

VIRGINIA ACTS OF ASSEMBLY -- 1997 RECONVENED SESSION

CHAPTER 858

An Act to amend and reenact §§ 2.1-1.6, 2.1-51.27, 2.1-454.1, 2.1-563.13, 2.1-563.15, 2.1-563.16, 9-6.25:2, 15.1-23.1, and 15.1-456 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 35.2 of Title 2.1 an article numbered 6.1, consisting of sections numbered 2.1-563.27:1 through 2.1-563.27:8; and to repeal Article 6 (§§ 2.1-563.23 through 2.1-563.27) of Chapter 35.2 of Title 2.1, relating to the repeal of the Virginia Public Telecommunications Board and the creation of the Virginia Public Broadcasting Board.

[H 2249]

Approved April 2, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6, 2.1-51.27, 2.1-454.1, 2.1-563.13, 2.1-563.15, 2.1-563.16, 9-6.25:2, 15.1-23.1, and 15.1-456 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 35.2 of Title 2.1 an article numbered 6.1, consisting of sections numbered 2.1-563.27:1 through 2.1-563.27:8, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for
Aging, Advisory Board on the
Agriculture and Consumer Services, Board of
Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board, Virginia
Apple Board, Virginia State
Appomattox State Scenic River Advisory Board
Aquaculture Advisory Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
Art and Architectural Review Board
Athletic Board, Virginia
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Bright Flue-Cured Tobacco Board, Virginia
Building Code Technical Review Board, State
Catoctin Creek State Scenic River Advisory Board
Cattle Industry Board, Virginia
Cave Board
Certified Seed Board, State
Chesapeake Bay Local Assistance Board
Chickahominy State Scenic River Advisory Board
Child Abuse and Neglect, Advisory Board on
Chippokes Plantation Farm Foundation, Board of Trustees
Clinch Scenic River Advisory Board
Coal Mining Examiners, Board of
Coal Research and Development Advisory Board, Virginia
Coal Surface Mining Reclamation Fund Advisory Board
Coastal Land Management Advisory Council, Virginia
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Corn Board, Virginia
Correctional Education, Board of
Corrections, State Board of
Cosmetology, Board for
Criminal Justice Services Board
Dark-Fired Tobacco Board, Virginia
Deaf and Hard-of-Hearing, Advisory Board for the Department for the

Dentistry, Board of
 Design-Build/Construction Management Review Board
 Education, State Board of
 Egg Board, Virginia
 Emergency Medical Services Advisory Board
 Farmers Market Board, Virginia
 Film Office Advisory Board
 Fire Services Board, Virginia
 Forensic Science Advisory Board
 Forestry, Board of
 Funeral Directors and Embalmers, Board of
 Game and Inland Fisheries, Board of
 Geology, Board for
 Goose Creek Scenic River Advisory Board
 Health Planning Board, Virginia
 Health Professions, Board of
 Health, State Board of
 Hearing Aid Specialists, Board for
 Hemophilia Advisory Board
 Historic Resources, Board of
 Housing and Community Development, Board of
 Industrial Development Services Advisory Board
 Irish Potato Board, Virginia
 Juvenile Justice, State Board of
 Litter Control and Recycling Fund Advisory Board
 Marine Products Board, Virginia
 Medical Advisory Board, Department of Motor Vehicles
 Medical Board of the Virginia Retirement System
 Medicare and Medicaid, Advisory Board on
 Medicine, Board of
 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 Migrant and Seasonal Farmworkers Board
 Military Affairs, Board of
 Mineral Mining Examiners, Board of
 Minority Business Enterprise, Interdepartmental Board of the Department of
 Networking Users Advisory Board, State
 Nottoway State Scenic River Advisory Board
 Nursing, Board of
 Nursing Home Administrators, Board of
 Occupational Therapy, Advisory Board on
 Oil and Gas Conservation Board, Virginia
 Opticians, Board for
 Optometry, Board of
 Peanut Board, Virginia
 Personnel Advisory Board
 Pesticide Control Board
 Pharmacy, Board of
 Physical Therapy to the Board of Medicine, Advisory Board on
 Plant Pollination Advisory Board
 Polygraph Examiners Advisory Board
 Pork Industry Board, Virginia
 Poultry Products Board, Virginia
 Private College Advisory Board
 Private Security Services Advisory Board
 Professional and Occupational Regulation, Board for
 Professional Counselors, Board of
 Professional Soil Scientists, Board for
 Psychiatric Advisory Board
 Psychology, Board of
 Public Buildings Board, Virginia
~~Public Telecommunications Board, Virginia~~
Public Broadcasting Board, Virginia
 Radiation Advisory Board
 Real Estate Appraiser Board

