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SENATE BILL NO. 610

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 8, 1996)

(Patron Prior to Substitute—Senator Hawkins)

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, 15.1-1377, 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, containing 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 Chapter 32.1 of Title 2.1 and § 60.2-112 of the Code of Virginia, relating to the creation of the Department of Business Assistance, the transfer of the Virginia Employment Commission, and the elimination of the Department of Economic Development.

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, 15.1-1377, 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.

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

Department of Military Affairs.

Department of Mines, Minerals and Energy.

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

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

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

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

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

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

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

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

327 1. Facilitate the coordination of adult education and literacy services and programs among agencies
328 of the Commonwealth;

329 2. Receive information and advice from state agency heads and representatives as necessary;

330 3. Recommend those policies, legislation, and funding that are needed to advance its purpose to the
331 relevant Cabinet Secretaries, state agencies and boards;

332 4. Promote public/private partnerships and collaboration for adult education and literacy programs
333 throughout the Commonwealth;

334 5. Promote education and literacy services for adults in need of such services;

335 6. Promote education and literacy services for foreign-born adults in need of such services; and

336 7. Represent and participate on behalf of the public sector in the Virginia Literacy Initiative, a
337 public/private partnership for adult literacy education.

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

344 § 2.1-51.40. Agencies for which Secretary of Commerce and Trade responsible.

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

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

355 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding
356 to request; charges; exceptions to application of chapter.

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

body. The response by the public body within such five work days shall be one of the following responses:

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

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

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

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

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

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

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

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

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

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

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

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such

429 departments under a promise of confidentiality; and all records of persons imprisoned in penal
430 institutions in the Commonwealth provided such records relate to the imprisonment. Information in the
431 custody of law-enforcement officials relative to the identity of any individual other than a juvenile who
432 is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions
433 of this chapter.

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

439 2. Confidential records of all investigations of applications for licenses and permits, and all licensees
440 and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery
441 Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

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

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

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

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

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

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

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

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

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

490 9. Any test or examination used, administered or prepared by any public body for purposes of

evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22. Documents as specified in § 58.1-3.

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

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the

552 Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of
553 information taken from inactive reports in a form which does not reveal the identity of charging parties,
554 persons supplying the information or other individuals involved in the investigation.

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

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

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

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

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

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

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

587 (i) Security manuals, including emergency plans that are a part thereof;

588 (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational
589 specifications of security systems utilized by the Departments, provided the general descriptions of such
590 security systems, cost and quality shall be made available to the public;

591 (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address
592 procedures for institutional security, emergency plans and security equipment;

593 (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they
594 specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the
595 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;

596 (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to
597 the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;

598 (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in
599 this section shall prohibit the disclosure of information taken from inactive reports in a form which does
600 not reveal the identity of complainants or charging parties, persons supplying information, confidential
601 sources, or other individuals involved in the investigation, or other specific operational details the
602 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
603 nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of
604 subsection B of this section;

605 (vii) Logs or other documents containing information on movement of inmates, juvenile clients or
606 employees; and

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

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

612 33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development
613 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.

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

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

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

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

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

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

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

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

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

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

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

721 b. Surveillance techniques;

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

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

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

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

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

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

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

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

734 (ii) Surveillance techniques;

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

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

(v) The transportation of merchandise, including routes and schedules; and
 (vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:

- a. Number of employees present during each shift;
- b. Busiest hours, with the maximum number of customers in such government store; and
- c. Banking system used, including time and place of deposits.

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

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

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

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

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

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

CHAPTER 32.2.

DEPARTMENT OF BUSINESS ASSISTANCE.

Article 1.

General Provisions.

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

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

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

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

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

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 duties or execution of the powers conferred under this title and other relevant chapters, which regulations shall be promulgated by the Department in accordance with the provisions of Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act; and*
5. *Do all acts necessary or convenient to carry out the purposes of this chapter.*

§ 2.1-548.47. *Duties of the Department.*

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

798 *that end, the Department shall:*

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

801 *2. Administer and enforce the provisions of the Virginia Unemployment Compensation Act including*
802 *the maintenance of the Virginia Unemployment Trust Fund;*

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

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

808 *5. Administer a program to promote the establishment of apprenticeship programs in cooperation*
809 *with businesses located in the Commonwealth;*

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

813 *7. Assist the unemployed with finding employment and serve as a resource for persons seeking jobs;*
814 *and*

815 *8. Develop statistical reports on unemployment, job creation, and general economic conditions in the*
816 *Commonwealth.*

817 *§ 2.1-548.48. State agencies to furnish information and assistance.*

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

820 *Article 2.*

821 *Small Business Advisory Board.*

822 *§ 2.1-548.49. Creation of Board; membership; terms.*

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

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

835 *§ 2.1-548.50. Officers of Board.*

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

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

847 *§ 2.1-548.51. Functions of the Board.*

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

856 *§ 2.1-548.52. State agencies to furnish information and assistance.*

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

859 *§ 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 courses.

