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SENATE BILL NO. 610

Offered January 22, 1996

A BILL to amend and reenact §§ 2.1-1.1, 2.1-1.3, 2.1-1.6, 2.1-51.21:3, 2.1-51.40, 2.1-342, 9-6.14:14.1, 9-6.25:1, 9-202, 9-204, 9-249.1, 9-285, 9-290, 9-333, 10.1-1425.7, 15.1-18.4, 15.1-1377, 15.1-1405.1, 22.1-209, 23.1-135.7:7, 36-139.6, 40.1-6, 40.1-117, 40.1-125, 58.1-3, 59.1-284.1, 60.2-108, 60.2-110, 60.2-208, 60.2-400, 60.2-611, 60.2-612, 63.1-133.8, 63.1-133.9, 63.1-133.10, 63.1-133.11, 63.1-133.14, 63.1-133.41, 63.1-133.45, 63.1-314.8, 65.2-500 and 65.2-903 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 32.2, consisting of articles numbered 1 and 2, consisting of sections numbered 2.1-548.44 through 2.1-548.52; and to repeal Articles 1 through 6 (§§ 2.1-548.6 through 2.1-548.25) of Title 2.1 and §§ 2.1-548.16 and 60.2-112 of the Code of Virginia, relating to the creation of the Department of Business Assistance and the elimination of the Department of Economic Development.

Patrons—Hawkins and Colgan; Delegates: Cantor, Dudley and Kilgore

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.1, 2.1-1.3, 2.1-1.6, 2.1-51.21:3, 2.1-51.40, 2.1-342, 9-6.14:14.1, 9-6.25:1, 9-202, 9-204, 9-249.1, 9-285, 9-290, 9-333, 10.1-1425.7, 15.1-18.4, 15.1-1377, 15.1-1405.1, 22.1-209, 23.1-135.7:7, 36-139.6, 40.1-6, 40.1-117, 40.1-125, 58.1-3, 59.1-284.1, 60.2-108, 60.2-110, 60.2-208, 60.2-400, 60.2-611, 60.2-612, 63.1-133.8, 63.1-133.9, 63.1-133.10, 63.1-133.11, 63.1-133.14, 63.1-133.41, 63.1-133.45, 63.1-314.8, 65.2-500 and 65.2-903 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 32.2, consisting of articles numbered 1 and 2, containing sections numbered 2.1-548.44 through 2.1-548.52 as follows:

§ 2.1-1.1. Departments generally.

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

Chesapeake Bay Local Assistance Department.

Department of Accounts.

Department for the Aging.

Department of Agriculture and Consumer Services.

Department of Alcoholic Beverage Control.

Department of Aviation.

Department of Business Assistance.

Department of Conservation and Recreation.

Department of Corporations.

Department of Correctional Education.

Department of Corrections.

Department of Criminal Justice Services.

Department for the Deaf and Hard-of-Hearing.

~~Department of Economic Development.~~

Department of Education.

Department of Emergency Services.

Department of Employee Relations Counselors.

Department of Environmental Quality.

Department of Fire Programs.

Department of Forestry.

Department of Game and Inland Fisheries.

Department of General Services.

Department of Health.

Department of Health Professions.

Department of Historic Resources.

Department of Housing and Community Development.

Department of Information Technology.

Department of Labor and Industry.

Department of Law.

Department of Medical Assistance Services.

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60 Department of Mental Health, Mental Retardation and Substance Abuse Services.
61 Department of Military Affairs.
62 Department of Mines, Minerals and Energy.
63 Department of Minority Business Enterprise.
64 Department of Motor Vehicles.
65 Department of Personnel and Training.
66 Department of Planning and Budget.
67 Department of Professional and Occupational Regulation.
68 Department of Rail and Public Transportation.
69 Department of Rehabilitative Services.
70 Department for Rights of Virginians With Disabilities.
71 Department of Social Services.
72 Department of State Police.
73 Department of Taxation.
74 Department of Transportation.
75 Department of the Treasury.
76 Department of Veterans' Affairs.
77 Department for the Visually Handicapped.
78 Department of Workers' Compensation.
79 Department of Youth and Family Services.
80 Governor's Employment and Training Department.
81 § 2.1-1.3. Entities subject to standard nomenclature.
82 The following independent administrative entities are subject to the standard nomenclature provisions
83 of § 2.1-1.2:
84 Chesapeake Bay Local Assistance Department.
85 Commonwealth Competition Council.
86 Department of Accounts.
87 Department for the Aging.
88 Department of Agriculture and Consumer Services.
89 Department of Alcoholic Beverage Control.
90 Department of Aviation.
91 *Department of Business Assistance.*
92 Department of Conservation and Recreation.
93 Department of Correctional Education.
94 Department of Corrections.
95 Department of Criminal Justice Services.
96 Department for the Deaf and Hard-of-Hearing.
97 ~~Department of Economic Development.~~
98 Department of Education.
99 Department of Emergency Services.
100 Department of Environmental Quality.
101 Department of Employee Relations Counselors.
102 Department of Fire Programs.
103 Department of Forestry.
104 Department of Game and Inland Fisheries.
105 Department of General Services.
106 Department of Health.
107 Department of Health Professions.
108 Department of Historic Resources.
109 Department of Housing and Community Development.
110 Department of Information Technology.
111 Department of Labor and Industry.
112 Department of Medical Assistance Services.
113 Department of Mental Health, Mental Retardation and Substance Abuse Services.
114 Department of Military Affairs.
115 Department of Mines, Minerals and Energy.
116 Department of Minority Business Enterprise.
117 Department of Motor Vehicles.
118 Department of Personnel and Training.
119 Department of Planning and Budget.
120 Department of Professional and Occupational Regulation.
121 Department of Rail and Public Transportation.

- 122 Department of Rehabilitative Services.
- 123 Department of Rights of Virginians With Disabilities.
- 124 Department of Social Services.
- 125 Department of State Police.
- 126 Department of Taxation.
- 127 Department of Transportation.
- 128 Department of the Treasury.
- 129 Department of Veterans' Affairs.
- 130 Department for the Visually Handicapped.
- 131 Department of Youth and Family Services.
- 132 Governor's Employment and Training Department.
- 133 § 2.1-1.6. State boards.
- 134 A. There shall be, in addition to such others as may be established by law, the following permanent
- 135 collegial bodies affiliated with a state agency within the executive branch:
- 136 Accountancy, Board for
- 137 Aging, Advisory Board on the
- 138 Agriculture and Consumer Services, Board of
- 139 Air Pollution, State Advisory Board on
- 140 Alcoholic Beverage Control Board, Virginia
- 141 Apple Board, Virginia State
- 142 Appomattox State Scenic River Advisory Board
- 143 Aquaculture Advisory Board
- 144 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
- 145 Art and Architectural Review Board
- 146 Athletic Board, Virginia
- 147 Auctioneers Board
- 148 Audiology and Speech-Language Pathology, Board of
- 149 Aviation Board, Virginia
- 150 Barbers, Board for
- 151 Branch Pilots, Board for
- 152 Bright Flue-Cured Tobacco Board, Virginia
- 153 Building Code Technical Review Board, State
- 154 Catocin Creek State Scenic River Advisory Board
- 155 Cattle Industry Board, Virginia
- 156 Cave Board
- 157 Certified Seed Board, State
- 158 Chesapeake Bay Local Assistance Board
- 159 Chickahominy State Scenic River Advisory Board
- 160 Child Abuse and Neglect, Advisory Board on
- 161 Chippokes Plantation Farm Foundation, Board of Trustees
- 162 Clinch Scenic River Advisory Board
- 163 Coal Mining Examiners, Board of
- 164 Coal Research and Development Advisory Board, Virginia
- 165 Coal Surface Mining Reclamation Fund Advisory Board
- 166 Coastal Land Management Advisory Council, Virginia
- 167 Conservation and Development of Public Beaches, Board on
- 168 Conservation and Recreation, Board of
- 169 Contractors, Board for
- 170 Corn Board, Virginia
- 171 Correctional Education, Board of
- 172 Corrections, State Board of
- 173 Cosmetology, Board for
- 174 Criminal Justice Services Board
- 175 Dark-Fired Tobacco Board, Virginia
- 176 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
- 177 Dentistry, Board of
- 178 Education, State Board of
- 179 Egg Board, Virginia
- 180 Emergency Medical Services Advisory Board
- 181 Employment Agency Advisory Board
- 182 Farmers Market Board, Virginia

