctive or summary orders authorized by law.

365 5. The determination of claims for unemployment compensation or special unemployment.

366 6. The award or denial of individual student loans by the Virginia Education Loan Authority.

367 7. The determination of applications for guaranty of individual student loans or the determination of

default claims by the State Education Assistance Authority.

E. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act, is excluded from the operation of subsection C of this section and of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter; however, the authorization for any general permit or guidelines for activity undertaken pursuant to Title 62.1 by the Marine Resources Commission shall be in accordance with the provisions of this chapter.

F. A regulation for which an exemption is claimed under this section and which is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

G. The Joint Legislative Audit and Review Commission shall conduct a review periodically of exemptions and exclusions authorized by this section. The purpose of this review shall be to assess whether there are any exemptions or exclusions which should be discontinued or modified.

H. Minor changes to regulations being published in the Virginia Administrative Code under the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

§ 9-145.39:2. Membership; chairman and vice chairman; meetings.

A. The Council shall be composed of one representative of each of the destination marketing organizations (DMOs) located in the Blue Ridge region, as defined in § 9-145.39:1; and the Director of Tourism for the Department of Economic Development's Tourism Development Group, or his designee; and the Director of Community Development for the Tourism Development Group of the Department of Economic Development the Virginia Economic Development Partnership.

B. The Council shall elect a chairman and a vice chairman from among its members. The Council shall meet at least four times a year and at such dates and times as they determine.

§ 9-145.39:7. Staff support; location.

The Alliance will be staffed by the Virginia Department of Economic Development Economic Development Partnership. The Alliance's offices will be housed in the Export Development Promotion Division of the Virginia Department of Economic Development Economic Development Partnership.

§ 9-275. Virginia World Trade Council; members; terms.

The Virginia World Trade Council is hereby established and shall be composed of eleven members.

The Council shall be composed of: the Executive Director of the Department of Economic Development Virginia Economic Development Partnership; the Commissioner of Agriculture and Consumer Services; the Executive Director of the Virginia Port Authority; the Executive Director of the State Council of Higher Education; and seven citizen members appointed by the Governor. At least four of the citizen members shall be associated with business enterprises actively engaged in exporting Virginia goods or services. The Governor shall designate one member to serve as chairman.

Citizen members of the Council shall serve for terms of four years. Effective July 1, 1992, additional citizen members shall be appointed to the Council as follows: one for a two-year term, one for a three-year term and one for a four-year term. Members appointed to the Council by the Governor shall not be eligible to serve more than two consecutive full terms.

§ 9-276.1. Functions of the Council.

The Council shall advise and make recommendations to the Executive Director of the Department of Economic Development Virginia Economic Development Partnership, the Commissioner of Agriculture and Consumer Services, and the Executive Director of the Virginia Port Authority, and to the Secretary of Commerce and Trade and the Governor concerning the promotion of exports of Virginia goods and services, especially in the following areas:

1. Policies, legislation and programs to foster export activity by Virginia businesses;
2. Identification of Virginia goods and services with the greatest potential for export;
3. Identification of foreign countries and businesses with the greatest potential to purchase Virginia goods and services;
4. Strategies for promoting the export of Virginia goods and services;
5. Means by which the Commonwealth may improve the awareness of Virginia businesses of the opportunities and need for trade in international markets;
6. National and international economic and trade initiatives and trends that potentially impact the export activities of Virginia businesses;
7. Means by which the scope and quality of international education programs in Virginia education institutions can be improved; and
8. Promotion and improvement of educational programs by both public and private entities relating to the means and methods of exporting.

§ 13.1-983. Incorporation.

An industrial development corporation may be incorporated in this the Commonwealth pursuant to

the provisions of Article 3 (§ 13.1-618 et seq.) of Chapter 9 of this title, and all the provisions of Chapter 9 (§ 13.1-601 et seq.) of this title not in conflict with or inconsistent with the provisions of this chapter shall apply to such corporation except as hereinafter otherwise provided. The purpose clause of the articles of incorporation shall recite that the purposes for which the corporation is formed are to stimulate and promote the business prosperity and economic welfare of ~~this~~ the Commonwealth and its citizens; to encourage and assist through financial aid, advice, technical assistance and other appropriate means the location of new businesses and industries and the rehabilitation, improvement and expansion of existing businesses and industries throughout the Commonwealth; and in furtherance of such purposes, to cooperate with the Virginia ~~Department of Economic Development~~ *Economic Development Partnership* and with other organizations, public and private.

§ 13.1-985. Governor to approve articles of incorporation.