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

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

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the

- 921 following advisory boards, commissions and councils within the executive branch:
- 922 Advisory Board for the Department for the Deaf and Hard-of-Hearing
- 923 Advisory Board for the Department for the Aging
- 924 Advisory Board on Child Abuse and Neglect
- 925 Advisory Board on Medicare and Medicaid
- 926 Advisory Board on Occupational Therapy
- 927 Advisory Board on Physical Therapy to the Board of Medicine
- 928 Advisory Board on Rehabilitation Providers
- 929 Advisory Board on Respiratory Therapy to the Board of Medicine
- 930 Advisory Board on Teacher Education and Licensure
- 931 Advisory Council on Revenue Estimates
- 932 Advisory Council on the Virginia Business-Education Partnership Program
- 933 Appomattox State Scenic River Advisory Board
- 934 Aquaculture Advisory Board
- 935 Art and Architectural Review Board
- 936 Board for the Visually Handicapped
- 937 Board of Directors, Virginia Truck and Ornamentals Research Station
- 938 Board of Forestry
- 939 Board of Military Affairs
- 940 Board of Rehabilitative Services
- 941 Board of Transportation Safety
- 942 Board of Trustees of the Family and Children's Trust Fund
- 943 Board of Visitors, Gunston Hall Plantation
- 944 Board on Veterans' Affairs
- 945 Catoctin Creek State Scenic River Advisory Board
- 946 Cave Board
- 947 Chickahominy State Scenic River Advisory Board
- 948 Clinch Scenic River Advisory Board
- 949 Coal Surface Mining Reclamation Fund Advisory Board
- 950 Coastal Land Management Advisory Council, Virginia
- 951 Commonwealth Competition Council
- 952 Council on Indians
- 953 Council on the Status of Women
- 954 Debt Capacity Advisory Committee
- 955 Emergency Medical Services Advisory Board
- 956 Falls of the James Committee
- 957 ~~Film Office Advisory Board~~
- 958 Forensic Science Advisory Board
- 959 Goose Creek Scenic River Advisory Board
- 960 Governor's Council on Alcohol and Drug Abuse Problems
- 961 Governor's Mined Land Reclamation Advisory Committee
- 962 Hemophilia Advisory Board
- 963 Human Services Information and Referral Advisory Council
- 964 ~~Industrial Development Services Advisory Board~~
- 965 Interagency Coordinating Council on Housing for the Disabled
- 966 Interdepartmental Board of the State Department of Minority Business Enterprise
- 967 Laboratory Services Advisory Board
- 968 (Effective July 1, 1996) Litter Control and Recycling Fund Advisory Board
- 969 Local Advisory Board to the Blue Ridge Community College
- 970 Local Advisory Board to the Central Virginia Community College
- 971 Local Advisory Board to the Dabney S. Lancaster Community College
- 972 Local Advisory Board to the Danville Community College
- 973 Local Advisory Board to the Eastern Shore Community College
- 974 Local Advisory Board to the Germanna Community College
- 975 Local Advisory Board to the J. Sargeant Reynolds Community College
- 976 Local Advisory Board to the John Tyler Community College
- 977 Local Advisory Board to the Lord Fairfax Community College
- 978 Local Advisory Board to the Mountain Empire Community College
- 979 Local Advisory Board to the New River Community College
- 980 Local Advisory Board to the Northern Virginia Community College
- 981 Local Advisory Board to the Patrick Henry Community College
- 982 Local Advisory Board to the Paul D. Camp Community College

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

1044 Virginia Water Resources Research Center, Statewide Advisory Board

1045 Virginia Winegrowers Advisory Board.

1046 § 9-202. Membership; terms, compensation and expenses; Chairman, vice-chairman, secretary and
1047 treasurer; quorum; staff.

1048 A. The Board shall consist of the State Treasurer or his designee and nine members who are not
1049 employees of the Commonwealth or of any political subdivision thereof who shall be appointed by the
1050 Governor and who shall have such small business experience as he may deem necessary or desirable.
1051 The appointment of members of the Board by the Governor shall be subject to confirmation by the
1052 General Assembly, if in session when such appointments are made, and if not in session, at the General
1053 Assembly's first session subsequent to the date such appointments are made. Unconfirmed appointments
1054 shall expire thirty days after the convening of the General Assembly. All members of the Board shall be
1055 residents of the Commonwealth. Initial appointments shall be for terms as follows: one director for one
1056 year; two directors for two years; three directors for three years; and three directors for four years.
1057 Subsequent appointments shall be for terms of four years, except that appointments to fill
1058 vacancies shall be made for the unexpired terms. No member appointed by the Governor shall serve
1059 more than two complete terms in succession. The members of the Board shall receive no salaries but
1060 shall be paid travel and other expenses incurred to attend meetings or while otherwise engaged in the
1061 discharge of their duties, all as may be deemed appropriate by the Board.