Real Estate Board
 Reciprocity Board, Department of Motor Vehicles
 Recreational Fishing Advisory Board, Virginia
 Recreation Specialists, Board of
 Reforestation Board
 Rehabilitation Providers, Advisory Board on
 Rehabilitative Services, Board of
 Respiratory Therapy, Advisory Board on
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Safety and Health Codes Board
 Seed Potato Board
 Sewage Handling and Disposal Appeal Review Board, State Health Department
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 Small Grains Board, Virginia
 Social Services, Board of
 Social Work, Board of
 Soil and Water Conservation Board, Virginia
 Soybean Board, Virginia
 State Air Pollution Control Board
 Substance Abuse Certification Board
 Surface Mining Review, Board of
 Sweet Potato Board, Virginia
 T & M Vehicle Dealers' Advisory Board
 Teacher Education and Licensure, Advisory Board on
 Tourism and Travel Services Advisory Board
 Transportation Board, Commonwealth
 Transportation Safety, Board of
 Treasury Board, The, Department of the Treasury
 Veterans' Affairs, Board on
 Veterinary Medicine, Board of
 Virginia Board for Asbestos Licensing
 Virginia Coal Mine Safety Board
 Virginia Correctional Enterprises Advisory Board
 Virginia Employment Commission, State Advisory Board for the
 Virginia Higher Education Tuition Trust Fund, Board of the
 Virginia Horse Industry Board
 Virginia Manufactured Housing Board
 Virginia Retirement System, Board of Trustees
 Virginia Sheep Industry Board
 Virginia Veterans Cemetery Board
 Virginia Waste Management Board
 Visually Handicapped, Virginia Board for the
 Voluntary Formulary Board, Virginia
 War Memorial Foundation, Virginia, Board of Trustees
 Waste Management Facility Operators, Board for
 Water Resources Research Center Statewide Advisory Board, Virginia
 Waterworks and Wastewater Works Operators, Board for
 Well Review Board, Virginia.

B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be referred to as boards:

Compensation Board
 State Board of Elections
 State Water Control Board
 Virginia Parole Board
 Virginia Veterans Care Center Board of Trustees.

§ 2.1-51.27. Agencies for which responsible.

The Secretary of Administration shall be responsible to the Governor for the following agencies *and boards*: Department of Information Technology, Council on Information Management, Department of Personnel and Training, Department of General Services, Compensation Board, Secretary of the Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, Commission on Local Government, ~~and~~ Charitable

Gaming Commission, and Virginia Public Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the Secretary of Administration, or reassign any agency listed above to another secretary.

§ 2.1-454.1. Aid and cooperation of Division may be sought by any public body or public broadcasting station in making purchases; use of facilities of central warehouse; Board to furnish list of public broadcasting stations to Division; services to certain volunteer organizations.

A. Virginia public ~~telecommunications entities~~, *broadcasting stations* as defined in § ~~2.1-563.13~~ 2.1-563.27:2, and public bodies as defined in § 11-37 who are empowered to purchase material, equipment, and supplies of any kind, in their discretion, may purchase through the Division of Purchases and Supply. When any such public body, public ~~telecommunications entity~~ *broadcasting station*, or duly authorized officer requests that the Division obtain bids for any materials, equipment and supplies, and such bids accordingly have been obtained by the Division of Purchases and Supply, the Division may award the contract to the lowest responsible bidder, and such public body or public ~~telecommunications entity~~ *broadcasting station* shall be bound by such contract. The Division shall set forth in the purchase order that the materials, equipment and supplies be delivered to, and that the bill therein be rendered and forwarded to, such public body or public ~~telecommunications entity~~ *broadcasting station*. Any such bill shall be a valid and enforceable claim against the public body or public ~~telecommunications entity~~ *broadcasting station* requesting the Division to seek such bids.