183	Film Office Advisory Board
184	Fire Services Board, Virginia
185	Forensic Science Advisory Board
186	Forestry, Board of
187	Funeral Directors and Embalmers, Board of
188	Game and Inland Fisheries, Board of
189	Geology, Board for
190	Goose Creek Scenic River Advisory Board
191	Health Planning Board, Virginia
192	Health Professions, Board of
193	Health, State Board of
194	Hearing Aid Specialists, Board for
195	Hemophilia Advisory Board
196	Historic Resources, Board of
197	Housing and Community Development, Board of
198	Industrial Development Services Advisory Board
199	Insurance Advisory Board, State
200	Irish Potato Board, Virginia
201	Laboratory Services Advisory Board
202	(Effective July 1, 1996) Litter Control and Recycling Fund Advisory Board
203	Marine Products Board, Virginia
204	Medical Advisory Board, Department of Motor Vehicles
205	Medical Board of the Virginia Retirement System
206	Medicare and Medicaid, Advisory Board on
207	Medicine, Board of
208	Mental Health, Mental Retardation and Substance Abuse Services Board, State
209	Migrant and Seasonal Farmworkers Board
210	Military Affairs, Board of
211	Mineral Mining Examiners, Board of
212	Minority Business Enterprise, Interdepartmental Board of the Department of
213	Networking Users Advisory Board, State
214	Nottoway State Scenic River Advisory Board
215	Nursing, Board of
216	Nursing Home Administrators, Board of
217	Occupational Therapy, Advisory Board on
218	Oil and Gas Conservation Board, Virginia
219	Opticians, Board for
220	Optometry, Board of
221	Peanut Board, Virginia
222	Personnel Advisory Board
223	Pesticide Control Board
224	Pharmacy, Board of
225	Physical Therapy to the Board of Medicine, Advisory Board on
226	Plant Pollination Advisory Board
227	Polygraph Examiners Advisory Board
228	Pork Industry Board, Virginia
229	Poultry Products Board, Virginia
230	Private College Advisory Board
231	Private Security Services Advisory Board
232	Professional and Occupational Regulation, Board for
233	Professional Counselors, Board of
234	Professional Soil Scientists, Board for
235	Psychiatric Advisory Board
236	Psychology, Board of
237	Public Buildings Board, Virginia
238	Public Telecommunications Board, Virginia
239	Radiation Advisory Board
240	Real Estate Appraiser Board
241	Real Estate Board
242	Reciprocity Board, Department of Motor Vehicles
243	Recreational Fishing Advisory Board, Virginia
244	Recreation Specialists, Board of

- 245 Reforestation Board
- 246 Rehabilitation Providers, Advisory Board on
- 247 Rehabilitative Services, Board of
- 248 Respiratory Therapy, Advisory Board on
- 249 Retirement System Review Board
- 250 Rockfish State Scenic River Advisory Board
- 251 Safety and Health Codes Board
- 252 Seed Potato Board
- 253 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 254 Shenandoah State Scenic River Advisory Board
- 255 Small Business Advisory Board
- 256 Small Business Environmental Compliance Advisory Board
- 257 Small Grains Board, Virginia
- 258 Social Services, Board of
- 259 Social Work, Board of
- 260 Soil and Water Conservation Board, Virginia
- 261 Soybean Board, Virginia
- 262 State Air Pollution Control Board
- 263 Substance Abuse Certification Board
- 264 Surface Mining Review, Board of
- 265 Sweet Potato Board, Virginia
- 266 T & M Vehicle Dealers' Advisory Board
- 267 Teacher Education and Licensure, Advisory Board on
- 268 Tourism and Travel Services Advisory Board
- 269 Transportation Board, Commonwealth
- 270 Transportation Safety, Board of
- 271 Treasury Board, The, Department of the Treasury
- 272 Veterans' Affairs, Board on
- 273 Veterinary Medicine, Board of
- 274 Virginia Board for Asbestos Licensing
- 275 Virginia Coal Mine Safety Board
- 276 Virginia Correctional Enterprises Advisory Board
- 277 ~~Virginia Employment Commission, State Advisory Board for the~~
- 278 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
- 279 Virginia Horse Industry Board
- 280 Virginia Manufactured Housing Board
- 281 Virginia Retirement System, Board of Trustees
- 282 (For effective date - See Editor's note) Virginia Sheep Industry Board
- 283 Virginia Veterans Cemetery Board
- 284 Virginia Waste Management Board
- 285 Visually Handicapped, Virginia Board for the
- 286 Voluntary Formulary Board, Virginia
- 287 War Memorial Foundation, Virginia, Board of Trustees
- 288 (Contingently repealed - See Editor's note) Waste Management Facility Operators, Board for
- 289 Water Resources Research Center Statewide Advisory Board, Virginia
- 290 Waterworks and Wastewater Works Operators, Board for
- 291 Well Review Board, Virginia
- 292 Youth and Family Services, State Board of.
- 293 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 294 referred to as boards:
- 295 Compensation Board
- 296 State Board of Elections
- 297 State Water Control Board
- 298 Virginia Parole Board
- 299 Virginia Veterans Care Center Board of Trustees.
- 300 § 2.1-51.21:3. Virginia Advisory Council for Adult Education and Literacy established; membership;
- 301 terms; powers and duties; biennial state plan; office space and agency cooperation.
- 302 A. There is hereby created the Virginia Advisory Council for Adult Education and Literacy,
- 303 hereinafter referred to as the "Advisory Council." The Advisory Council shall, through the exercise of its
- 304 powers and performance of its duties, recommend an integrated and coordinated multi-agency approach
- 305 for the delivery of quality adult education and literacy programs, services, and philosophies.

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

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

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

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

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

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

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

347 § 2.1-51.40. Agencies for which Secretary of Commerce and Trade responsible.

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

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

358 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding
359 to request; charges; exceptions to application of chapter.

360 A. Except as otherwise specifically provided by law, all official records shall be open to inspection
361 and copying by any citizens of the Commonwealth during the regular office hours of the custodian of
362 such records. Access to such records shall not be denied to citizens of the Commonwealth,
363 representatives of newspapers and magazines with circulation in the Commonwealth, and representatives
364 of radio and television stations broadcasting in or into the Commonwealth. The custodian of such
365 records shall take all necessary precautions for their preservation and safekeeping. Any public body
366 covered under the provisions of this chapter shall make an initial response to citizens requesting records
367 open to inspection within five work days after the receipt of the request by the public body which is the

custodian of the requested records. Such citizen request shall designate the requested records with reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall not be necessary to invoke the provisions of this chapter and the time limits for response by the public body. The response by the public body within such five work days shall be one of the following responses:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

489 6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of
490 an active administrative investigation concerning a matter which is properly the subject of an executive

or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

552 22. Documents as specified in § 58.1-3.
553 23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis
554 center or a program for battered spouses.
555 24. Computer software developed by or for a state agency, state-supported institution of higher
556 education or political subdivision of the Commonwealth.
557 25. Investigator notes, and other correspondence and information, furnished in confidence with
558 respect to an active investigation of individual employment discrimination complaints made to the
559 Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of
560 information taken from inactive reports in a form which does not reveal the identity of charging parties,
561 persons supplying the information or other individuals involved in the investigation.
562 26. Fisheries data which would permit identification of any person or vessel, except when required
563 by court order as specified in § 28.2-204.
564 27. Records of active investigations being conducted by the Department of Medical Assistance
565 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.
566 28. Documents and writings furnished by a member of the General Assembly to a meeting of a
567 standing committee, special committee or subcommittee of his house established solely for the purpose
568 of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or
569 of formulating advisory opinions to members on standards of conduct, or both.
570 29. Customer account information of a public utility affiliated with a political subdivision of the
571 Commonwealth, including the customer's name and service address, but excluding the amount of utility
572 service provided and the amount of money paid for such utility service.
573 30. Investigative notes and other correspondence and information furnished in confidence with
574 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice
575 under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit
576 the distribution of information taken from inactive reports in a form which does not reveal the identity
577 of the parties involved or other persons supplying information.
578 31. Investigative notes; proprietary information not published, copyrighted or patented; information
579 obtained from employee personnel records; personally identifiable information regarding residents,
580 clients or other recipients of services; and other correspondence and information furnished in confidence
581 to the Department of Social Services in connection with an active investigation of an applicant or
582 licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however,
583 nothing in this section shall prohibit disclosure of information from the records of completed
584 investigations in a form that does not reveal the identity of complainants, persons supplying information,
585 or other individuals involved in the investigation.
586 32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other
587 information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or
588 any institution thereof to the extent, as determined by the Director of the Department of Corrections or
589 his designee or of the Virginia Board of Youth and Family Services, the Virginia Department of Youth
590 and Family Services or any facility thereof to the extent as determined by the Director of the
591 Department of Youth and Family Services, or his designee, that disclosure or public dissemination of
592 such materials would jeopardize the security of any correctional or juvenile facility or institution, as
593 follows:
594 (i) Security manuals, including emergency plans that are a part thereof;
595 (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational
596 specifications of security systems utilized by the Departments, provided the general descriptions of such
597 security systems, cost and quality shall be made available to the public;
598 (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address
599 procedures for institutional security, emergency plans and security equipment;
600 (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they
601 specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the
602 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
603 (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to
604 the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;
605 (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in
606 this section shall prohibit the disclosure of information taken from inactive reports in a form which does
607 not reveal the identity of complainants or charging parties, persons supplying information, confidential
608 sources, or other individuals involved in the investigation, or other specific operational details the
609 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
610 nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of
611 subsection B of this section;
612 (vii) Logs or other documents containing information on movement of inmates, juvenile clients or
613 employees; and

(viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

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

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

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

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

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

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

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

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

40. [Repealed.]