1062 B. The Governor shall appoint one member as Chairman. Five members of the Board shall constitute
1063 a quorum for the transaction of all business of the Authority. The Board shall elect one member from
1064 the group of nine members appointed by the Governor as vice-chairman who shall exercise the powers
1065 of the chairman in the absence of the Chairman. The directors shall elect from their membership or not,
1066 as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such
1067 office until their respective successors shall be elected. The Department of ~~Economic Development~~
1068 *Business Assistance* of the Commonwealth shall serve as staff to the Authority.

1069 § 9-204. Executive Director; appointment; duties.

1070 The Director of the Department of ~~Economic Development~~ *Business Assistance* shall appoint the
1071 Executive Director of the Authority. The Executive Director shall administer, manage and direct the
1072 affairs and activities of the Authority in accordance with the policies and under the control and the
1073 direction of the Board and the Director of the Department of ~~Economic Development~~ *Business*
1074 *Assistance*. Except as otherwise stated in this chapter, the Executive Director shall approve all accounts
1075 for allowable expenses for the Authority or of any employee or consultant or other person providing
1076 services to the Board, and for expenses incidental to the operation of the Authority subject to approval
1077 of the Director of the Department of ~~Economic Development~~ *Business Assistance*. The Executive
1078 Director shall maintain and be custodian of all books, documents and papers of or filed with the
1079 Authority, including but not limited to the minute book or journal of the Authority, and of its official
1080 seal. The Executive Director may cause copies to be made of all minutes and other records and
1081 documents of the Authority and may in the place and stead of the Secretary of the Authority give
1082 certificates under seal of the Authority to the effect that such copies are true copies, and all persons
1083 dealing with the Authority may rely on such certificates. The Executive Director also shall perform such
1084 other duties as may be prescribed by the Board in carrying out the purposes of this chapter.

1085 § 9-249.1. Nonstock corporation to assist small businesses.

1086 The Department of ~~Economic Development~~ *Business Assistance* is hereby authorized to establish a
1087 nonstock corporation under Chapter 10 (§ 13.1-801 et seq.), Title 13.1 as an instrumentality to assist the
1088 Department in providing support to the small business segment of the economy of the Commonwealth.
1089 The Department is further authorized to do all things necessary to qualify such corporation as a certified
1090 development company under Subchapter V of the Small Business Investment Act of 1958 (15 U.S.C.
1091 § 695 et seq.), or any amendment or successor statute thereto, as well as regulations promulgated
1092 thereunder by the United States Small Business Administration. Any action by the Department to
1093 establish such a corporation prior to July 1, 1986, is hereby ratified and approved.

1094 § 9-285. Technical Advisory Committee.

1095 There is created a Technical Advisory Committee to the Council which shall consist of the
1096 Commissioner of Social Services, the ~~Commissioner of the Virginia Employment Commission~~, the
1097 Director of the Department of ~~Economic Development~~ *Business Assistance*, and the Superintendent of
1098 Public Instruction or their designees. The Technical Advisory Committee shall provide technical and
1099 support services on child day care and early childhood development as the Council may deem
1100 appropriate, and advise the Council in carrying out its powers and duties. Members of the Technical
1101 Advisory Committee shall receive no compensation for their services but shall be paid their necessary
1102 expenses incurred in the discharge of their duties.

1103 § 9-290. Agency support to the Council.

1104 The Department of ~~Economic Development~~ *Business Assistance*, the Department for Education, the
1105 Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of

1106 Social Services, *and* the State Department of Health ~~and the Virginia Employment Commission~~ shall, at
 1107 the request of the Council, provide administrative support to the Council and perform such other
 1108 services as the Council may direct in executing its powers and duties. In addition, all agencies and state
 1109 institutions of higher education of the Commonwealth shall cooperate with the Council upon its request.

1110 § 9-333. Commission staff.

1111 The Department of ~~Economic Development~~ *Business Assistance* shall serve as staff to the
 1112 Commission. All agencies of the Commonwealth shall assist the Commission upon request.

1113 § 10.1-1425.7. Duty of the Department of Business Assistance.

1114 The Department of ~~Economic Development~~ *Business Assistance* shall assist the Department by
 1115 encouraging and promoting the establishment of appropriate recycling industries in the Commonwealth.

1116 § 15.1-1377. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records;
 1117 certification and distribution of report concerning bond issuance.