The articles of incorporation shall not be issued by the Commission unless approved by the Governor in writing. Such approval shall not be given by the Governor until he first shall have sought the advice of the *Executive Director of the* ~~Department of Economic Development~~ *Virginia Economic Development Partnership*.

§ 15.1-1638. Board of Authority; members and officers; staff; annual report.

All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Virginia Coalfield Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Board members shall serve for terms of four years except that all vacancies shall be filled for the unexpired term. All terms shall commence July 1 of the year of appointment. Initial appointments shall begin July 1, 1988. The Board shall consist of fifteen members, residents of the Commonwealth, as follows:

Three initial members shall be the sitting chairmen of the county boards of supervisors of the three counties which are the three largest contributors to the coal and gas road improvement fund for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be supervisors from the county boards of supervisors of the three counties which are the three largest contributors to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin. Such supervisors shall be selected by their respective county boards of supervisors.

Five members shall be appointed by the Governor at large, provided that if there be any participating county or city in which there resides no member of the Board appointed by the other methods herein specified, the Governor shall include at least one member who is a resident of each such county or city among his appointees. For the first four-year terms these five members shall be selected to the extent possible from former members of the Southwest Virginia Economic Development Commission who reside in Planning District 1 or 2.

One member shall be a representative of the Virginia ~~Department of Economic Development~~ *Economic Development Partnership*, as designated by the *Executive Director of the* ~~Department~~ *Partnership*.

One member shall be a representative named by the Virginia Coal Association.

Two members shall be the Executive Directors of the LENOWISCO and Cumberland Plateau Planning District Commissions.

Three initial members shall be representatives named by the three largest coal producers determined by the dollar value of their contribution to the respective county coal and gas road improvement funds for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be representatives named by the three largest coal producers determined by the dollar value of their contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

Should a member who is a member solely by virtue of his office as member of a board of supervisors or executive director of a planning district commission cease to hold such office, then an immediate vacancy shall occur, and the vacancy shall be filled for the remainder of the term by his successor selected by the board of supervisors of his county or as executive director.

Each member of the Board shall, before entering upon the discharge of the duties of this office, take and subscribe the oath prescribed in § 49-1. They shall receive their expenses spent on business of the Authority.

Ten members of the Authority shall constitute a quorum and the affirmative vote of a majority of the quorum present shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board shall elect from its membership a chairman, a vice-chairman, a treasurer and a secretary for each calendar year. The secretary shall keep the minutes of the Board and affix the seal of the

Authority.

The Board may also appoint an executive director, an assistant treasurer and an assistant secretary, and staff to assist same, who shall discharge such functions as may be directed by the Board.

Staff functions of the Authority may be undertaken by the LENOWISCO and Cumberland Plateau Planning District Commissions, as agreed by the Board and participating Commissions.

The Board, promptly following the close of the calendar year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, the boards of supervisors of the seven coalfield counties and the Norton City Council. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year. The Authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant and the cost thereof may be treated as part of the expense of operation.

§ 15.1-1653. Board of Authority; members and officers; terms; annual report.

A. All powers, rights, and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of the Southside Virginia Development Authority, referred to as the Board or the Board of the Authority. The Board shall consist of twelve members, residents of Southside Virginia, to be appointed by the Governor as follows: three chairmen of county boards of supervisors; two members of city councils; two representatives of area planning district commissions; one representative of the ~~Department of Economic Development~~ *Virginia Economic Development Partnership*; and four citizen members, at least two of whom shall be residents of participating cities or counties not otherwise represented by another appointment.

B. Of the members to be appointed in 1992, the three chairmen of county boards of supervisors shall be appointed for two-, three-, and four-year terms, respectively; the two city council members shall be appointed for three- and four-year terms, respectively; the two planning district commission representatives shall be appointed for two- and three-year terms, respectively; the representative of the ~~Department of Economic Development~~ *Virginia Economic Development Partnership* shall be appointed for a three-year term; and two of the citizen members shall be appointed for two-year terms and two for four-year terms. Thereafter, all appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to serve for or during more than two successive four-year terms, but after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto.

Should a member who is a member solely by virtue of his office as chairman of a board of supervisors, a member of a city council, a representative of a planning district commission, or as a representative of the ~~Department of Economic Development~~ *Virginia Economic Development Partnership* cease to hold such office, then an immediate vacancy shall occur, and the vacancy shall be filled for the remainder of the term by his successor as chairman of the board of supervisors or as executive director.

Each member of the Board shall, before entering upon the discharge of the duties of this office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties.

C. Eight members of the Authority shall constitute a quorum, and the affirmative vote of a majority of the quorum present shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

D. The Board shall elect from its membership a chairman, a vice chairman, a treasurer and a secretary for each calendar year. The secretary shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director, an assistant treasurer and an assistant secretary, and staff to assist same, who shall discharge such functions as may be directed by the Board.