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

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

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

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form

that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of information from the records of completed investigations shall include, but is not limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. In the event an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

46. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

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

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

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

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

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

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

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

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

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

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

b. Surveillance techniques;

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

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

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

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

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

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

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or

public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

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

(ii) Surveillance techniques;

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

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

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

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

a. Number of employees present during each shift;

b. Busiest hours, with the maximum number of customers in such government store; and

c. Banking system used, including time and place of deposits.

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

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

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

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

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

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

CHAPTER 32.2.

DEPARTMENT OF BUSINESS ASSISTANCE.

Article I.

General Provisions.

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

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

§ 2.1-548.45. *Powers and duties of Director.*

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

§ 2.1-548.46. *General powers of Department.*

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

1. *Employ such personnel as may be required to carry out the purposes of this chapter;*

2. *Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth;*

3. *Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;*

4. *Promulgate regulations and issue guidelines necessary or incidental to the performance of the*

859 duties or execution of the powers conferred under this title and other relevant chapters, which
858 regulations shall be promulgated by the Department in accordance with the provisions of Article 2
857 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act; and

856 5. Do all acts necessary or convenient to carry out the purposes of this chapter.

855 § 2.1-548.47. Duties of the Department.

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

851 1. Provide for training or retraining individuals for specific employment opportunities at new or
850 expanding business facilities in the Commonwealth;

849 2. Administer and enforce the provisions of the Virginia Unemployment Compensation Act including
848 the maintenance of the Virginia Unemployment Trust Fund;

847 3. Develop and implement programs to assist small businesses in the Commonwealth in order to
846 promote their growth and the creation and retention of jobs for Virginians;

845 4. Establish an industry program which is the principal point of communication between basic
844 employers in the Commonwealth and the state government which will address issues of significance to
843 business;

842 5. Administer a program to promote the establishment of apprenticeship programs in cooperation
841 with businesses located in the Commonwealth;

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

837 7. Assist the unemployed with finding employment and serve as a resource for persons seeking jobs;
836 and

835 8. Develop statistical reports on unemployment, job creation, and general economic conditions in the
834 Commonwealth.

833 § 2.1-548.48. State agencies to furnish information and assistance.

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

830 Article 2.

829 Small Business Advisory Board.

828 § 2.1-548.49. Creation of Board; membership; terms.

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

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

815 § 2.1-548.50. Officers of Board.

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

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

803 § 2.1-548.51. Functions of the Board.

802 The Board shall advise the Department of Business Assistance on the small business programs,
801 including, but not limited to, locally based centers to assist and develop small businesses. It shall make
800 recommendations to the Director, the Secretary of Commerce and Trade, and the Governor concerning
799 the actions that the Department of Business Assistance and the state government might take to enhance
798 the growth of small businesses. Additionally, the Board shall be a resource to the Department of

Business Assistance, the Secretary of Commerce and Trade, the Executive Director of the Virginia Economic Development Partnership, and the Governor as they conduct the economic development efforts of the Commonwealth.

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

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

§ 9-6.14:14.1. Hearing officers.

A. In all hearings conducted in accordance with § 9-6.14:12, the hearing shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to proceedings conducted pursuant to § 9-6.14:11 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary shall have the power to promulgate rules necessary for the administration of the hearing officer system.

All hearing officers shall meet the following minimum standards:

1. Active membership in good standing in the Virginia State Bar;

2. Active practice of law for at least five years; and

3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require additional training before a hearing officer will be assigned to a proceeding before that agency.

These requirements must be met prior to being included on the list of hearing officers. All attorneys on the list as of July 1, 1986, shall satisfy these requirements by January 1, 1987, to remain on the list.

B. On request from the head of an agency, the Executive Secretary will name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency demonstrates the need.

C. A hearing officer shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration, or when required by the applicable rules governing the practice of law in the Commonwealth. Any party may request the disqualification of a hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of practice requiring disqualification.

The issue shall be determined not less than ten days prior to the hearing by the Executive Secretary of the Supreme Court.

D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision matter shall render that recommendation or conclusion within ninety days from the date of the case decision proceeding or from a later date agreed to by the named party and the agency. If the hearing officer does not render a decision within ninety days, then the named party to the case decision may provide written notice to the hearing officer and the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within thirty days from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after notice in writing and a hearing. When there is a failure by a hearing officer to render a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.).

F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a quorum, are present; (ii) the Alcoholic Beverage Control Board, the Virginia Workers' Compensation Commission, the State Corporation Commission, the ~~Virginia Employment Commission~~ Department of Business Assistance, the State Education Assistance Authority, or the Department of Motor Vehicles under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1; or (iii) any panel of a health regulatory board convened pursuant to § 54.1-2400. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 (formerly §§ 65.1-11 and 65.1-12) by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum qualifications set forth in subsection A of this section. Agency employees who are not licensed to practice law in this Commonwealth, and are presiding as hearing officers in proceedings pursuant to (ii) above shall participate in periodic training

921 courses.

922 G. Notwithstanding the exemptions of subsection A of § 9-6.14:4.1, this article shall apply to hearing
923 officers conducting hearings of the kind described in § 9-6.14:12 for the Department of Game and
924 Inland Fisheries, the Virginia Housing Development Authority, the Milk Commission and the Virginia
925 Resources Authority pursuant to their basic laws.

926 § 9-6.25:1. Advisory boards, commissions and councils.