1118 The authority shall be governed by a board of directors in which all powers of the authority shall be
 1119 vested and which board shall be composed of seven directors, appointed by the governing body of the
 1120 municipality. The seven directors shall be appointed initially for terms of one, two, three and four years;
 1121 two being appointed for one-year terms; two being appointed for two-year terms; two being appointed
 1122 for three-year terms and one being appointed for a four-year term; subsequent appointments shall be for
 1123 terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All
 1124 terms of office shall be deemed to commence upon the date of the initial appointment to the authority,
 1125 and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of
 1126 any term of office of any director a successor thereto shall not have been appointed, then the director
 1127 whose term of office shall have expired shall continue to hold office until his successor shall be
 1128 appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon
 1129 his duties take and subscribe the oath prescribed by § 49-1. No director shall be an officer or employee
 1130 of the municipality except in towns under 3,500 people where members of the town governing body
 1131 may serve as directors provided they do not comprise a majority of the board. Every director shall, at
 1132 the time of his appointment and thereafter, reside in the municipality or municipalities with respect to
 1133 which the authority is organized; however, any person residing within any municipality adjoining the
 1134 boundaries of the municipality or municipalities with respect to which the authority is organized shall be
 1135 deemed a resident of such municipality for the purposes of this chapter. When a director ceases to be a
 1136 resident of the municipality or any adjoining municipality with respect to which the authority upon
 1137 which he serves is organized, such director's office shall be vacant and a new director may be appointed
 1138 for the remainder of the term so vacated. The directors shall elect from their membership a chairman, a
 1139 vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a
 1140 secretary-treasurer, who shall continue to hold such office until their respective successors shall be
 1141 elected. The directors shall receive no salary but the directors may be compensated such amount per
 1142 regular, special, or committee meeting or per each official representation as may be approved by the
 1143 appointing authority, not to exceed fifty dollars per meeting or official representation, and shall be
 1144 reimbursed for necessary traveling and other expenses incurred in the performance of their duties. Four
 1145 members of the board of directors shall constitute a quorum of the board for the purposes of conducting
 1146 its business and exercising its powers and for all other purposes, except that no facilities owned by the
 1147 authority shall be leased or disposed of in any manner without a majority vote of the members of the
 1148 board of directors. No vacancy in the membership of the board shall impair the right of a quorum to
 1149 exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of
 1150 its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its
 1151 financial transactions and, unless exempted by § 2.1-164, it shall arrange to have the same audited
 1152 annually. Copies of each such audit shall be furnished to the governing body of the municipality and
 1153 shall be open to public inspection.

1154 Two mechanically reproduced copies of the report concerning issuance of bonds required to be filed
 1155 with the United States Internal Revenue Service shall be certified as true and correct copies by the
 1156 secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of
 1157 the municipality and the other copy mailed to the Department of ~~Economic Development~~ *Business*
 1158 *Assistance*.

1159 § 15.1-1405.1. General duties of planning district commissions.

1160 Planning district commissions shall have the following duties and authority:

- 1161 1. To conduct studies on issues and problems of regional significance;
- 1162 2. To identify and study potential opportunities for local cost savings and staffing efficiencies
 1163 through coordinated local government efforts;
- 1164 3. To identify mechanisms for the coordination of local interests on a regional basis;
- 1165 4. To implement services upon request of member local governments;
- 1166 5. To provide technical assistance to local governments;