Staff functions of the Authority may be undertaken by Southside planning district commissions, as agreed by the Board and participating commissions.

E. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, the boards of supervisors, and the city councils of Southside Virginia. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

§ 15.1-1664. Board of Authority; members and officers; staff; annual report.

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Initial appointments shall begin July 1, 1993. The Board shall consist of seven members as follows: one representative of each of the region's governing bodies, or their designee, who shall be appointed by the respective governing

body and shall be residents of the region; four at-large members, who shall be appointed by the Governor and shall be residents of the region; and one member to be appointed by the *Executive Director of the Virginia Department of Economic Development Economic Development Partnership*. All members shall serve for a term of four years and may be reappointed for one additional term. For the initial appointments only, two of the four at large members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.

B. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties.

C. Four members of the Board shall constitute a quorum, and the affirmative vote of four members of the Board shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

D. The Board shall elect from its membership a chairman and a secretary-treasurer for each calendar year. The secretary-treasurer shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director and staff who shall discharge such functions as may be directed by the Board.

E. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, and the board of supervisors and city councils of the Region. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

§ 33.1-221.1:1. Fund for construction of industrial access railroad tracks.

A. The General Assembly declares it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial or industrial buildings or facilities. This section is enacted in furtherance of these purposes and is intended to be comparable to the Industrial Access Roads Fund, established pursuant to § 33.1-221.

B. The funding for this program shall be set forth in the Appropriations Act.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, such funds for constructing, reconstructing, or improving industrial access railroad tracks and related facilities. The Director of the Department of Rail and Public Transportation may consult with the Commissioner of Agriculture and Consumer Services and the *Executive Director of the Department of Economic Development Virginia Economic Development Partnership*, or their designated representatives, concerning applications for funds. Funds shall be spent directly by the Director of the Department of Rail and Public Transportation or by reimbursement of the local entities, private or public.

D. Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existent or prospective, for single industries or industrial subdivisions under firm contract or already constructed, including those subdivisions owned or promoted by railroad companies and others. Applications for funds must be approved by the local governing body.

E. In deciding whether to construct any such access track, the Commonwealth Transportation Board shall consider the cost thereof in relation to prospective volume of rail traffic, capital investment, potential employment, and other economic and public benefits. The Commonwealth Transportation Board shall adopt procedures to encourage widespread use of the funds, shall limit allocation of funds so that no county, city or town receives more than twenty-five percent of the funds in any one fiscal year unless there are not sufficient applications prior to May 1 of each year to use the available funds, and shall consider the practices of the Department of Transportation in distributing industrial access road funds under § 33.1-221.

F. Tracks and facilities constructed with such funds shall be the property of the Commonwealth for the useful life of the project as determined by the Director of the Department of Rail and Public Transportation and shall be made available for use by all common carriers using the railway system to which they connect. The landowners or using businesses shall, prior to the commitment of funds by the Director of the Department of Rail and Public Transportation, be contractually committed to the perpetual maintenance of such tracks and facilities so constructed and to the payment of any costs related to the future relocation or removal of such tracks and facilities.

§ 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~~ *Virginia Economic Development Partnership*, 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.

§ 46.2-750. Vehicles of Commonwealth and subdivisions.

A. Motor vehicles, trailers, and semitrailers owned by the Commonwealth and political subdivisions thereof and used solely for governmental purposes shall be registered and shall display license plates as provided in this section. The fee for such license plates shall be equal to the cost incurred by the Department in the purchase or manufacture of such license plates. The fees received by the Commissioner under this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department of Motor Vehicles.

License plates issued for vehicles owned by the Commonwealth, except plates issued to be used (i) on vehicles devoted solely to police work, (ii) by the ~~Department of Economic Development~~ *Virginia Economic Development Partnership* to the extent approved by the Governor, or (iii) by the Governor and the Attorney General, shall have conspicuously and legibly inscribed, stamped, or printed thereon words stating that the vehicle is for official state use only. The Commissioner shall reserve a unique series of numbers for use on such license plates and shall provide for a design and combination of colors which distinguish such license plates from those issued for vehicles owned by the counties, cities, and towns of the Commonwealth.

License plates issued for vehicles owned by counties, cities, and towns, except such plates issued to be used (i) on vehicles used by any local or regional economic development authority, agency, instrumentality, or organization, upon the request of the chief administrative officer of the affected locality (or, in the case of regional organizations, the chief administrative officer of any of the affected localities) or (ii) on vehicles devoted solely to police work, shall have conspicuously and legibly inscribed, stamped, or printed thereon words stating that the vehicle is for official local government use only. The Commissioner shall reserve a unique series of numbers for use on such license plates and shall provide for a design and combination of colors which distinguish such license plates from those issued for vehicles owned by the Commonwealth.