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

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

930 Advisory Board for the Department for the Aging

931 Advisory Board on Child Abuse and Neglect

932 Advisory Board on Medicare and Medicaid

933 Advisory Board on Occupational Therapy

934 Advisory Board on Physical Therapy to the Board of Medicine

935 Advisory Board on Rehabilitation Providers

936 Advisory Board on Respiratory Therapy to the Board of Medicine

937 Advisory Board on Teacher Education and Licensure

938 Advisory Council on Revenue Estimates

939 Advisory Council on the Virginia Business-Education Partnership Program

940 Appomattox State Scenic River Advisory Board

941 Aquaculture Advisory Board

942 Art and Architectural Review Board

943 Board for the Visually Handicapped

944 Board of Directors, Virginia Truck and Ornamentals Research Station

945 Board of Forestry

946 Board of Military Affairs

947 Board of Rehabilitative Services

948 Board of Transportation Safety

949 Board of Trustees of the Family and Children's Trust Fund

950 Board of Visitors, Gunston Hall Plantation

951 Board on Veterans' Affairs

952 Catoctin Creek State Scenic River Advisory Board

953 Cave Board

954 Chickahominy State Scenic River Advisory Board

955 Clinch Scenic River Advisory Board

956 Coal Surface Mining Reclamation Fund Advisory Board

957 Coastal Land Management Advisory Council, Virginia

958 Commonwealth Competition Council

959 Council on Indians

960 Council on the Status of Women

961 Debt Capacity Advisory Committee

962 Emergency Medical Services Advisory Board

963 Falls of the James Committee

964 ~~Film Office Advisory Board~~

965 Forensic Science Advisory Board

966 Goose Creek Scenic River Advisory Board

967 Governor's Council on Alcohol and Drug Abuse Problems

968 Governor's Mined Land Reclamation Advisory Committee

969 Hemophilia Advisory Board

970 Human Services Information and Referral Advisory Council

971 ~~Industrial Development Services Advisory Board~~

972 Interagency Coordinating Council on Housing for the Disabled

973 Interdepartmental Board of the State Department of Minority Business Enterprise

974 Laboratory Services Advisory Board

975 (Effective July 1, 1996) Litter Control and Recycling Fund Advisory Board

976 Local Advisory Board to the Blue Ridge Community College

977 Local Advisory Board to the Central Virginia Community College

978 Local Advisory Board to the Dabney S. Lancaster Community College

979 Local Advisory Board to the Danville Community College

980 Local Advisory Board to the Eastern Shore Community College

981 Local Advisory Board to the Germanna Community College

982 Local Advisory Board to the J. Sargeant Reynolds Community College

983	Local Advisory Board to the John Tyler Community College
984	Local Advisory Board to the Lord Fairfax Community College
985	Local Advisory Board to the Mountain Empire Community College
986	Local Advisory Board to the New River Community College
987	Local Advisory Board to the Northern Virginia Community College
988	Local Advisory Board to the Patrick Henry Community College
989	Local Advisory Board to the Paul D. Camp Community College
990	Local Advisory Board to the Piedmont Virginia Community College
991	Local Advisory Board to the Rappahannock Community College
992	Local Advisory Board to the Southwest Virginia Community College
993	Local Advisory Board to the Thomas Nelson Community College
994	Local Advisory Board to the Tidewater Community College
995	Local Advisory Board to the Virginia Highlands Community College
996	Local Advisory Board to the Virginia Western Community College
997	Local Advisory Board to the Wytheville Community College
998	Maternal and Child Health Council
999	Medical Advisory Board, Department of Motor Vehicles
1000	Medical Board of the Virginia Retirement System
1001	Migrant and Seasonal Farmworkers Board
1002	Motor Vehicle Dealer's Advisory Board
1003	Nottoway State Scenic River Advisory Board
1004	Personnel Advisory Board
1005	Plant Pollination Advisory Board
1006	Private College Advisory Board
1007	Private Enterprise Commission
1008	Private Security Services Advisory Board
1009	Psychiatric Advisory Board
1010	Radiation Advisory Board
1011	Rappahannock Scenic River Advisory Board
1012	Recreational Fishing Advisory Board, Virginia
1013	Reforestation Board
1014	Retirement System Review Board
1015	Rockfish State Scenic River Advisory Board
1016	Shenandoah State Scenic River Advisory Board
1017	Small Business Advisory Board
1018	Small Business Environmental Compliance Advisory Board
1019	St. Mary's Scenic River Advisory Committee
1020	State Advisory Board on Air Pollution
1021	State Advisory Board for the Virginia Employment Commission <i>Department of Business Assistance</i>
1022	State Building Code Technical Review Board
1023	State Council on Local Debt
1024	State Health Benefits Advisory Council
1025	State Insurance Advisory Board
1026	State Land Evaluation Advisory Council
1027	State Networking Users Advisory Board
1028	State Public Records Advisory Council
1029	Statewide Independent Living Council
1030	Statewide Rehabilitation Advisory Council
1031	Statewide Rehabilitation Advisory Council for the Blind
1032	Staunton Scenic River Advisory Committee
1033	Telecommunications Relay Service Advisory Board
1034	Tourism and Travel Services Advisory Board
1035	Virginia Advisory Commission on Intergovernmental Relations
1036	Virginia Advisory Council for Adult Education and Literacy
1037	Virginia Coal Mine Safety Board
1038	Virginia Coal Research and Development Advisory Board
1039	Virginia Commission for the Arts
1040	Virginia Commission on the Bicentennial of the United States Constitution
1041	Virginia Correctional Enterprises Advisory Board
1042	Virginia Council on Coordinating Prevention
1043	Virginia Equal Employment Opportunity Council

1044 Virginia Interagency Coordinating Council
1045 Virginia Military Advisory Council
1046 Virginia Public Buildings Board
1047 Virginia Recycling Markets Development Council
1048 Virginia Technology Council
1049 Virginia Transplant Council
1050 Virginia Veterans Cemetery Board
1051 Virginia Water Resources Research Center, Statewide Advisory Board
1052 Virginia Winegrowers Advisory Board.

1053 § 9-202. Membership; terms, compensation and expenses; Chairman, vice-chairman, secretary and
1054 treasurer; quorum; staff.

1055 A. The Board shall consist of the State Treasurer or his designee and nine members who are not
1056 employees of the Commonwealth or of any political subdivision thereof who shall be appointed by the
1057 Governor and who shall have such small business experience as he may deem necessary or desirable.
1058 The appointment of members of the Board by the Governor shall be subject to confirmation by the
1059 General Assembly, if in session when such appointments are made, and if not in session, at the General
1060 Assembly's first session subsequent to the date such appointments are made. Unconfirmed appointments
1061 shall expire thirty days after the convening of the General Assembly. All members of the Board shall be
1062 residents of the Commonwealth. ~~Initial appointments shall be for terms as follows: one director for one~~
1063 ~~year; two directors for two years; three directors for three years; and three directors for four years.~~
1064 ~~Subsequent appointments~~ *Appointments* shall be for terms of four years, except that appointments to fill
1065 vacancies shall be made for the unexpired terms. No member appointed by the Governor shall serve
1066 more than two complete terms in succession. The members of the Board shall receive no salaries but
1067 shall be paid travel and other expenses incurred to attend meetings or while otherwise engaged in the
1068 discharge of their duties, all as may be deemed appropriate by the Board.

1069 B. The Governor shall appoint one member as Chairman. Five members of the Board shall constitute
1070 a quorum for the transaction of all business of the Authority. The Board shall elect one member from
1071 the group of nine members appointed by the Governor as vice-chairman who shall exercise the powers
1072 of the chairman in the absence of the Chairman. The directors shall elect from their membership or not,
1073 as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such
1074 office until their respective successors shall be elected. The Department of ~~Economic Development~~
1075 *Business Assistance* of the Commonwealth shall serve as staff to the Authority.

1076 § 9-204. Executive Director; appointment; duties.

1077 The Director of the Department of ~~Economic Development~~ *Business Assistance* shall appoint the
1078 Executive Director of the Authority. The Executive Director shall administer, manage and direct the
1079 affairs and activities of the Authority in accordance with the policies and under the control and the
1080 direction of the Board and the Director of the Department of ~~Economic Development~~ *Business*
1081 *Assistance*. Except as otherwise stated in this chapter, the Executive Director shall approve all accounts
1082 for allowable expenses for the Authority or of any employee or consultant or other person providing
1083 services to the Board, and for expenses incidental to the operation of the Authority subject to approval
1084 of the Director of the Department of ~~Economic Development~~ *Business Assistance*. The Executive
1085 Director shall maintain and be custodian of all books, documents and papers of or filed with the
1086 Authority, including but not limited to the minute book or journal of the Authority, and of its official
1087 seal. The Executive Director may cause copies to be made of all minutes and other records and
1088 documents of the Authority and may in the place and stead of the Secretary of the Authority give
1089 certificates under seal of the Authority to the effect that such copies are true copies, and all persons
1090 dealing with the Authority may rely on such certificates. The Executive Director also shall perform such
1091 other duties as may be prescribed by the Board in carrying out the purposes of this chapter.

1092 § 9-249.1. Nonstock corporation to assist small businesses.

1093 The Department of ~~Economic Development~~ *Business Assistance* is hereby authorized to establish a
1094 nonstock corporation under Chapter 10 (§ 13.1-801 et seq.), Title 13.1 as an instrumentality to assist the
1095 Department in providing support to the small business segment of the economy of the Commonwealth.
1096 The Department is further authorized to do all things necessary to qualify such corporation as a certified
1097 development company under Subchapter V of the Small Business Investment Act of 1958 (15 U.S.C.
1098 § 695 et seq.), or any amendment or successor statute thereto, as well as regulations promulgated
1099 thereunder by the United States Small Business Administration. Any action by the Department to
1100 establish such a corporation prior to July 1, 1986, is hereby ratified and approved.

1101 § 9-285. Technical Advisory Committee.

1102 There is created a Technical Advisory Committee to the Council which shall consist of the
1103 Commissioner of Social Services, ~~the Commissioner of the Virginia Employment Commission~~, the
1104 Director of the Department of ~~Economic Development~~ *Business Assistance*, and the Superintendent of
1105 Public Instruction or their designees. The Technical Advisory Committee shall provide technical and

support services on child day care and early childhood development as the Council may deem appropriate, and advise the Council in carrying out its powers and duties. Members of the Technical Advisory Committee shall receive no compensation for their services but shall be paid their necessary expenses incurred in the discharge of their duties.

§ 9-290. Agency support to the Council.

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

§ 9-333. Commission staff.

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

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

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

§ 15.1-18.4. Participation by local government in certain loan programs.

Any county, city, town or any other political subdivision may participate in a program known as the "Virginia Shell Building Initiative." This program, administered by the Virginia Department of ~~Economic Development~~ *Business Assistance*, hereafter referred to as the Department, makes available moneys to any county, city, town or any other political subdivision for the express purpose of constructing industrial shell buildings to be sold or leased at public or private sale to any person, firm or corporation that will locate thereon any manufacturing, processing or similar establishment.

Prior to filing an application with the Department to participate in this program, the governing body shall hold a public hearing on the application and disposal of the proposed industrial shell buildings and related real estate. This public hearing process shall fulfill the public hearing requirements for the disposal of property set forth in § 15.1-262.