B. The Division may make available to any public body or public ~~telecommunications entity~~ *broadcasting station* the facilities of the central warehouse maintained by the Division; however, the furnishing of any such services or supplies shall not limit or impair any services or supplies normally rendered any department, division, institution or agency of the Commonwealth.

C. The ~~Department of Information Technology~~ *Virginia Public Broadcasting Board* shall furnish to the Division of Purchases and Supply a list of public ~~telecommunications entities~~ *broadcasting stations* in Virginia for the purposes of this section.

D. The services or supplies authorized by this section shall extend to any volunteer fire company or volunteer rescue squad which is recognized by an ordinance to be a part of the safety program of a county, city or town when such services or supplies are sought through and approved by the governing body of such county, city or town.

§ 2.1-563.13. Definitions.

As used in this chapter:

"Board" means the Virginia Public Telecommunications Board.

"Communications Services" includes telecommunications services, automated data processing and word processing services, and management information systems that serve the needs of state agencies and institutions, but does not include telecommunications services and facilities under the direct control of the Department of State Police.

"Department" means the Department of Information Technology.

"Director" means the Director of the Department of Information Technology.

"Noncommercial telecommunications entity" means any enterprise which:

1. Is owned and operated by the Commonwealth, a political or special purpose subdivision of the Commonwealth, a public agency, or a nonprofit private foundation, corporation or association; and

2. Has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station, including but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave or laser transmission through the atmosphere *public broadcasting station as defined in § 2.1-563.27:2.*

"Nonprofit" means that no part of the net earnings inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Public broadcast station" means a television or radio broadcast station which:

1. Is eligible to be licensed by the Federal Communications Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or

2. Is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes.

"Public telecommunications entity" means any enterprise which:

1. Is a public broadcast station or a noncommercial telecommunications entity; and

2. Disseminates public telecommunications services to the public *public broadcasting station as defined in § 2.1-563.27:2.*

"Public telecommunications facilities" means all apparatus, equipment and material necessary for or associated in any way with the production, distribution, interconnection captioning or broadcasting or interconnection or other distribution of programming *public broadcasting stations or public broadcasting services as those terms are defined in § 2.1-563.27:2*, including the buildings and structures necessary to house such apparatus, equipment and material and the land necessary therefor for the purpose of providing public ~~telecommunications~~ *broadcasting* services, but not telecommunications services.

"Public telecommunications services" means ~~noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material that may be transmitted by means of electronic communications~~ *public broadcasting services as defined in § 2.1-563.27:2.*

"Telecommunications" means any origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature, by wire, radio, television, optical, or other electromagnetic systems.

"Telecommunications facilities" means apparatus necessary or useful in the production, distribution, or interconnection of electronic communications for state agencies or institutions including the buildings and structures necessary to house such apparatus and the land necessary therefor; ~~provided, however, computer and computer terminal facilities and wireless communications facilities under the direct control of the Department of State Police shall not be included in this definition.~~

"Telecommunications services" means telecommunications to serve the needs of state agencies and institutions but shall not include public ~~telecommunications~~ *broadcasting services as defined in § 2.1-563.27:2* nor wireless communications services and systems under the direct control of the Department of State Police.

§ 2.1-563.15. Powers and duties of Director.

The Director of the Department of Information Technology shall, under the direction and control of the Governor, 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 ~~or the Board.~~

§ 2.1-563.16. General powers of Department.

A. The Department shall have the following general powers, all of which, with the approval of the Director of the Department, may be exercised by a division of the Department with respect to matters assigned to that division:

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. Prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter;
5. Establish fee schedules which may be collectible from users when general fund appropriations are not applicable to the services rendered; *and*
6. ~~Administer, under the direction of the Board, funds appropriated to it for public telecommunications and make contracts related thereto; and~~
7. Do all acts necessary or convenient to carry out the purposes of this chapter.

B. All statewide contracts and agreements made and entered into by the Department for the purchase of computers, software, supplies, and related peripheral equipment and services shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. For good cause shown, the Secretary of Administration may disapprove such inclusion from a specific contract or agreement.

Article 6.1.

Virginia Public Broadcasting Board.