- 1167 6. To serve as a liaison between local governments and state agencies as requested;
1168 7. To review local government aid applications as required by § 15.1-1410 and other state or federal
1169 law or regulation;
1170 8. To conduct strategic planning for the region as required by §§ 15.1-1406 through 15.1-1409;
1171 9. To develop regional functional area plans as deemed necessary by the commission or as requested
1172 by member local governments;
1173 10. To assist state agencies, as requested, in the development of substate plans;
1174 11. To participate in a statewide geographic information system, the Virginia Geographic Information
1175 Network, as directed by the Department of Planning and Budget; and
1176 12. To collect and maintain demographic, economic and other data concerning the region and
1177 member local governments, and act as a state data center affiliate in cooperation with the ~~Virginia~~
1178 ~~Employment Commission~~ *Department of Business Assistance*.
1179 § 22.1-209. Employment counseling and placement services.
1180 A. Each school board shall make available to secondary students employment counseling and
1181 placement services to furnish information relating to the employment opportunities available to students
1182 graduating from or leaving the public schools in the school division which shall include all types of
1183 employment opportunities, including but not limited to, apprenticeships, the military, and career
1184 education schools.
1185 B. No fee, compensation or other consideration shall be charged to or received from any student
1186 utilizing such services.
1187 C. In providing such services, the school board shall consult and cooperate with the ~~Virginia~~
1188 ~~Employment Commission~~ *Department of Business Assistance*, the Department of Labor and Industry,
1189 local business and labor organizations, and such career schools as may be approved by the Board.
1190 D. The Board of Education may recommend methods for providing such services. The State
1191 Department of Education may provide assistance to school divisions in establishing and providing such
1192 services upon request.
1193 § 23-135.7:7. Advisory Committee continued as Advisory Board.
1194 The Virginia Coal Research and Development Advisory Committee is continued and shall hereafter
1195 be known as the Virginia Coal Research and Development Advisory Board. The Advisory Board shall
1196 serve in an advisory capacity to the Executive Director of the Virginia Center for Coal and Energy
1197 Research.
1198 1. The Advisory Board shall be authorized to advise on those matters set forth in § 23-135.7:2.
1199 2. Representatives to the Advisory Board shall be appointed by the Board of Visitors of Virginia
1200 Polytechnic Institute and State University.
1201 3. The Board of Visitors of Virginia Polytechnic Institute and State University shall also appoint
1202 such other individuals as they deem necessary to the work of the Advisory Board.
1203 4. Representatives from the Department of Conservation and Historic Resources, the Department of
1204 ~~Economic Development~~ *Business Assistance*, the Department of Mines, Minerals and Energy, the
1205 Department of Labor and Industry, the Virginia Port Authority, the institutions of higher education,
1206 excluding Virginia Polytechnic Institute and State University, and the Community College System shall
1207 serve as the Advisory Board.
1208 § 36-139.6. Additional powers and duties of Director; oversight of planning district commissions.
1209 The Director of the Department of Housing and Community Development shall have the following
1210 powers and duties relating to oversight of planning district commissions:
1211 1. To recommend to the Governor the level of state general appropriation funding for each planning
1212 district commission, taking into consideration the minimum funding level necessary for operation, the
1213 population of each district, and other factors considered appropriate;
1214 2. To distribute state general appropriation funding to planning district commissions consistent with
1215 the provisions of this chapter and Chapter 34 (§ 15.1-1400 et seq.) of Title 15.1;
1216 3. To administer the Regional Cooperation Incentive Fund in accordance with § 15.1-1412.1;
1217 4. To provide technical assistance to planning district commissions regarding regional approaches to
1218 area-wide problems. Assistance may be initiated by the Department, individual local governments, or
1219 planning district commissions;
1220 5. To require the submission of annual programmatic and financial information by each planning
1221 district commission in a format prescribed by the Director;
1222 6. To prepare a biennial report to the Governor and the General Assembly which identifies the
1223 activities and other information deemed appropriate by the Director concerning planning district
1224 commissions, including findings as to planning district commissions which are not complying with
1225 Chapter 34 (§ 15.1-1400 et seq.) of Title 15.1. Copies of the biennial report shall also be sent to the
1226 Commission on Local Government, *Department of Business Assistance*, Department of Conservation and
1227 Recreation, ~~Department of Economic Development~~, Department of Environmental Quality, Department
1228 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, 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

1290 the term of his predecessor shall be appointed for the remainder of such term. All members, including
1291 ex officio members, shall have voting privileges.

1292 B. The Apprenticeship Council shall meet at the call of the chairman of the Council and shall
1293 formulate policies for the effective administration of this chapter.

1294 C. The Apprenticeship Council shall establish standards for apprentice agreements which shall not be
1295 lower than those prescribed by this chapter and those established pursuant to Article 3 (§ 54.1-1128 et
1296 seq.) of Chapter 11 of Title 54.1, and shall perform such other functions as may be necessary to carry
1297 out the intent and purposes of this chapter. Not less than once a year the Council shall make a report of
1298 its activities and findings to the General Assembly and to the public.

1299 § 40.1-125. Director to administer chapter.

1300 The ~~Commissioner~~ *Director of the Department of Business Assistance*, with the advice and guidance
1301 of the Council, shall be responsible for administering the provisions of this chapter.

1302 § 58.1-3. Secrecy of information; penalties.

1303 A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax
1304 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
1305 revenue officer or employee, or any former officer or employee of any of the aforementioned offices
1306 shall not divulge any information acquired by him in the performance of his duties with respect to the
1307 transactions, property, including personal property, income or business of any person, firm or
1308 corporation. Such prohibition specifically includes any copy of a federal return or federal return
1309 information required by Virginia law to be attached to or included in the Virginia return. Any person
1310 violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this
1311 subsection shall not be applicable, however, to:

1312 1. Matters required by law to be entered on any public assessment roll or book;

1313 2. Acts performed or words spoken or published in the line of duty under the law;

1314 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a
1315 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
1316 its study, provided that any such information obtained shall be privileged;

1317 4. The sales price, date of construction, physical dimensions or characteristics of real property, or to
1318 any information required for building permits.

1319 B. Nothing contained in this section shall be construed to prohibit the publication of statistics so
1320 classified as to prevent the identification of particular reports or returns and the items thereof or the
1321 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together
1322 with any relevant information which in the opinion of the Department may assist in the collection of
1323 such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing
1324 whether a person, firm or corporation is licensed to do business in that locality and divulging, upon
1325 written request, the name and address of any person, firm or corporation transacting business under a
1326 fictitious name.