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

The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the municipality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term; subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto shall not have been appointed, then the director whose term of office shall have expired shall continue to hold office until his successor shall be appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1. No director shall be an officer or employee of the municipality except in towns under 3,500 people where members of the town governing body may serve as directors provided they do not comprise a majority of the board. Every director shall, at the time of his appointment and thereafter, reside in the municipality or municipalities with respect to which the authority is organized; however, any person residing within any municipality adjoining the boundaries of the municipality or municipalities with respect to which the authority is organized shall be deemed a resident of such municipality for the purposes of this chapter. When a director ceases to be a resident of the municipality or any adjoining municipality with respect to which the authority upon which he serves is organized, such director's office shall be vacant and a new director may be appointed for the remainder of the term so vacated. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors shall be elected. The directors shall receive no salary but the directors may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed fifty dollars per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to

1167 exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of
 1168 its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its
 1169 financial transactions and, unless exempted by § 2.1-164, it shall arrange to have the same audited
 1170 annually. Copies of each such audit shall be furnished to the governing body of the municipality and
 1171 shall be open to public inspection.

1172 Two mechanically reproduced copies of the report concerning issuance of bonds required to be filed
 1173 with the United States Internal Revenue Service shall be certified as true and correct copies by the
 1174 secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of
 1175 the municipality and the other copy mailed to the Department of ~~Economic Development~~ *Business*
 1176 *Assistance*.

1177 § 15.1-1405.1. General duties of planning district commissions.

1178 Planning district commissions shall have the following duties and authority:

- 1179 1. To conduct studies on issues and problems of regional significance;
- 1180 2. To identify and study potential opportunities for local cost savings and staffing efficiencies
 1181 through coordinated local government efforts;
- 1182 3. To identify mechanisms for the coordination of local interests on a regional basis;
- 1183 4. To implement services upon request of member local governments;
- 1184 5. To provide technical assistance to local governments;
- 1185 6. To serve as a liaison between local governments and state agencies as requested;
- 1186 7. To review local government aid applications as required by § 15.1-1410 and other state or federal
 1187 law or regulation;
- 1188 8. To conduct strategic planning for the region as required by §§ 15.1-1406 through 15.1-1409;
- 1189 9. To develop regional functional area plans as deemed necessary by the commission or as requested
 1190 by member local governments;
- 1191 10. To assist state agencies, as requested, in the development of substate plans;
- 1192 11. To participate in a statewide geographic information system, the Virginia Geographic Information
 1193 Network, as directed by the Department of Planning and Budget; and
- 1194 12. To collect and maintain demographic, economic and other data concerning the region and
 1195 member local governments, and act as a state data center affiliate in cooperation with the ~~Virginia~~
 1196 ~~Employment Commission~~ *Department of Business Assistance*.

1197 § 22.1-209. Employment counseling and placement services.

1198 A. Each school board shall make available to secondary students employment counseling and
 1199 placement services to furnish information relating to the employment opportunities available to students
 1200 graduating from or leaving the public schools in the school division which shall include all types of
 1201 employment opportunities, including but not limited to, apprenticeships, the military, and career
 1202 education schools.

1203 B. No fee, compensation or other consideration shall be charged to or received from any student
 1204 utilizing such services.

1205 C. In providing such services, the school board shall consult and cooperate with the ~~Virginia~~
 1206 ~~Employment Commission~~ *Department of Business Assistance*, the Department of Labor and Industry,
 1207 local business and labor organizations, and such career schools as may be approved by the Board.

1208 D. The Board of Education may recommend methods for providing such services. The State
 1209 Department of Education may provide assistance to school divisions in establishing and providing such
 1210 services upon request.

1211 § 23-135.7:7. Advisory Committee continued as Advisory Board.

1212 The Virginia Coal Research and Development Advisory Committee is continued and shall hereafter
 1213 be known as the Virginia Coal Research and Development Advisory Board. The Advisory Board shall
 1214 serve in an advisory capacity to the Executive Director of the Virginia Center for Coal and Energy
 1215 Research.

1216 1. The Advisory Board shall be authorized to advise on those matters set forth in § 23-135.7:2.

1217 2. Representatives to the Advisory Board shall be appointed by the Board of Visitors of Virginia
 1218 Polytechnic Institute and State University.

1219 3. The Board of Visitors of Virginia Polytechnic Institute and State University shall also appoint
 1220 such other individuals as they deem necessary to the work of the Advisory Board.

1221 4. Representatives from the Department of Conservation and Historic Resources, the Department of
 1222 ~~Economic Development~~ *Business Assistance*, the Department of Mines, Minerals and Energy, the
 1223 Department of Labor and Industry, the Virginia Port Authority, the institutions of higher education,
 1224 excluding Virginia Polytechnic Institute and State University, and the Community College System shall
 1225 serve as the Advisory Board.

1226 § 36-139.6. Additional powers and duties of Director; oversight of planning district commissions.

1227 The Director of the Department of Housing and Community Development shall have the following
 1228 powers and duties relating to oversight of planning district commissions:

1. To recommend to the Governor the level of state general appropriation funding for each planning district commission, taking into consideration the minimum funding level necessary for operation, the population of each district, and other factors considered appropriate;

2. To distribute state general appropriation funding to planning district commissions consistent with the provisions of this chapter and Chapter 34 (§ 15.1-1400 et seq.) of Title 15.1;

3. To administer the Regional Cooperation Incentive Fund in accordance with § 15.1-1412.1;

4. To provide technical assistance to planning district commissions regarding regional approaches to area-wide problems. Assistance may be initiated by the Department, individual local governments, or planning district commissions;

5. To require the submission of annual programmatic and financial information by each planning district commission in a format prescribed by the Director;

6. To prepare a biennial report to the Governor and the General Assembly which identifies the activities and other information deemed appropriate by the Director concerning planning district commissions, including findings as to planning district commissions which are not complying with Chapter 34 (§ 15.1-1400 et seq.) of Title 15.1. Copies of the biennial report shall also be sent to the Commission on Local Government, *Department of Business Assistance*, Department of Conservation and Recreation, ~~Department of Economic Development~~, Department of Environmental Quality, Department of Planning and Budget, Department of Transportation, ~~Virginia Employment Commission~~, and others upon request; and

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

§ 40.1-6. Powers and duties of Commissioner.

The Commissioner shall:

(1) Have general supervision and control of the Department.

(2) Enforce the provisions of this title and shall cause to be prosecuted all violations of law relating to employers or business establishments before any court of competent jurisdiction.

(3) Make such rules and regulations as may be necessary for the enforcement of this title and procedural rules as are required to comply with the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). All such rules and regulations shall be subject to Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9.

(4) In the discharge of his duties, have power to take and preserve testimony, examine witnesses and administer oaths and to file a written or printed list of relevant interrogatories and require full and complete answers to the same to be returned under oath within thirty days of the receipt of such list of questions.

(5) Have power to appoint such representatives as may be necessary to aid him in his work; their duties shall be prescribed by the Commissioner.

(6) [Repealed.]

(7) Have power to require that accident, injury and occupational illness records and reports be kept at any place of employment and that such records and reports be made available to the Commissioner or his duly authorized representatives upon request. Further, he may require employers to develop, maintain and make available such other records and information as are deemed necessary for the proper enforcement of this title.

(8) Have power, upon presenting appropriate credentials to the owner, operator, or agent in charge:

(a) To enter without delay and at reasonable times any business establishment, construction site, or other area, workplace or environment where work is performed by an employee of any employer in this Commonwealth; and

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, without prior notice, unless such notice is authorized by the Commissioner or his representative, any such business establishment or place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, officer, owner, operator, agent, or employee. If such entry or inspection is refused, prohibited or otherwise interfered with, the Commissioner shall have power to seek from a court having equity jurisdiction an order compelling such entry or inspection.

(9) Make rules and regulations governing the granting of temporary or permanent variances from all standards promulgated by the Board under this title. Any interested or affected party may appeal to the Board, the Commissioner's determination to grant or deny such a variance. The Board may, as it sees fit, adopt, modify or reject the determination of the Commissioner.

(10) All information reported to or otherwise obtained by the Commissioner, the Board or the agents

or employees of either which contains or might reveal a trade secret shall be confidential and shall be limited to those persons who need such information for purposes of enforcement of this title. The Commissioner shall have authority to issue orders to protect the confidentiality of such information. Violations of such orders shall be punishable as civil contempt upon application to the Circuit Court of the City of Richmond. It shall be the duty of each employer to notify the Commissioner, or his representatives, of the existence of trade secrets where he desires the protection provided herein.

(11) Serve as executive officer of the Virginia Safety and Health Codes Board and of the Apprenticeship Council and shall see that the rules, regulations and policies that they promulgate it promulgates are carried out.

§ 40.1-117. Apprenticeship Council; membership and terms of office; meetings and duties.