§ 2.1-563.27:1. *Declaration of public purpose; Board created.*

A. *It is hereby found and determined by the General Assembly that there exists in the Commonwealth a need to support and capitalize on the universal access of public broadcasting to: (i) enrich the lives of all citizens of the Commonwealth without regard to their geographic location or economic status by providing them with programs and services that educate, inform and enlighten; (ii) improve and enhance the educational opportunities available to children from pre-kindergarten through secondary schools, adults, home educators, and students and personnel at colleges and universities of the Commonwealth; (iii) provide the citizens of the Commonwealth with comprehensive information on the activities of state government; (iv) maintain and improve the public broadcasting stations' infrastructures for distribution of broadcast and related services; (v) promote economic development through the wider availability of worker-training and job-skills enhancements; (vi) promote tourism through the widespread distribution of programming that recognizes and displays Virginia's historical, educational, recreational and cultural resources; and (vii) improve efficiency in state government through the use of public broadcasting production and distribution systems.*

B. *To achieve these public purposes, there is hereby created the Virginia Public Broadcasting Board under the direction and supervision of the Secretary of Administration. The exercise by the Board of the powers conferred by this article shall be deemed and held to be the performance of essential governmental functions.*

§ 2.1-563.27:2. *Definitions.*

As used in this article, except in those instances where the context requires otherwise:

"Board" means the Virginia Public Broadcasting Board.

"Public broadcasting services" means the acquisition, production, and distribution by public broadcasting stations of noncommercial educational, instructional, informational, or cultural television and radio programs and information which may be transmitted by means of electronic communications, and any related materials and services provided by such stations.

"Public broadcasting station" means any noncommercial, educational television or radio station which (i) is licensed and regulated by the Federal Communications Commission as a noncommercial, educational broadcasting station; (ii) is operated by a public agency or a nonprofit private foundation, corporation, or association; (iii) has offices, studios, and transmitters located in Virginia; and (iv) on or before January 1, 1997, was qualified to receive or was the recipient of a Virginia community service grant or other instructional television service funds, or, after January 1, 1997, was qualified by the Board to receive state funds under standards and criteria established by the Board pursuant to § 2.1-563.27:4, but shall not include any institution of higher education which produces or transmits distance education and other credit and noncredit television programs, unless such institution requests qualification as a public broadcasting station and the Board approves its request.

§ 2.1-563.27:3. Board membership; chairman and vice chairman; duties.

A. The Board shall consist of fifteen members. The Governor shall appoint eleven members, one from each congressional district of the Commonwealth, each of whom shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Three of the appointees shall have expertise in at least one of the areas of education, tourism, telecommunications, and economic development, and two shall be participating members of different public broadcasting stations in the Commonwealth. The president of the State Board of Education and the chairmen of the State Council of Higher Education, the State Board of Community Colleges, and the Board of Trustees of the Virginia Museum of Fine Arts, or their designees, shall serve as Board members concurrent with their terms in office. No Board member shall be the chief executive officer or head of any state agency, a member of the General Assembly, or an officer, director, employee, or member of the board of directors of any public broadcasting station.

B. All other appointments shall be for four-year terms; however, the initial terms of the gubernatorial appointees shall be as follows: three for four-year terms, three for three-year terms, two for two-year terms, and three for one-year terms. No appointee shall be eligible to serve more than two successive four-year terms; however, a member appointed to an initial term may serve one additional four-year term.

C. Vacancies for unexpired terms shall be filled by the Governor in the same manner as the original appointment; after the expiration of such term, the appointee may serve one additional four-year term. If the General Assembly refuses or fails to confirm any appointment, such person shall not be eligible for reappointment.

D. The Governor shall designate a Board member to serve as chairman, who shall preside over meetings of the Board, communicate on behalf of the Board to the outside entities interested in public broadcasting, and perform additional duties as may be set by resolution of the Board. Board members may elect a vice-chairman from their membership and appoint a secretary who may or may not be a member of the Board. The Board shall meet at the call of its chairman. A majority of the Board members shall constitute a quorum.

E. Board members shall be reimbursed for the reasonable and necessary expenses incurred in performance of their duties. Such reimbursements and other expenses of the Board shall be paid from funds which the Department of Planning and Budget shall annually withhold from appropriations to public broadcasting stations in an amount sufficient to defray the estimated reasonable and necessary expenses of the Board.

