

962110801

HOUSE BILL NO. 596

Offered January 19, 1996

A BILL to amend and reenact §§ 2.1-1.3, 2.1-1.6, 2.1-1.7, and 9-6.23, as it is currently effective and as it may become effective, of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 32 of Title 2.1 an article numbered 5.4, consisting of sections numbered 2.1-526.23 through 2.1-526.32; and to repeal Chapter 45 (§§ 9-340 through 9-349) of Title 9 of the Code of Virginia, relating to the Virginia Government Competition Act of 1996.

Patrons—Purkey and Tata

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.3, 2.1-1.6, 2.1-1.7, and 9-6.23, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 32 of Title 2.1 an article numbered 5.4, consisting of sections numbered 2.1-526.23 through 2.1-526.32, as follows:

§ 2.1-1.3. Entities subject to standard nomenclature.

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

Chesapeake Bay Local Assistance Department.

~~Commonwealth Competition Council.~~

Department of Accounts.

Department for the Aging.

Department of Agriculture and Consumer Services.

Department of Alcoholic Beverage Control.

Department of Aviation.

Department of Conservation and Recreation.

Department of Correctional Education.

Department of Corrections.

Department of Criminal Justice Services.

Department for the Deaf and Hard-of-Hearing.

Department of Economic Development.

Department of Education.

Department of Emergency Services.

Department of Environmental Quality.

Department of Employee Relations Counselors.

Department of Fire Programs.

Department of Forestry.

Department of Game and Inland Fisheries.

Department of General Services.

Department of Health.

Department of Health Professions.

Department of Historic Resources.

Department of Housing and Community Development.

Department of Information Technology.

Department of Labor and Industry.

Department of Medical Assistance Services.

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

Department of Military Affairs.

Department of Mines, Minerals and Energy.

Department of Minority Business Enterprise.

Department of Motor Vehicles.

Department of Personnel and Training.

Department of Planning and Budget.

Department of Professional and Occupational Regulation.

Department of Rail and Public Transportation.

Department of Rehabilitative Services.

Department for Rights of Virginians With Disabilities.

INTRODUCED

HB596

60 Department of Social Services.
61 Department of State Police.
62 Department of Taxation.
63 Department of Transportation.
64 Department of the Treasury.
65 Department of Veterans' Affairs.
66 Department for the Visually Handicapped.
67 Department of Youth and Family Services.
68 Governor's Employment and Training Department.
69 § 2.1-1.6. State boards.
70 A. There shall be, in addition to such others as may be established by law, the following permanent
71 collegial bodies affiliated with a state agency within the executive branch:
72 Accountancy, Board for
73 Aging, Advisory Board on the
74 Agriculture and Consumer Services, Board of
75 Air Pollution, State Advisory Board on
76 Alcoholic Beverage Control Board, Virginia
77 Apple Board, Virginia State
78 Appomattox State Scenic River Advisory Board
79 Aquaculture Advisory Board
80 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
81 Art and Architectural Review Board
82 Athletic Board, Virginia
83 Auctioneers Board
84 Audiology and Speech-Language Pathology, Board of
85 Aviation Board, Virginia
86 Barbers, Board for
87 Branch Pilots, Board for
88 Bright Flue-Cured Tobacco Board, Virginia
89 Building Code Technical Review Board, State
90 Catoctin Creek State Scenic River Advisory Board
91 Cattle Industry Board, Virginia
92 Cave Board
93 Certified Seed Board, State
94 Chesapeake Bay Local Assistance Board
95 Chickahominy State Scenic River Advisory Board
96 Child Abuse and Neglect, Advisory Board on
97 Chippokes Plantation Farm Foundation, Board of Trustees
98 Clinch Scenic River Advisory Board
99 Coal Mining Examiners, Board of
100 Coal Research and Development Advisory Board, Virginia
101 Coal Surface Mining Reclamation Fund Advisory Board
102 Coastal Land Management Advisory Council, Virginia
103 *Commonwealth Competition Council*
104 Conservation and Development of Public Beaches, Board on
105 Conservation and Recreation, Board of
106 Contractors, Board for
107 Corn Board, Virginia
108 Correctional Education, Board of
109 Corrections, State Board of
110 Cosmetology, Board for
111 Criminal Justice Services Board
112 Dark-Fired Tobacco Board, Virginia
113 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
114 Dentistry, Board of
115 Education, State Board of
116 Egg Board, Virginia
117 Emergency Medical Services Advisory Board
118 Employment Agency Advisory Board
119 Farmers Market Board, Virginia
120 Film Office Advisory Board
121 Fire Services Board, Virginia