A. The Governor shall appoint an Apprenticeship Council, composed of four representatives each from employer and employee organizations respectively, and all of whom shall be familiar with apprenticeable occupations. The Commissioner of the Virginia Employment Commission Superintendent of Public Instruction, the Chancellor of the Virginia Community College System, or their designated representatives, and a local superintendent from a school division that provides apprenticeship-related instruction, shall be members, ex officio, of the Council. At the beginning of each year the Governor shall designate one member to serve as chairman. Each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of such term. All members, including ex officio members, shall have voting privileges.

B. The Apprenticeship Council shall meet at the call of the chairman of the Council and shall formulate policies for the effective administration of this chapter.

C. The Apprenticeship Council shall establish standards for apprentice agreements which shall not be lower than those prescribed by this chapter and those established pursuant to Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1, and shall perform such other functions as may be necessary to carry out the intent and purposes of this chapter. Not less than once a year the Council shall make a report of its activities and findings to the General Assembly and to the public.

§ 40.1-125. Director to administer chapter.

The Commissioner Director of the Department of Business Assistance, with the advice and guidance of the Council, shall be responsible for administering the provisions of this chapter.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken or published in the line of duty under the law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or to any information required for building permits.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (iii) provide to the Executive Director of the State Education Assistance

Authority, upon written request, the names and home addresses of those persons identified by the Authority as having defaulted on loans guaranteed by the Authority; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the ~~Commissioner of the Virginia Employment Commission~~ *Director of the Department of Business Assistance*, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; and (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D of this section. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

§ 59.1-284.1. Definitions.

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

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

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

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

"Fund" means the Virginia Economic Development Revolving Fund.

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

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

§ 60.2-108. Act and Trust Fund to be administered by the Director of the Department of Business Assistance.

1413 The Virginia Employment Commission shall consist of one Commissioner, who shall be appointed
1414 by the Governor for a term of four years, subject to confirmation by the General Assembly, if in session
1415 when such appointment is made, and if not in session, then at its next succeeding session. Appointments
1416 to fill vacancies shall be for the unexpired terms. The Commissioner may be suspended or removed by
1417 the Governor at his pleasure, and he shall receive such compensation as may be provided in accordance
1418 with law. *The provisions of the Virginia Unemployment Compensation Act, including the maintenance of*
1419 *the Virginia Unemployment Trust Fund, shall be administered by the Commissioner as directed by the*
1420 *Director of the Department of Business Assistance.*

1421 § 60.2-110. Employment services and unemployment insurance services.

1422 The Commission may establish two coordinate divisions: the Virginia State Job Service, created
1423 pursuant to § 60.2-400, and the Unemployment Insurance Services Division one or more divisions
1424 responsible for the administration of employment services and unemployment insurance services. Each
1425 such division shall be responsible for the discharge of its distinctive functions. Each division shall be a
1426 separate administrative unit, with respect to personnel, budget, and duties, except insofar as the
1427 Commission may find that such separation is impracticable. In lieu, however, of establishing the two
1428 one or more divisions, the Commission may cooperate with and utilize the personnel and services of
1429 employment offices or services operated by the United States or any of its authorized agencies but only
1430 to the extent necessary for the federal employment offices or services to perform the functions imposed
1431 upon employment offices by § 60.2-601 and subdivision 5 of § 60.2-612.

1432 § 60.2-208. Department.

1433 "Commission" "Department" means the Virginia Employment Commission Department of Business
1434 Assistance. Wherever in this Code, or any act of the General Assembly the term "Unemployment
1435 Compensation Commission" is used, it shall mean the Virginia Employment Commission Department of
1436 Business Assistance. *The Virginia Employment Commission, heretofore existing as an independent*
1437 *agency, is hereby transferred to the Department of Business Assistance, which shall exercise the powers*
1438 *and duties described in this title through the Virginia Employment Commission.*

1439 § 60.2-400. Cooperation with U.S. Employment Service agencies.

1440 A. The Commission shall have all rights, powers and duties with respect to the establishment,
1441 maintenance and operation of free employment offices in the Commonwealth and shall possess, exercise
1442 and perform the same through a division known as the Virginia State Job Service. The Commission
1443 through the division shall establish and maintain free public employment offices in such number and in
1444 such places as may be necessary for the proper administration of this title.

1445 B. The Commission through the Virginia State Job Service, is designated as the state agency and
1446 vested with all powers necessary to cooperate with the United States Employment Service in accordance
1447 with the terms and conditions expressed in Chapter 4B (§ 49 et seq.) of Title 29 of the United States
1448 Code.

1449 C. The Commission may cooperate with or enter into agreements with the Railroad Retirement
1450 Board, or any other agency of the United States charged with the administration of an unemployment
1451 compensation law, with respect to the maintenance and use of free employment service facilities.

1452 D. Chapter 13 of the Acts of Assembly of 1933 providing for cooperation between the
1453 Commonwealth and the United States Employment Service is, subject to the provisions of this chapter,
1454 continued in effect.

1455 § 60.2-611. Receipt of extended benefits.

1456 A. Except when the result would be inconsistent with the other provisions of this section, as
1457 provided in the regulations of the Commission, the provisions of this title which apply to claims for, or
1458 the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

1459 B. An individual shall be eligible to receive extended benefits with respect to any week of
1460 unemployment in his eligibility period only if the Commission finds that for such week:

1461 1. He is an "exhaustee" as defined in subsection F of § 60.2-610.

1462 2. He has satisfied the requirements of this title for the receipt of regular benefits that are applicable
1463 to individuals claiming extended benefits, including not being subject to a disqualification for the receipt
1464 of benefits.

1465 C. The weekly extended benefit amount payable to an individual for a week of total unemployment
1466 in his eligibility period shall equal the weekly benefit amount payable to him during his applicable
1467 benefit year.

1468 D. The total extended benefit amount payable to any eligible individual for his applicable benefit
1469 year shall be the least of the following amounts:

1470 1. Fifty percent of the total amount of regular benefits which were payable to him under this title in
1471 his applicable benefit year;

1472 2. Thirteen times his weekly benefit amount which was payable to him under this title for a week of
1473 total unemployment in the applicable benefit year; or

1474 3. Thirty-nine times his weekly benefit amount which was payable to him under this title for a week

of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid or deemed paid to him under this title for the benefit year.

E. 1. Whenever an extended benefit period is to become effective in this Commonwealth as a result of a state "on" indicator, or an extended benefit period is to be terminated in this Commonwealth as a result of state "off" indicators, the Commission shall make an appropriate public announcement.

2. Computations required by the provisions of subsection B of § 60.2-610 shall be made by the Commission, in accordance with regulations prescribed by the United States Secretary of Labor.

3. An "on" or "off" indicator for this Commonwealth shall be determined without regard to subdivision 1 of subsection H of § 60.2-610 for any period that waiver of such provisions is authorized under § 203 (d) of the Federal-State Extended Unemployment Compensation Act (26 U.S.C. § 3304) and any amendments thereto, or as authorized by any provision of federal law.

F. 1. Notwithstanding the provisions of subsection A of this section, an individual shall be ineligible for payment of extended benefits for any week of unemployment in his eligibility period if the Commission finds that during such period:

a. He failed to accept any offer of suitable work or failed to apply for any suitable work, as defined under subdivision 3 of this subsection, to which he was referred by the Commission; or

b. He failed to actively engage in seeking work as prescribed under subdivision 5 of this subsection.

2. Any individual who has been found ineligible for extended benefits by reason of the provisions in subdivision 1 of this subsection shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed in each of four subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than four times the extended weekly benefit amount.

3. a. For purposes of this subsection, "suitable work" means, with respect to any individual, any work which is within the individual's capabilities and for which the gross average weekly remuneration payable for the work exceeds the sum of:

(1) The individual's average weekly benefit amount as determined under subsection C of this section, plus

(2) Any amount of supplemental unemployment benefits, as defined in § 501 (c) (17) (D) of the Internal Revenue Code, payable to the individual for such week.

b. Such gross average weekly remuneration shall pay wages equal to the higher of:

(1) The minimum wages provided by § 6 (a) (1) of the Fair Labor Standards Act (29 U.S.C. § 201 et seq.), without regard to any exemption; or

(2) The state or local minimum wage.

c. No individual, however, shall be denied extended benefits for failure to accept an offer or referral to any job which meets the definition of suitable work as described in subdivision 3a of this subsection if:

(1) The position was not offered to such individual in writing or was not listed with the ~~Job~~ *Service Commission*;

(2) Such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in subdivision 3 of § 60.2-618 to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subdivision; or

(3) The individual furnishes satisfactory evidence to the Commission that his prospects for obtaining work in his customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in subdivision 3 of § 60.2-618 without regard to the definition specified by this subdivision.