§ 2.1-563.27:4. Powers of the Board.

The Board shall have all the powers necessary or convenient to carry out the purposes and provisions of this article, including, without limitation, to:

- 1. Receive, allocate, and dispense funds appropriated by the General Assembly and any funds received by the Board from other sources, subject to the approval of the Director of the Department of Planning and Budget;*
- 2. Develop reasonable and fair formulas for allocating and distributing state funds and other funds of the Board to Virginia's public broadcasting stations consistent with the intent of such appropriations;*
- 3. Apply for, accept, and receive grants of federal funds and funds from other public and private sources;*

4. Adopt, administer, and apply standards and criteria by which the Board may permit television and radio stations to qualify as public broadcasting stations if those stations did not qualify for or receive Virginia community service grants or other instructional television service funds as of January 1, 1997, but otherwise qualify as such under the definition of a public broadcasting station in § 2.1-563.27:2. To avoid unnecessary duplication of public broadcasting services, the Board shall consider the: (i) adequacy of existing programming, coverage, and other public broadcasting services in the geographic area to be served and the extent to which those services would be duplicated by an additional public

broadcasting station and (ii) sufficiency of funds administered by the Board to support existing or proposed public broadcasting stations;

5. Coordinate such strategic planning by the public broadcasting stations as the Board deems appropriate and identify and communicate to the Governor and the General Assembly the funding and other requirements of Virginia's public broadcasting stations; and

6. Enter into contracts with public broadcasting stations, state agencies and institutions, public schools and private entities for goods and services.

§ 2.1-563.27:5. Funds of the Board.

The Director of the Department of Planning and Budget shall oversee and approve the disbursement of all funds appropriated to the Board. Upon approval, the funds of the Board shall be dispensed for the following general purposes:

1. Community services. Annual operating grant-funding to public broadcasting stations for developing, acquiring, producing, and distributing programs and related services which support local needs of pre-school and adult education; disseminating information to the citizenry regarding the government and its affairs; promoting tourism and enhancing the Commonwealth's economic development; and supporting other programs which inform, educate, and entertain the citizenry with noncommercial programming.

2. Instructional services. Annual contract-funding to public broadcasting stations to regionally manage and provide programming and related services which directly support the instructional activities of local schools and home educators.

3. Capital improvements. Matching capital-funding to public broadcasting stations for construction and equipment modernization to keep Virginia stations consistent with industry standards.

4. Special appropriations. Funding for specific programs and projects to be provided by a public broadcasting station which may not be included in another funding category.

§ 2.1-563.27:6. Exemption from Virginia Public Procurement Act.

State agencies, institutions, and political subdivisions of the Commonwealth may enter into contracts with public broadcasting stations for program production, broadcasting, transmission, distribution, and related communications services without competitive sealed bidding or competitive negotiation as required by the Virginia Public Procurement Act (§ 11-35 et seq.).

§ 2.1-563.27:7. Staff and employees prohibited; cooperation of other agencies.

The Board shall not be authorized to hire, employ, or contract for its own staff or employees, but may request administrative support from the public broadcasting stations. The Department of Information Technology shall, upon request, provide to the Board and public broadcasting stations the same scope of technical communications and related services which it provided on or before July 1, 1997, to the Virginia Public Telecommunications Board and to Virginia's public telecommunications entities and public broadcast stations. All departments, commissions, boards, agencies, officers, and institutions of the Commonwealth or any political subdivision thereof shall cooperate with the Board in carrying out the purposes of this article.

§ 2.1-563.27:8. Forms of accounts and records; audit; annual report.

The accounts and records of the Board showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes. The Auditor of Public Accounts, or his legally authorized representatives, shall annually examine the accounts and books of the Board. The Board shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Board for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of § 2.1-467.

§ 9-6.25:2. Policy boards, commissions and councils.