122 Forensic Science Advisory Board
 123 Forestry, Board of
 124 Funeral Directors and Embalmers, Board of
 125 Game and Inland Fisheries, Board of
 126 Geology, Board for
 127 Goose Creek Scenic River Advisory Board
 128 Health Planning Board, Virginia
 129 Health Professions, Board of
 130 Health, State Board of
 131 Hearing Aid Specialists, Board for
 132 Hemophilia Advisory Board
 133 Historic Resources, Board of
 134 Housing and Community Development, Board of
 135 Industrial Development Services Advisory Board
 136 Insurance Advisory Board, State
 137 Irish Potato Board, Virginia
 138 Laboratory Services Advisory Board
 139 Litter Control and Recycling Fund Advisory Board
 140 Marine Products Board, Virginia
 141 Medical Advisory Board, Department of Motor Vehicles
 142 Medical Board of the Virginia Retirement System
 143 Medicare and Medicaid, Advisory Board on
 144 Medicine, Board of
 145 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 146 Migrant and Seasonal Farmworkers Board
 147 Military Affairs, Board of
 148 Mineral Mining Examiners, Board of
 149 Minority Business Enterprise, Interdepartmental Board of the Department of
 150 Networking Users Advisory Board, State
 151 Nottoway State Scenic River Advisory Board
 152 Nursing, Board of
 153 Nursing Home Administrators, Board of
 154 Occupational Therapy, Advisory Board on
 155 Oil and Gas Conservation Board, Virginia
 156 Opticians, Board for
 157 Optometry, Board of
 158 Peanut Board, Virginia
 159 Personnel Advisory Board
 160 Pesticide Control Board
 161 Pharmacy, Board of
 162 Physical Therapy to the Board of Medicine, Advisory Board on
 163 Plant Pollination Advisory Board
 164 Polygraph Examiners Advisory Board
 165 Pork Industry Board, Virginia
 166 Poultry Products Board, Virginia
 167 Private College Advisory Board
 168 Private Security Services Advisory Board
 169 Professional and Occupational Regulation, Board for
 170 Professional Counselors, Board of
 171 Professional Soil Scientists, Board for
 172 Psychiatric Advisory Board
 173 Psychology, Board of
 174 Public Buildings Board, Virginia
 175 Public Telecommunications Board, Virginia
 176 Radiation Advisory Board
 177 Real Estate Appraiser Board
 178 Real Estate Board
 179 Reciprocity Board, Department of Motor Vehicles
 180 Recreational Fishing Advisory Board, Virginia
 181 Recreation Specialists, Board of
 182 Reforestation Board