4. Notwithstanding the provisions of this subsection, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by § 3304 (a) 5 of the Internal Revenue Code and set forth under subdivision 3 of § 60.2-618.

5. For the purposes of subdivision 1 b of this subsection, an individual shall be treated as actively engaged in seeking work during any week if:

a. The individual has engaged in a systematic and sustained effort to obtain work during such week, and

b. The individual furnishes tangible evidence that he has engaged in such effort during such week.

6. The ~~Job Service~~ *Commission* shall refer any claimant entitled to extended benefits under this title to any suitable work which meets the criteria prescribed in subdivision 3 of this subsection.

7. Notwithstanding any other provisions of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, for weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment

allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

8. No claim for extended benefits shall be subject to subdivisions 1, 2, 3 or 6 of this subsection for weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. If the Federal-State Extended Unemployment Compensation Act of 1970 is at any time amended to preclude enforcement of any provision of this section, such provision shall not apply to any claim for weeks beginning on the date said amendment becomes effective.

G. 1. Except as provided in subdivision 2 of this subsection, an individual shall not be eligible for extended benefits for any week if:

a. Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit plan, and

b. No extended benefit period is in effect for such week in such state.

2. Subdivision 1 of this subsection shall not apply to the first two weeks for which extended benefits are payable, determined without regard to this subsection, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.

§ 60.2-612. Benefit eligibility conditions.

An unemployed individual shall be eligible to receive benefits for any week only if the Commission finds that:

1. He has, in the highest two quarters of earnings within his base period, been paid wages in employment for employers that are equal to not less than the lowest amount appearing in Column A of the "Benefit Table" appearing in § 60.2-602 on the line which extends through Division C and on which in Column B of the "Benefit Table" appears his weekly benefit amount. Such wages shall be earned in not less than two quarters.

2. a. His total or partial unemployment is not due to a labor dispute in active progress or to shutdown or start-up operations caused by such dispute which exists (i) at the factory, establishment, or other premises, including a vessel, at which he is or was last employed, or (ii) at a factory, establishment or other premises, including a vessel, either within or without this Commonwealth, which (a) is owned or operated by the same employing unit which owns or operates the premises at which he is or was last employed and (b) supplies materials or services necessary to the continued and usual operation of the premises at which he is or was last employed. This subdivision shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises, including a vessel, at which the labor dispute occurs, any of whom are participating in or financing or directly interested in the dispute.

b. If separate branches of work which are commonly conducted as separate businesses at separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subdivision, be deemed to be a separate factory, establishment or other premises. Membership in a union, or the payment of regular dues to a bona fide labor organization, however, shall not alone constitute financing a labor dispute.

3. He is not receiving, has not received or is not seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; however, if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this subdivision shall not apply.

4. He is not on a bona fide paid vacation. If an individual is paid vacation pay for any week in an amount less than the individual's weekly benefit amount his eligibility for benefits shall be computed under the provisions of § 60.2-603.

5. He has registered for work and thereafter has continued to report at an employment office in accordance with such regulations as the Commission may prescribe. The Commission may, by regulation, waive or alter either or both of the requirements of this subdivision for certain types of cases when it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title.

6. He has made a claim for benefits in accordance with regulations the Commission may prescribe.

7. a. He is able to work, is available for work, and is actively seeking and unable to obtain suitable work. Every claimant who is totally unemployed shall report to the Commission the names of employers contacted each week in his effort to obtain work. This information may be subject to employer verification by the Commission through a program designed for that purpose. The Commission may determine that registration by a claimant with the *Virginia State Job Service Commission's employment services* may constitute a valid employer contact and satisfy the search for work requirement of this subsection in labor market areas where job opportunities are limited. The Commission may determine

that an individual, whose usual and customary means of soliciting work in his occupation is through contact with a single hiring hall which makes contacts with multiple employers on behalf of the claimant, meets the requirement that he be actively seeking and unable to obtain suitable work by contacting that hiring hall alone. In areas of high unemployment, as determined by the Commission, the Commission has the authority to adjust the requirement that he be actively seeking and unable to obtain suitable work.

b. An individual who leaves the normal labor market area of the individual for the major portion of any week is presumed to be unavailable for work within the meaning of this section. This presumption may be overcome if the individual establishes to the satisfaction of the Commission that the individual has conducted a bona fide search for work and has been reasonably accessible to suitable work in the labor market area in which the individual spent the major portion of the week to which the presumption applies.

8. He has given notice of resignation to his employer and the employer subsequently made the termination of employment effective immediately, but in no case to exceed two weeks for which he would have worked had the employee separated from employment on the date of termination as given in the notice; provided, that the claimant could not establish good cause for leaving work pursuant to § 60.2-618 and was not discharged for misconduct as provided in § 60.2-618.

9. Beginning January 6, 1991, he has served a waiting period of one week during which he was eligible for benefits under this section in all other respects and has not received benefits, except that only one waiting week shall be required of such individual within any benefit year.

10. He is not imprisoned or confined in jail.

11. He participates in reemployment services, such as job search assistance services, if he has been determined to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the Commission, unless the Commission determines that (i) such claimant has completed such services or (ii) there is good cause for such claimant's failure to participate in such services.

§ 63.1-133.8. Definitions.

For the purposes of this chapter, the following words or terms shall have the meaning ascribed to them by this section, unless the context otherwise requires:

(a) "A reasonable employment opportunity" is a job opportunity which is not beyond the physical and intellectual capabilities of the individual, is not unreasonably disruptive of the duties owed his or her family, does not result in displacement of persons currently employed, offers an opportunity to such person to become partially or wholly self-supporting, and provides reasonable compensation which will aid in restoring the economic well-being of the person so employed as well as the economy of the political subdivision in which such person would be otherwise entitled to receive public assistance. "Reasonable compensation" as used in this section shall be construed to mean an amount not less than the federal or state minimum hourly wage, whichever is less, or, if the job is not covered by the federal or state minimum wage, then an amount equal to the prevailing wage rate for a comparable position in the immediate geographical area.

(b) "~~Commission~~" shall mean the Virginia Employment Commission "*Department*" means the *Department of Business Assistance*.

(c) "~~Local employment office~~" shall ~~mean~~ means the office of the Virginia Employment Commission *Department of Business Assistance* which serves each political subdivision.

(d) "An employable person" shall ~~mean~~ means a person age sixteen to sixty-five not rendered unable to work by reasons of blindness; illness or significant and substantial incapacitation, either mental or physical, to the extent and of such duration that such illness or incapacitation prevents such person from performing services; full-time attendance in school if between the ages of sixteen and twenty-one; full-time satisfactory participation in an approved program of vocational training or rehabilitation; the need of such person to provide full-time care for other members of such person's household who are wholly incapacitated, or who are children under the age permitted by the United States Social Security Act for exemption or are children for whom required care is not otherwise reasonably available, notwithstanding diligent efforts by such person to obtain others to provide such care; or the unavailability of transportation. In the case of incapacitation, mental or physical, the local board of public welfare shall seek and obtain the recommendation of the appropriate state vocational rehabilitation agency concerning employability. For purposes of this chapter, an applicant for or recipient of aid to families with dependent children who is enrolled and participating in the work incentive program shall not be considered an "employable person."

§ 63.1-133.9. Filing of offers of employment with Department of Business Assistance.

Every person in a county or city shall have the right to file with the office of the Virginia ~~Employment Commission~~ *Department of Business Assistance* serving that county or city, or with the local welfare or social services department specific bona fide offers of employment which shall include

1659 the qualifications required of persons to apply for such employment, the hours of work expected, and
1660 the compensation offered therefor. If made to the local welfare office, that office shall transmit the offer
1661 to the local employment office.

1662 § 63.1-133.10. Determination of employable persons by local boards.

1663 The local board of public welfare or social services shall make a determination as to whether or not
1664 applicants or recipients are employable as defined in subdivision (d) of § 63.1-133.8, or available for
1665 training. If such applicant or recipient is deemed employable by the local board then such applicant or
1666 recipient shall be charged with the responsibility of complying with the provisions of § 63.1-133.12. An
1667 applicant or recipient shall be given an opportunity to present to the local board evidence that he is
1668 unemployable, as hereinabove defined.

1669 Upon a finding by the local board that an applicant or recipient is employable, the local board shall
1670 require the applicant to complete the employment application form provided by the ~~Virginia~~
1671 ~~Employment Commission~~ *Department of Business Assistance* and shall refer such applicant or recipient
1672 to the local employment office for purposes of complying with § 63.1-133.12.

1673 § 63.1-133.11. Responsibilities of Department of Business Assistance.