1327 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
1328 Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director
1329 of finance or other similar collector of county, city or town taxes who, for the performance of his
1330 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
1331 Commissioner of the Department of Social Services, upon written request, information on the amount of
1332 income reported by persons on their state income tax returns who have applied for public assistance
1333 benefits as defined in § 63.1-87; (iii) provide to the Executive Director of the State Education Assistance
1334 Authority, upon written request, the names and home addresses of those persons identified by the
1335 Authority as having defaulted on loans guaranteed by the Authority; (iv) provide current address
1336 information upon request to state agencies and institutions for their confidential use in facilitating the
1337 collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use
1338 in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v)
1339 provide to the ~~Commissioner of the Virginia Employment Commission~~ *Director of the Department of*
1340 *Business Assistance*, after entering into a written agreement, such tax information as may be necessary to
1341 facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic
1342 Beverage Control Board, upon entering into a written agreement, such tax information as may be
1343 necessary to facilitate the collection of state and local taxes and the administration of the alcoholic
1344 beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information
1345 as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to
1346 the Department of the Treasury for its confidential use such tax information as may be necessary to
1347 facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation
1348 Commission, upon entering into a written agreement, such tax information as may be necessary to
1349 facilitate the collection of taxes and fees administered by the Commission; and (x) provide to the
1350 Executive Director of the Potomac and Rappahannock Transportation Commission for its confidential
1351 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.

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

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

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

1413 upon employment offices by § 60.2-601 and subdivision 5 of § 60.2-612.

1414 § 60.2-208. Department.

1415 "~~Commission~~" "*Department*" means the ~~Virginia Employment Commission~~*Department of Business*
1416 *Assistance*. Wherever in this Code, or any act of the General Assembly the term "Unemployment
1417 Compensation Commission" is used, it shall mean the ~~Virginia Employment Commission~~ *Department of*
1418 *Business Assistance*. *The Virginia Employment Commission, heretofore existing as an independent*
1419 *agency, is hereby transferred to the Department of Business Assistance, which shall exercise the powers*
1420 *and duties described in this title through the Virginia Employment Commission.*

1421 § 60.2-400. Cooperation with U.S. Employment Service agencies.

1422 A. The Commission shall have all rights, powers and duties with respect to the establishment,
1423 maintenance and operation of free employment offices in the Commonwealth and shall possess, exercise
1424 and perform the same ~~through a division known as the Virginia State Job Service~~. The Commission
1425 ~~through the division~~ shall establish and maintain free public employment offices in such number and in
1426 such places as may be necessary for the proper administration of this title.

1427 B. The Commission ~~through the Virginia State Job Service~~, is designated as the state agency and
1428 vested with all powers necessary to cooperate with the United States Employment Service in accordance
1429 with the terms and conditions expressed in Chapter 4B (§ 49 et seq.) of Title 29 of the United States
1430 Code.

1431 C. The Commission may cooperate with or enter into agreements with the Railroad Retirement
1432 Board, or any other agency of the United States charged with the administration of an unemployment
1433 compensation law, with respect to the maintenance and use of free employment service facilities.

1434 D. Chapter 13 of the Acts of Assembly of 1933 providing for cooperation between the
1435 Commonwealth and the United States Employment Service is, subject to the provisions of this chapter,
1436 continued in effect.

1437 § 60.2-611. Receipt of extended benefits.

1438 A. Except when the result would be inconsistent with the other provisions of this section, as
1439 provided in the regulations of the Commission, the provisions of this title which apply to claims for, or
1440 the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

1441 B. An individual shall be eligible to receive extended benefits with respect to any week of
1442 unemployment in his eligibility period only if the Commission finds that for such week:

1443 1. He is an "exhaustee" as defined in subsection F of § 60.2-610.

1444 2. He has satisfied the requirements of this title for the receipt of regular benefits that are applicable
1445 to individuals claiming extended benefits, including not being subject to a disqualification for the receipt
1446 of benefits.

1447 C. The weekly extended benefit amount payable to an individual for a week of total unemployment
1448 in his eligibility period shall equal the weekly benefit amount payable to him during his applicable
1449 benefit year.

1450 D. The total extended benefit amount payable to any eligible individual for his applicable benefit
1451 year shall be the least of the following amounts:

1452 1. Fifty percent of the total amount of regular benefits which were payable to him under this title in
1453 his applicable benefit year;

1454 2. Thirteen times his weekly benefit amount which was payable to him under this title for a week of
1455 total unemployment in the applicable benefit year; or

1456 3. Thirty-nine times his weekly benefit amount which was payable to him under this title for a week
1457 of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits
1458 which were paid or deemed paid to him under this title for the benefit year.

1459 E. 1. Whenever an extended benefit period is to become effective in this Commonwealth as a result
1460 of a state "on" indicator, or an extended benefit period is to be terminated in this Commonwealth as a
1461 result of state "off" indicators, the Commission shall make an appropriate public announcement.