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

Apprenticeship Council

Athletic Board

Auctioneers Board

Blue Ridge Regional Education and Training Council

Board for Accountancy

Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects

Board for Barbers

Board for Contractors

Board for Cosmetology

Board for Geology

Board for Hearing Aid Specialists

Board for Opticians

Board for Professional and Occupational Regulation

Board for Professional Soil Scientists

Board for Waterworks and Wastewater Works Operators

Board of Agriculture and Consumer Services
 Board of Audiology and Speech-Language Pathology
 Board of Coal Mining Examiners
 Board of Conservation and Recreation
 Board of Correctional Education
 Board of Dentistry
 Board of Directors, Virginia Student Assistance Authorities
 Board of Funeral Directors and Embalmers
 Board of Health Professions
 Board of Historic Resources
 Board of Housing and Community Development
 Board of Medical Assistance Services
 Board of Medicine
 Board of Mineral Mining Examiners
 Board of Nursing
 Board of Nursing Home Administrators
 Board of Optometry
 Board of Pharmacy
 Board of Professional Counselors
 Board of Psychology
 Board of Recreation Specialists
 Board of Social Services
 Board of Social Work
 Board of Surface Mining Review
 Board of Veterinary Medicine
 Board on Conservation and Development of Public Beaches
 Chesapeake Bay Local Assistance Board
 Child Day-Care Council
 Commission on Local Government
 Commonwealth Transportation Board
 Council on Human Rights
 Council on Information Management
 Criminal Justice Services Board
 Design-Build/Construction Management Review Board
 Disability Services Council
 Farmers Market Board, Virginia
 Interdepartmental Council on Rate-setting for Children's Facilities
 Library Board, The Library of Virginia
 Marine Resources Commission
 Milk Commission
 Pesticide Control Board
 Real Estate Appraiser Board
 Real Estate Board
 Reciprocity Board, Department of Motor Vehicles
 Safety and Health Codes Board
 Seed Potato Board
 Southside Virginia Marketing Council
 Specialized Transportation Council
 State Air Pollution Control Board
 State Board of Corrections
 State Board of Elections
 State Board of Health
 State Board of Juvenile Justice
 State Health Department, Sewage Handling and Disposal Appeal Review Board
 State Library Board
 State Mental Health, Mental Retardation and Substance Abuse Services Board
 State Water Control Board
 Substance Abuse Certification Board
 Treasury Board, The, Department of the Treasury
 Virginia Aviation Board
 Virginia Board for Asbestos Licensing
 Virginia Fire Services Board
 Virginia Gas and Oil Board
 Virginia Health Planning Board

Virginia Manufactured Housing Board
 Virginia Parole Board
~~Virginia Public Telecommunications Board~~
Virginia Public Broadcasting Board
 Virginia Soil and Water Conservation Board
 Virginia Voluntary Formulary Board
 Virginia Waste Management Board
 Waste Management Facility Operators, Board for.

§ 15.1-23.1. Licensing, etc., and regulation of cable television systems.

A. The words "cable television system" as used in this section shall mean any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, except that such definition shall not include (i) a system that serves fewer than twenty subscribers, (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations, (iii) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way, (iv) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 et seq., except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, (v) any facilities of any electric utility used solely for operating its electric systems, or (vi) any portion of a system that serves fewer than fifty subscribers in any county, city or town, where such portion is a part of a larger system franchised in an adjacent jurisdiction.

The words "cable service" as used in this section shall mean the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

B. The governing body of any county, city or town may grant a license or franchise, or issue a certificate of public convenience and necessity to no more than one cable television system, and impose a fee thereon. The governing body shall have the authority to award additional licenses, franchises or certificates of public convenience as it deems appropriate, if such governing body finds that the public welfare will be enhanced by such awards after a public hearing at which testimony is heard concerning the economic consideration, the impact on private property rights, the impact on public convenience, the public need and potential benefit, and such other factors as are relevant.

C. No such governing body shall grant any overlapping licenses, franchise or certificates of public convenience for cable service within its jurisdiction on terms or conditions more favorable or less burdensome than those in any existing license, franchise or certificate of public convenience within such county, city or town. The prohibitions of the foregoing sentence shall not apply when the area in which the overlapping license, franchise or certificate of public convenience is being sought is not actually being served by any existing cable service provider holding a license, franchise or certificate of public convenience for such area. As used in this paragraph, the term "actually being served" means that cable service is actually available to subscribers to such extent that the only act remaining in order to provide cable service is the physical connection to the individual subscriber location as of fifteen days prior to any subsequent application for a franchise.