License plates issued for vehicles owned by the Commonwealth and the counties, cities, and towns thereof which have inscribed, stamped, or printed thereon the words "Public Use" may be used only on the vehicle for which they were issued prior to January 1, 1990, but in no case shall such license plates be used for any vehicle after December 31, 1992.

No other license plates shall be used on vehicles for which official use plates have been issued, except for vehicles used solely for police work and as provided in subsection B of this section.

B. In addition to any other license plate authorized by this section, the Commissioner may issue permanent or temporary license plates for use on vehicles owned by the Commonwealth or any of its departments, institutions, boards, or agencies and used for security or transportation purposes in conjunction with conferences, meetings, or other events involving the Governor or members of the General Assembly. No state agency shall use government funds to cover the costs of any license plates issued under this subsection. The design of these license plates shall be at the discretion of the Commissioner. These license plates shall be issued under the following conditions:

1. For each set of permanent license plates issued, the Commissioner shall charge a fee of \$100. The

Commissioner shall limit the validity of any set of license plates issued under this subdivision to no more than thirty consecutive days. The Commissioner's written authorization for use of any set of license plates issued under this subdivision shall be kept in the vehicle on which the license plates are displayed until expiration of the authorization.

2. The Commissioner shall limit the validity of each set of temporary license plates to no more than fourteen consecutive days. For each set of temporary license plates, the Commissioner shall charge a fee of twenty-five dollars for the first set and two dollars for each additional set. The Commissioner's written authorization for use of any set of license plates issued under this subdivision shall be kept in the vehicle on which the license plates are displayed until expiration of the authorization.

§ 58.1-439. Major business facility job tax credit.

A. For taxable years beginning on and after January 1, 1995, but before January 1, 2005, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of this title as set forth in this section.

B. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. A "qualified company" is a company that satisfies the following criteria:

1. The ~~Department of Economic Development~~ *Virginia Economic Development Partnership* must certify to the Department of Taxation: (i) that the company has established or expanded a major business facility in ~~this the~~ Commonwealth and (ii) the date on which such facility commenced or expanded operations;

2. Subject to the provisions of subsection K, the establishment or expansion of the major business facility shall result in the creation of at least 100 jobs for qualified full-time employees; the first such 100 jobs shall be referred to as the "threshold amount" ; and

3. The company is primarily engaged in the Commonwealth in the business of (i) manufacturing or mining; (ii) agriculture, forestry or fishing; (iii) transportation or communications; or (iv) a public utility subject to the corporation income tax. In addition, the following activities, whether operated as a separate trade or business, or as a separate support operation of another business, shall satisfy the requirements of this subdivision regardless of what industry the taxpayer is engaged in: (i) central administrative offices and warehouses; (ii) research, development and testing laboratories; (iii) computer-programming, data-processing and other computer-related services facilities; and (iv) financial, insurance, and real estate services. The terms used in this subdivision to refer to various types of businesses shall have the same meanings as those terms are commonly defined in the Standard Industrial Classification Manual.

D. For purposes of this section, the "credit year" is the first taxable year following the taxable year in which the major business facility commenced or expanded operations.

E. "Major business facility" includes, but is not limited to, a headquarters, or portion of such a facility, where company staff employees are physically employed, and where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis. A major business facility shall also include facilities that perform a central management or administrative function for other establishments of the same enterprise such as general management, accounting, computing, tabulating, data processing, purchasing, transportation or shipping, engineering and systems planning, advertising, legal, financial, and research and development if it otherwise meets the staffing requirements. An enterprise engaged in the Commonwealth in the business of (i) manufacturing or mining; (ii) agriculture, forestry or fishing; (iii) transportation or communications; or (iv) a public utility subject to the corporation income tax shall be deemed to have established or expanded a major business facility in ~~this the~~ Commonwealth if it meets the requirements of subdivision C 2 during a single taxable year. The ~~Department of Economic Development~~ *Virginia Economic Development Partnership* shall make all determinations as to the classification of a major business facility in accordance with the provisions of this section. Only those major business facilities which have been certified by the ~~Department of Economic Development~~ *Virginia Economic Development Partnership* shall be eligible to receive the credit pursuant to this section.