1462 2. Computations required by the provisions of subsection B of § 60.2-610 shall be made by the
1463 Commission, in accordance with regulations prescribed by the United States Secretary of Labor.

1464 3. An "on" or "off" indicator for this Commonwealth shall be determined without regard to
1465 subdivision 1 of subsection H of § 60.2-610 for any period that waiver of such provisions is authorized
1466 under § 203 (d) of the Federal-State Extended Unemployment Compensation Act (26 U.S.C. § 3304) and
1467 any amendments thereto, or as authorized by any provision of federal law.

1468 F. 1. Notwithstanding the provisions of subsection A of this section, an individual shall be ineligible
1469 for payment of extended benefits for any week of unemployment in his eligibility period if the
1470 Commission finds that during such period:

1471 a. He failed to accept any offer of suitable work or failed to apply for any suitable work, as defined
1472 under subdivision 3 of this subsection, to which he was referred by the Commission; or

1473 b. He failed to actively engage in seeking work as prescribed under subdivision 5 of this subsection.

1474 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

1536 finds that:

1537 1. He has, in the highest two quarters of earnings within his base period, been paid wages in
1538 employment for employers that are equal to not less than the lowest amount appearing in Column A of
1539 the "Benefit Table" appearing in § 60.2-602 on the line which extends through Division C and on which
1540 in Column B of the "Benefit Table" appears his weekly benefit amount. Such wages shall be earned in
1541 not less than two quarters.

1542 2. a. His total or partial unemployment is not due to a labor dispute in active progress or to
1543 shutdown or start-up operations caused by such dispute which exists (i) at the factory, establishment, or
1544 other premises, including a vessel, at which he is or was last employed, or (ii) at a factory,
1545 establishment or other premises, including a vessel, either within or without this Commonwealth, which
1546 (a) is owned or operated by the same employing unit which owns or operates the premises at which he
1547 is or was last employed and (b) supplies materials or services necessary to the continued and usual
1548 operation of the premises at which he is or was last employed. This subdivision shall not apply if it is
1549 shown to the satisfaction of the Commission that:

1550 (1) He is not participating in or financing or directly interested in the labor dispute; and

1551 (2) He does not belong to a grade or class of workers of which, immediately before the
1552 commencement of the labor dispute, there were members employed at the premises, including a vessel,
1553 at which the labor dispute occurs, any of whom are participating in or financing or directly interested in
1554 the dispute.

1555 b. If separate branches of work which are commonly conducted as separate businesses at separate
1556 premises are conducted in separate departments of the same premises, each such department shall, for
1557 the purposes of this subdivision, be deemed to be a separate factory, establishment or other premises.
1558 Membership in a union, or the payment of regular dues to a bona fide labor organization, however, shall
1559 not alone constitute financing a labor dispute.

1560 3. He is not receiving, has not received or is not seeking unemployment benefits under an
1561 unemployment compensation law of any other state or of the United States; however, if the appropriate
1562 agency of such other state or of the United States finally determines that he is not entitled to such
1563 unemployment benefits, this subdivision shall not apply.

1564 4. He is not on a bona fide paid vacation. If an individual is paid vacation pay for any week in an
1565 amount less than the individual's weekly benefit amount his eligibility for benefits shall be computed
1566 under the provisions of § 60.2-603.

1567 5. He has registered for work and thereafter has continued to report at an employment office in
1568 accordance with such regulations as the Commission may prescribe. The Commission may, by
1569 regulation, waive or alter either or both of the requirements of this subdivision for certain types of cases
1570 when it finds that compliance with such requirements would be oppressive, or would be inconsistent
1571 with the purposes of this title.

1572 6. He has made a claim for benefits in accordance with regulations the Commission may prescribe.

1573 7. a. He is able to work, is available for work, and is actively seeking and unable to obtain suitable
1574 work. Every claimant who is totally unemployed shall report to the Commission the names of employers
1575 contacted each week in his effort to obtain work. This information may be subject to employer
1576 verification by the Commission through a program designed for that purpose. The Commission may
1577 determine that registration by a claimant with the ~~Virginia State Job Service~~ *Commission's employment*
1578 *services* may constitute a valid employer contact and satisfy the search for work requirement of this
1579 subsection in labor market areas where job opportunities are limited. The Commission may determine
1580 that an individual, whose usual and customary means of soliciting work in his occupation is through
1581 contact with a single hiring hall which makes contacts with multiple employers on behalf of the
1582 claimant, meets the requirement that he be actively seeking and unable to obtain suitable work by
1583 contacting that hiring hall alone. In areas of high unemployment, as determined by the Commission, the
1584 Commission has the authority to adjust the requirement that he be actively seeking and unable to obtain
1585 suitable work.