1674 (a) Upon referral of any applicant or recipient to the local employment office pursuant to
1675 § 63.1-133.10, the ~~Virginia Employment Commission~~ *Department of Business Assistance* shall be
1676 charged with the responsibility of attempting to locate employment or, in appropriate cases, providing
1677 training for such person. Notwithstanding the requirements of § 63.1-133.12, the ~~Commission~~
1678 *Department* shall refer an employable person for participation in a program of occupational training
1679 when in the judgment of the ~~Commission~~ *Department* the person may thereby become trained for
1680 referral to available employment, or when the person may thereby become trained for referral to skilled
1681 or semi-skilled employment. The appropriate office of the ~~Commission~~ *Department* shall file with the
1682 local department of welfare or social services at least monthly a certificate setting forth the employment
1683 status of each public assistance applicant or recipient who has been referred pursuant to § 63.1-133.10,
1684 including, for those persons who are unemployed, a statement that such employment office has no
1685 opening in part-time, full-time, temporary or permanent employment in which the applicant or recipient
1686 is able to engage.

1687 (b) A public welfare official responsible for the assistance and care of a person who, in the judgment
1688 of such official, is employable or potentially employable, may require such person to receive suitable
1689 medical care or undergo suitable instruction or work training or work experience, or any combination
1690 thereof. Any such person who willfully refuses to accept such medical and dental care, refuses or fails
1691 to report for or cooperate in a program of instruction or work training or work experience or any
1692 combination thereof as required by the public welfare official, shall be ineligible to receive public
1693 assistance and care. However, the requirements of this provision relating to instruction and work training
1694 shall not apply in the case of a person who is not available for employment by reason of age, health or
1695 other disability.

1696 (c) The provisions of this section shall not confer authority on a public welfare official to provide
1697 instruction which is available through the public school system, but regulations of the department may
1698 make provision for such authority when special need therefor is demonstrated.

1699 (d) The Department of Social Services may establish within the existing resources of the Department
1700 work experience projects through cooperation with any governmental unit or agency or any private
1701 nonprofit agency in order to provide employment experience for employable persons or those who are in
1702 the unassigned recipient status of the work incentive program on a pilot basis in one urban and one rural
1703 area.

1704 (e) The ~~Virginia Employment Commission~~ *Department of Business Assistance* and the Department
1705 of Social Services shall undertake no action with regard to this chapter which will result in a cut off of
1706 federal funding.

1707 § 63.1-133.14. Application of chapter.

1708 The provisions of this chapter shall apply to all local departments of welfare or social services and to
1709 all local offices of the ~~Virginia Employment Commission~~ *Department of Business Assistance*. The State
1710 Department of Social Services and the ~~Virginia Employment Commission~~ *Department of Business*
1711 *Assistance*, as well as every local welfare or social services department and every local employment
1712 office, shall cooperate in the implementation of the provisions of this chapter. On or before January 1,
1713 1975, every political subdivision in the Commonwealth shall have in operation either a work incentive
1714 program or programs of employment and training pursuant to this chapter for public assistance
1715 applicants and recipients.

1716 § 63.1-133.41. Virginia Independence Program (VIP); purpose; administration.

1717 There is hereby created the Virginia Independence Program, hereinafter in this chapter referred to as
1718 the "Program." The Job Opportunities and Basic Skills Training Program shall be implemented in the
1719 Commonwealth as the Virginia Independence Program and the Virginia Initiative for Employment not
1720 Welfare.

The goals of the Program are to:

1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;

2. Provide Virginia families living in poverty with the opportunities and work skills necessary for self-sufficiency;

3. Allow Virginia families living in poverty to contribute materially to their own self-sufficiency;

4. Set out the responsibilities of and expectations for recipients of public assistance and the government; and

5. Provide Virginia families living in poverty with the opportunity to obtain work experience through the Virginia Initiative for Employment Not Welfare (VIEW).

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

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

§ 63.1-133.45. Participation; coordinated services.

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

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

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

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

E. The Secretary of Health and Human Resources shall:

1. Increase public awareness of the federal earned income credit and encourage families who may be eligible to apply for this tax credit.

2. Pursue aggressive child-support initiatives as established by the General Assembly.

3. Work with community providers to develop adoption, education, family planning, marriage, parenting, and training options for Program participants.

4. Increase public awareness of the tax advantages of relocating one's residence in order to secure employment.

5. Provide leadership for the development of community work experience opportunities in VIEW.

6. Develop strategies to educate, assist and stimulate employers to hire participants and to provide community work experience opportunities, in consultation with the Advisory Commission on Welfare Reform, representatives of employers, and other relevant public and private agencies on the state and local level.

7. Provide technical assistance to local departments of social services to assist them in working with employers in the community to develop job and community work experience opportunities for participants.

§ 63.1-314.8. Technical Assistance Committee created; duties; membership.

A. There is hereby created a Technical Assistance Committee, which shall provide technical and support services on the operations of the information and referral system as the Council may deem appropriate and shall advise the Council in performing its powers and duties.

B. The membership of the Technical Assistance Committee shall include but not be limited to:

1. Two directors of local departments of public welfare or social services, one serving a rural and one an urban locality, to be appointed by the Commissioner of Social Services;

2. The Commissioners or Directors, or their designees, of the Department of Medical Assistance Services; Department of Health; Department of Mental Health, Mental Retardation and Substance Abuse

1782 Services; Department of Rehabilitative Services; Department for the Aging; Department for the Visually
1783 Handicapped; Department for Rights of Virginians With Disabilities; Department of Information
1784 Technology; Department for the Deaf and Hard-of-Hearing; Department of Health Professions;
1785 Department of Corrections; Department of Education; Department of Youth and Family Services; and
1786 the ~~Virginia Employment Commission~~ *Department of Business Assistance*; and

1787 3. The Director of the Virginia Council on Child Day Care and Early Childhood Programs.

1788 § 65.2-500. Compensation for total incapacity; computation of average wage.

1789 A. When the incapacity for work resulting from the injury is total, the employer shall pay, or cause
1790 to be paid, as hereinafter provided, to the injured employee during such total incapacity, a weekly
1791 compensation equal to 66 2/3 percent of his average weekly wages, with a minimum not less than 25
1792 percent and a maximum of not more than 100 percent of the average weekly wage of the
1793 Commonwealth as defined herein. In any event, income benefits shall not exceed the average weekly
1794 wage of the injured employee. Any farm employer who continues to furnish benefits while the employee
1795 is incapacitated shall be given credit for the value of such benefits so furnished when computing the
1796 compensation due the employee.

1797 B. For the purpose of this section the average wage in the Commonwealth shall be determined by
1798 the Commission as follows: On or before January 1 of each year, the total wages, excluding wages of
1799 United States government employees, reported on contribution reports to the ~~Virginia Employment~~
1800 ~~Commission~~ *Department of Business Assistance* for the twelve-month period ending the preceding June
1801 30 shall be divided by the average monthly number of insured workers (determined by dividing the total
1802 insured workers reported for that twelve-month period by twelve). The average annual wage thus
1803 obtained shall be divided by fifty-two and the average weekly wage thus determined rounded to the
1804 nearest dollar. The average weekly wage as so determined shall be applicable for the full period during
1805 which income benefits are payable, when the date of occurrence of injury or of disablement in the case
1806 of disease falls within the year commencing with the July 1 following the date of determination.

1807 C. The minimum or the maximum weekly income benefits shall not be changed for any year unless
1808 the computation herein provided results in an increase or decrease of two dollars or more, raised to the
1809 next even dollar in the level of the minimum or the maximum weekly income benefits.

1810 D. In no case shall the period covered by such compensation be greater than 500 weeks, nor shall
1811 the total amount of all compensation exceed the result obtained by multiplying the average weekly wage
1812 of the Commonwealth as defined herein for the applicable year by 500, except that weekly
1813 compensation on account of total and permanent incapacity as defined by § 65.2-503 C shall continue
1814 for the lifetime of the injured employee without limit as to total amount.

1815 § 65.2-903. Records not public.

1816 The records of the Commission, insofar as they refer to accidents, injuries and settlements, shall not
1817 be open to the public but only to the parties satisfying the Commission of their interest in such records
1818 and their right to inspect them; however, the Commission shall make its records about an injured
1819 employee available to the ~~Virginia Employment Commission~~ *Department of Business Assistance* if it
1820 requests such records.

1821 2. That Articles 1 through 6 (§§ 2.1-548.6 through 2.1-548.25) of Title 2.1 and §§ 2.1-548.16 and
1822 60.2-112 of the Code of Virginia are repealed.

1823 3. That wherever the terms "Virginia Employment Commission", "Commissioner" and
1824 "Commission" are used in Title 60.2, they shall be taken to mean the Department of Business
1825 Assistance, the Director of the Department of Business Assistance, and the Department of Business
1826 Assistance, respectively.