F. A "qualified full-time employee" means an employee filling a new, permanent full-time position in a major business facility in ~~this the~~ Commonwealth. A "new permanent full-time position" is a job of an indefinite duration, created by the company as a result of the establishment or expansion of a major business facility in ~~this the~~ Commonwealth, requiring a minimum of thirty-five hours of an employee's time a week for the entire normal year of the company's operations, which "normal year" must consist of at least 48 weeks, or a position of indefinite duration which requires a minimum of thirty-five hours of an employee's time a week for the portion of the taxable year in which the employee was initially

hired for, or transferred to, the major business facility in ~~this~~ *the* Commonwealth. Seasonal or temporary positions, or a job created when a job function is shifted from an existing location in ~~this~~ *the* Commonwealth to the new major business facility shall not qualify as new, permanent full-time positions.

G. For any qualified company, the amount of credit earned pursuant to this section shall be equal to \$1,000 per qualified full-time employee, over the threshold amount, employed during the credit year. The credit shall be allowed ratably, with one-third of the credit amount allowed annually for three years beginning with the credit year. The portion of the \$1,000 credit earned with respect to any qualified full-time employee who is employed in ~~this~~ *the* Commonwealth for less than twelve full months during the credit year will be determined by multiplying the credit amount by a fraction, the numerator of which is the number of full months that the qualified full-time employee worked for the qualified company in ~~this~~ *the* Commonwealth during the credit year, and the denominator of which is twelve. A separate credit year and a three-year allowance period will exist for each distinct major business facility of a single taxpayer.

H. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. Any credit not usable for the taxable year the credit was allowed may be, to the extent usable, carried over for the next ten succeeding taxable years. No credit shall be carried back to a preceding taxable year. In the event that a taxpayer who is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

I. No credit shall be earned pursuant to this section for any employee (i) for which a credit under this section was previously earned by a related party as defined by Internal Revenue Code § 267 (b) or a trade or business under common control as defined by Internal Revenue Code § 52 (b); (ii) who was previously employed in the same job function in Virginia by a related party as defined by Internal Revenue Code § 267 (b) or a trade or business under common control as defined by Internal Revenue Code § 52 (b); (iii) whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iv) whose job function previously qualified for a credit under this section at a different major business facility on behalf of the taxpayer, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b).

J. Subject to the provisions of subsection K, recapture of this credit, under the following circumstances, shall be accomplished by increasing the tax in any of the five years succeeding the taxable year in which a credit has been earned pursuant to this section if the number of qualified full-time employees decreases below the average number of qualified full-time employees employed during the credit year. Such tax increase amount shall be determined by (i) recomputing the credit which would have been earned for the original credit year using the decreased number of qualified full-time employees and (ii) subtracting such recomputed credit from the amount of credit previously earned. In the event that the average number of qualifying full-time employees employed at a major business facility falls below the threshold amount in any of the five taxable years succeeding the credit year, all credits earned with respect to such major business facility shall be recaptured. No credit amount will be recaptured more than once pursuant to this subsection. Any recapture pursuant to this section shall reduce credits earned but not yet allowed, and credits allowed but carried forward, before the taxpayer's tax liability may be increased.

K. In the event that a major business facility is located in an economically distressed area or in an enterprise zone as defined in § 59.1-271 during a credit year, the threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 100 to 50 for purposes of subdivision C 2 and subsection J. An area shall qualify as economically distressed if it is a city or county with an unemployment rate for the preceding year of at least 0.5 percent higher than the average statewide unemployment rate for such year. The ~~Department of Economic Development~~ *Virginia Economic Development Partnership* shall identify and publish a list of all economically distressed areas at least annually.

L. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.), relating to (i) the computation, carryover, and recapture of the credit provided under this section and (ii) defining criteria for (a) a major business facility, (b) qualifying jobs for such facility, and (c) economically distressed areas.

M. The provisions of this section shall apply only in instances where an announcement of intent to establish or expand a major business facility is made on or after January 1, 1994. An announcement of

798 intent to establish or expand a major business facility includes, but is not limited to, a press conference
799 or extensive press coverage, providing information with respect to the impact of the project on the
800 economy of the area where the major business facility is to be established or expanded and the
801 Commonwealth as a whole.

802 N. The General Assembly of Virginia finds that modern business infrastructure allows businesses to
803 locate their administrative or manufacturing facilities with minimal regard to the location of markets or
804 the transportation of raw materials and finished goods, and that the economic vitality of ~~this~~ *the*
805 Commonwealth would be enhanced if such facilities were established in Virginia. Accordingly, the
806 provisions of this section targeting the credit to qualified companies and limiting the credit to those
807 companies which establish a major business facility in Virginia are integral to the purpose of the credit
808 earned pursuant to this section and shall not be deemed severable.

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