1586 b. An individual who leaves the normal labor market area of the individual for the major portion of
1587 any week is presumed to be unavailable for work within the meaning of this section. This presumption
1588 may be overcome if the individual establishes to the satisfaction of the Commission that the individual
1589 has conducted a bona fide search for work and has been reasonably accessible to suitable work in the
1590 labor market area in which the individual spent the major portion of the week to which the presumption
1591 applies.

1592 8. He has given notice of resignation to his employer and the employer subsequently made the
1593 termination of employment effective immediately, but in no case to exceed two weeks for which he
1594 would have worked had the employee separated from employment on the date of termination as given in
1595 the notice; provided, that the claimant could not establish good cause for leaving work pursuant to
1596 § 60.2-618 and was not discharged for misconduct as provided in § 60.2-618.

1597 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 the qualifications required of persons to apply for such employment, the hours of work expected, and the compensation offered therefor. If made to the local welfare office, that office shall transmit the offer to the local employment office.

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

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

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

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

(a) Upon referral of any applicant or recipient to the local employment office pursuant to § 63.1-133.10, the Virginia Employment Commission Department of Business Assistance shall be charged with the responsibility of attempting to locate employment or, in appropriate cases, providing

training for such person. Notwithstanding the requirements of § 63.1-133.12, the ~~Commission~~ *Department* shall refer an employable person for participation in a program of occupational training when in the judgment of the ~~Commission~~ *Department* the person may thereby become trained for referral to available employment, or when the person may thereby become trained for referral to skilled or semi-skilled employment. The appropriate office of the ~~Commission~~ *Department* shall file with the local department of welfare or social services at least monthly a certificate setting forth the employment status of each public assistance applicant or recipient who has been referred pursuant to § 63.1-133.10, including, for those persons who are unemployed, a statement that such employment office has no opening in part-time, full-time, temporary or permanent employment in which the applicant or recipient is able to engage.

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

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

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

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

§ 63.1-133.14. Application of chapter.

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

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

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

The goals of the Program are to:

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

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

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

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

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

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

The Department of Social Services (the Department) shall administer the Program. The Department shall be assisted by the Department of ~~Economic Development~~, 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 ~~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 Services; Department of Rehabilitative Services; Department for the Aging; Department for the Visually Handicapped; Department for Rights of Virginians With Disabilities; Department of Information Technology; Department for the Deaf and Hard-of-Hearing; Department of Health Professions; Department of Corrections; Department of Education; Department of Youth and Family Services; and the ~~Virginia Employment Commission~~ *Department of Business Assistance*; and

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

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

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

B. For the purpose of this section the average wage in the Commonwealth shall be determined by the Commission as follows: On or before January 1 of each year, the total wages, excluding wages of United States government employees, reported on contribution reports to the ~~Virginia Employment~~

1782 ~~Commission~~ *Department of Business Assistance* for the twelve-month period ending the preceding June
1783 30 shall be divided by the average monthly number of insured workers (determined by dividing the total
1784 insured workers reported for that twelve-month period by twelve). The average annual wage thus
1785 obtained shall be divided by fifty-two and the average weekly wage thus determined rounded to the
1786 nearest dollar. The average weekly wage as so determined shall be applicable for the full period during
1787 which income benefits are payable, when the date of occurrence of injury or of disablement in the case
1788 of disease falls within the year commencing with the July 1 following the date of determination.

1789 C. The minimum or the maximum weekly income benefits shall not be changed for any year unless
1790 the computation herein provided results in an increase or decrease of two dollars or more, raised to the
1791 next even dollar in the level of the minimum or the maximum weekly income benefits.

1792 D. In no case shall the period covered by such compensation be greater than 500 weeks, nor shall
1793 the total amount of all compensation exceed the result obtained by multiplying the average weekly wage
1794 of the Commonwealth as defined herein for the applicable year by 500, except that weekly
1795 compensation on account of total and permanent incapacity as defined by § 65.2-503 C shall continue
1796 for the lifetime of the injured employee without limit as to total amount.

1797 § 65.2-903. Records not public.

1798 The records of the Commission, insofar as they refer to accidents, injuries and settlements, shall not
1799 be open to the public but only to the parties satisfying the Commission of their interest in such records
1800 and their right to inspect them; however, the Commission shall make its records about an injured
1801 employee available to the ~~Virginia Employment Commission~~ *Department of Business Assistance* if it
1802 requests such records.

1803 2. That Articles 1 through 6 (§§ 2.1-548.6 through 2.1-548.25) of Chapter 32.1 of Title 2.1 and
1804 § 60.2-112 of the Code of Virginia are repealed.

1805 3. That wherever the terms "Virginia Employment Commission," "Commissioner" and
1806 "Commission" are used in Title 60.2, such terms shall be construed to mean the Department of
1807 Business Assistance, the Director of the Department of Business Assistance, and the Department of
1808 Business Assistance, respectively.