- 183 Rehabilitation Providers, Advisory Board on
184 Rehabilitative Services, Board of
185 Respiratory Therapy, Advisory Board on
186 Retirement System Review Board
187 Rockfish State Scenic River Advisory Board
188 Safety and Health Codes Board
189 Seed Potato Board
190 Sewage Handling and Disposal Appeal Review Board, State Health Department
191 Shenandoah State Scenic River Advisory Board
192 Small Business Advisory Board
193 Small Business Environmental Compliance Advisory Board
194 Small Grains Board, Virginia
195 Social Services, Board of
196 Social Work, Board of
197 Soil and Water Conservation Board, Virginia
198 Soybean Board, Virginia
199 State Air Pollution Control Board
200 Substance Abuse Certification Board
201 Surface Mining Review, Board of
202 Sweet Potato Board, Virginia
203 T & M Vehicle Dealers' Advisory Board
204 Teacher Education and Licensure, Advisory Board on
205 Tourism and Travel Services Advisory Board
206 Transportation Board, Commonwealth
207 Transportation Safety, Board of
208 Treasury Board, The, Department of the Treasury
209 Veterans' Affairs, Board on
210 Veterinary Medicine, Board of
211 Virginia Board for Asbestos Licensing
212 Virginia Coal Mine Safety Board
213 Virginia Correctional Enterprises Advisory Board
214 Virginia Employment Commission, State Advisory Board for the
215 Virginia Higher Education Tuition Trust Fund, Board of the
216 Virginia Horse Industry Board
217 Virginia Manufactured Housing Board
218 Virginia Retirement System, Board of Trustees
219 (For effective date - See Editor's note) Virginia Sheep Industry Board
220 Virginia Veterans Cemetery Board
221 Virginia Waste Management Board
222 Visually Handicapped, Virginia Board for the
223 Voluntary Formulary Board, Virginia
224 War Memorial Foundation, Virginia, Board of Trustees
225 Waste Management Facility Operators, Board for
226 Water Resources Research Center Statewide Advisory Board, Virginia
227 Waterworks and Wastewater Works Operators, Board for
228 Well Review Board, Virginia
229 Youth and Family Services, State Board of.
230 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
231 referred to as boards:
232 Compensation Board
233 State Board of Elections
234 State Water Control Board
235 Virginia Parole Board
236 Virginia Veterans Care Center Board of Trustees.
237 § 2.1-1.7. State councils.
238 A. There shall be, in addition to such others as may be established by law, the following permanent
239 collegial bodies either affiliated with more than one agency or independent of an agency within the
240 executive branch:
241 Adult Education and Literacy, Virginia Advisory Council for
242 Agricultural Council, Virginia
243 Alcohol and Drug Abuse Problems, Governor's Council on
244 Apprenticeship Council

245 Blue Ridge Regional Education and Training Council
 246 Child Day Care and Early Childhood Programs, Virginia Council on
 247 Child Day-Care Council
 248 Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
 249 ~~Commonwealth Competition Council~~
 250 Commonwealth's Attorneys' Services Council
 251 Developmental Disabilities Planning Council, Virginia
 252 Disability Services Council
 253 Equal Employment Opportunity Council, Virginia
 254 Health Services Cost Review Council, Virginia
 255 Housing for the Disabled, Interagency Coordinating Council on
 256 Human Rights, Council on
 257 Human Services Information and Referral Advisory Council
 258 Indians, Council on
 259 Interagency Coordinating Council, Virginia
 260 Job Training Coordinating Council, Governor's
 261 Land Evaluation Advisory Council
 262 Local Debt, State Council on
 263 Maternal and Child Health Council
 264 Military Advisory Council, Virginia
 265 Needs of Handicapped Persons, Overall Advisory Council on the
 266 Prevention, Virginia Council on Coordinating
 267 Public Records Advisory Council, State
 268 Rate-setting for Children's Facilities, Interdepartmental Council on
 269 Revenue Estimates, Advisory Council on
 270 Southside Virginia Marketing Council
 271 Specialized Transportation Council
 272 State Health Benefits Advisory Council
 273 Status of Women, Council on the
 274 Technology Council, Virginia
 275 Virginia Business-Education Partnership Program, Advisory Council on the
 276 Virginia Recycling Markets Development Council.
 277 B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall
 278 be referred to as councils:
 279 Council on Information Management
 280 Higher Education, State Council of
 281 Independent Living Council, Statewide
 282 Rehabilitation Advisory Council, Statewide
 283 Rehabilitation Advisory Council for the Blind, Statewide
 284 World Trade Council, Virginia.