D. The governing body may regulate such systems, including the establishment of fees and rates, the assignment of channels for public use, the operation of such channels assigned for public use, and the placement of restrictions or conditions on the scope of the business activities engaged in by such systems with regard to the sale, lease, rental or repair of television receivers or repair of video cassette and disc recorders and players, or provide for such regulation and operation by such agents as the governing body may direct. ~~In exercising the powers granted in this section, the governing body shall conform to minimum standards with respect to the licensing, franchising or the granting of certificates of convenience and necessity for cable television systems and to the use of channels set aside for general and educational use which shall be adopted by the Virginia Public Telecommunications Board, such minimum standards being for the purpose of assuring the capability of developing a statewide general educational telecommunications network or networks.~~ The owner or operator of any cable television system shall not be required to pay the cost of interconnecting such cable television systems between political subdivisions.

E. The grant of authority by this section to counties, cities and towns to regulate cable television systems, including regulations that displace or limit competition by or among persons owning or operating such systems, has been and continues to be based on the policy of the Commonwealth to provide for the adequate, economical, and efficient delivery of such systems to the consuming public, to protect the public from excessive prices and unfair competition, and to prevent the owners and operators of such systems from obtaining an unfair competitive advantage by reason of the license, franchise or certificate of convenience over businesses that sell, lease, rent or repair television receivers or repair video cassette and disc recorders and players. No county, city or town may regulate cable television systems by regulations inconsistent with either laws of the Commonwealth or federal law relating to

cable television operations.

F. Counties, cities and towns by ordinance may exercise all the regulatory powers over cable television systems granted by the Cable Television Consumer Protection and Competition Act of 1992 (P.L. 102-385, 1992). These regulatory powers shall include the authority (i) to enforce customer service standards in accordance with the Act, (ii) to enforce more stringent standards as agreed upon by the cable television system operator through the terms of the franchise, and (iii) to regulate the rates for basic cable service in accordance with the Act.

§ 15.1-456. Legal status of plan.

A. Whenever the local commission shall have recommended a comprehensive plan or part thereof for the county or municipality and such plan shall have been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless such feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than railroad facility, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the local commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination the commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.1-431.

B. The commission shall communicate its findings to the governing body, indicating its approval or disapproval with written reasons therefor. The governing body may overrule the action of the commission by a vote of a majority of the membership thereof. Failure of the commission to act within sixty days of such submission, unless such time shall be extended by the governing body, shall be deemed approval. The owner or owners or their agents may appeal the decision of the local commission to the governing body within ten days after the decision of the commission. The appeal shall be by written petition to the governing body setting forth the reasons for the appeal. The appeal shall be heard and determined within sixty days from its filing. A majority vote of the governing body shall overrule the commission.

C. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval unless involving a change in location or extent of a street or public area.

D. Any public area, facility or use as set forth in subsection A which is identified within, but not the entire subject of, a submission under either § 15.1-475 for subdivision or § 15.1-491 (h) for development or both may be deemed a feature already shown on the adopted master plan, and, therefore, excepted from the requirement for submittal to and approval by the commission or the governing body; provided, that the governing body has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility or use or has approved it through acceptance of a proffer made pursuant to § 15.1-491 (a).

E. [Expired.]

F. Approval and funding of a public telecommunications facility by the Virginia Public Telecommunications Board *Broadcasting Board* pursuant to Article 6 (~~§ 2.1-563.23 et seq.~~) *6.1* (*§ 2.1-563.27:1 et seq.*) of Chapter 35.2 of Title 2.1 shall be deemed to satisfy the requirements of this section and local zoning ordinances with respect to such facility with the exception of television and radio towers and structures not necessary to house electronic apparatus. The exemption provided for in this subsection shall not apply to facilities existing or approved by the *Virginia Public Telecommunications Board* prior to July 1, 1990. The ~~Board~~ *Virginia Public Broadcasting Board* shall notify the governing body of the locality in advance of any meeting where approval of any such facility shall be acted upon.

2. That Article 6 (§§ 2.1-563.23 through 2.1-563.27) of Chapter 35.2 of Title 2.1 of the Code of Virginia is repealed.