285 *Article 5.4.*

286 *Virginia Government Competition Act of 1996.*

287 § 2.1-526.23. *Short title.*
 288 *This article shall be known and may be cited as the "Virginia Government Competition Act of 1996."*
 289 § 2.1-526.24. *Definitions.*
 290 *As used in this article, unless the context otherwise requires:*
 291 *"Council" means the Commonwealth Competition Council.*
 292 *"Privatization" means an variety of techniques and activities which promote more involvement of the*
 293 *private sector in providing services that have traditionally been provided by government. It also includes*
 294 *methods of providing a portion or all of select government-provided or government-produced programs*
 295 *and services through the private sector.*
 296 *"State agency" means any board, council, authority, department, agency, or institution of the*
 297 *Commonwealth which employs state or nonstate personnel.*
 298 § 2.1-526.25. *Commonwealth Competition Council created; duties.*
 299 *There is hereby created in the Department of General Services the Commonwealth Competition*
 300 *Council. The Council shall:*
 301 *1. Examine and promote methods of providing a portion or all of select government-provided or*
 302 *government-produced programs and services through the private sector by a competitive contracting*
 303 *program, and advise the Governor, the General Assembly, and executive branch agencies of the*
 304 *Council's findings and recommendations.*
 305 *2. Develop an institutional framework for a statewide competitive program to encourage innovation*

306 *and competition within state government.*

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

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

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

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

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

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

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

323 § 2.1-526.26. *Membership; appointment; terms; vacancies; chairman; quorum; compensation.*

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

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

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

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

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

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

346 § 2.1-526.27. *Cooperation of other state agencies.*

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

350 § 2.1-526.28. *Staff support; application for an acceptance of gifts and grants.*

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

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

356 § 2.1-526.29. *Unsolicited proposals.*

357 *The Governor or the General Assembly may direct any state agency to perform a public/private*
358 *performance analysis covering any service for which the Council has received a qualifying unsolicited*
359 *proposal from a private entity which is consistent with the Council's purposes and duties as provided in*
360 *§ 2.1-526.25.*

361 § 2.1-526.30. *Public/private performance analysis.*

362 A. *The Council shall use the procurement methods cited in the Virginia Public Procurement Act*
363 *(§ 11-35 et seq.) to solicit proposals and bids from private entities in order to make cost comparison*
364 *decisions. However, the Council shall not execute contracts.*

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

366 § 2.1-526.31. *Duties of the Department of Planning and Budget.*

367 *The Department of Planning and Budget shall determine the amount of existing appropriation no*

longer needed by the state agency or institution and shall unallot such funding. The Department shall also ensure that all appropriate reporting requirements to the Governor and the General Assembly are met. Nothing in this section shall preclude the Governor from recommending in future budget submissions the restoration of a portion of the original appropriation to the state agency or institution.

§ 2.1-526.32. Reports to Governor and General Assembly.

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

§ 9-6.23. (Effective until July 1, 1997) Prohibition against service by legislators on boards and commissions within the executive branch.

Members of the General Assembly shall be ineligible to serve on boards and commissions within the executive branch which are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards and commissions engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board or commission in the executive branch which is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position. The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided in § 2.1-750; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided in § 9-326; to members of the Workforce 2000 Advisory Council, who shall be appointed as provided in § 2.1-116.18; to members of the Advisory Commission on Welfare Reform, who shall be appointed as provided in § 63.1-133.44; to members of the Virginia Correctional Enterprises Advisory Board, who shall be appointed as provided in § 2.1-451.2; to members appointed to the Virginia Veterans Cemetery Board pursuant to § 2.1-739.2; to members of the Immigrant and Refugee Policy Council, who shall be appointed as provided in § 2.1-801; or to members of the Commonwealth Competition Commission Council, who shall be appointed as provided in § 9-343 § 2.1-526.26.

§ 9-6.23. (Effective July 1, 1997) Prohibition against service by legislators on boards and commissions within the executive branch.

Members of the General Assembly shall be ineligible to serve on boards and commissions within the executive branch which are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards and commissions engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board or commission in the executive branch which is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position. The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided in § 2.1-750; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided in § 9-326; to members of the Advisory Commission on Welfare Reform, who shall be appointed as provided in § 63.1-133.44; to members of the Virginia Correctional Enterprises Advisory Board, who shall be appointed as provided in § 2.1-451.2; to members appointed to the Virginia Veterans Cemetery Board pursuant to § 2.1-739.2; to members of the Immigrant and Refugee Policy Council, who shall be appointed as provided in § 2.1-801; or to members of the Commonwealth Competition Commission Council, who shall be appointed as provided in § 9-343 § 2.1-526.26.

2. That Chapter 45 (§§ 9-340 through 9-349) of Title 9 of the Code of Virginia is repealed.