

971230204

**HOUSE BILL NO. 2249**

House Amendments in [ ] — February 4, 1997

*A BILL to amend and reenact §§ 2.1-1.6, 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 Title 9 a chapter numbered 49, consisting of sections numbered 9-371 through 9-378; 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 Authority.*

Patrons—Diamonstein, Abbitt, Almand, Barlow, Callahan, Clement, Croshaw, Davies, DeBoer, Deeds, Grayson, Guest, Hall, Hamilton, Ingram, Landes, Murphy, Rhodes, Van Yahres, Wagner, Watkins, Watts, Weatherholtz and Woodrum; Senators: Colgan, Couric, Hanger, Houck, Lambert, Marye, Miller, K.G., Potts, Walker and Woods

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.1-1.6, 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 Title 9 a chapter numbered 49, consisting of sections numbered 9-371 through 9-378, 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

ENGROSSED

HB2249E

60 Correctional Education, Board of  
61 Corrections, State Board of  
62 Cosmetology, Board for  
63 Criminal Justice Services Board  
64 Dark-Fired Tobacco Board, Virginia  
65 Deaf and Hard-of-Hearing, Advisory Board for the Department for the  
66 Dentistry, Board of  
67 Design-Build/Construction Management Review Board  
68 Education, State Board of  
69 Egg Board, Virginia  
70 Emergency Medical Services Advisory Board  
71 Farmers Market Board, Virginia  
72 Film Office Advisory Board  
73 Fire Services Board, Virginia  
74 Forensic Science Advisory Board  
75 Forestry, Board of  
76 Funeral Directors and Embalmers, Board of  
77 Game and Inland Fisheries, Board of  
78 Geology, Board for  
79 Goose Creek Scenic River Advisory Board  
80 Health Planning Board, Virginia  
81 Health Professions, Board of  
82 Health, State Board of  
83 Hearing Aid Specialists, Board for  
84 Hemophilia Advisory Board  
85 Historic Resources, Board of  
86 Housing and Community Development, Board of  
87 Industrial Development Services Advisory Board  
88 Irish Potato Board, Virginia  
89 Juvenile Justice, State Board of  
90 Litter Control and Recycling Fund Advisory Board  
91 Marine Products Board, Virginia  
92 Medical Advisory Board, Department of Motor Vehicles  
93 Medical Board of the Virginia Retirement System  
94 Medicare and Medicaid, Advisory Board on  
95 Medicine, Board of  
96 Mental Health, Mental Retardation and Substance Abuse Services Board, State  
97 Migrant and Seasonal Farmworkers Board  
98 Military Affairs, Board of  
99 Mineral Mining Examiners, Board of  
100 Minority Business Enterprise, Interdepartmental Board of the Department of  
101 Networking Users Advisory Board, State  
102 Nottoway State Scenic River Advisory Board  
103 Nursing, Board of  
104 Nursing Home Administrators, Board of  
105 Occupational Therapy, Advisory Board on  
106 Oil and Gas Conservation Board, Virginia  
107 Opticians, Board for  
108 Optometry, Board of  
109 Peanut Board, Virginia  
110 Personnel Advisory Board  
111 Pesticide Control Board  
112 Pharmacy, Board of  
113 Physical Therapy to the Board of Medicine, Advisory Board on  
114 Plant Pollination Advisory Board  
115 Polygraph Examiners Advisory Board  
116 Pork Industry Board, Virginia  
117 Poultry Products Board, Virginia  
118 Private College Advisory Board  
119 Private Security Services Advisory Board  
120 Professional and Occupational Regulation, Board for  
121 Professional Counselors, Board of

- 122 Professional Soil Scientists, Board for
- 123 Psychiatric Advisory Board
- 124 Psychology, Board of
- 125 Public Buildings Board, Virginia
- 126 ~~Public Telecommunications Board, Virginia~~
- 127 Radiation Advisory Board
- 128 Real Estate Appraiser Board
- 129 Real Estate Board
- 130 Reciprocity Board, Department of Motor Vehicles
- 131 Recreational Fishing Advisory Board, Virginia
- 132 Recreation Specialists, Board of
- 133 Reforestation Board
- 134 Rehabilitation Providers, Advisory Board on
- 135 Rehabilitative Services, Board of
- 136 Respiratory Therapy, Advisory Board on
- 137 Retirement System Review Board
- 138 Rockfish State Scenic River Advisory Board
- 139 Safety and Health Codes Board
- 140 Seed Potato Board
- 141 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 142 Shenandoah State Scenic River Advisory Board
- 143 Small Business Advisory Board
- 144 Small Business Environmental Compliance Advisory Board
- 145 Small Grains Board, Virginia
- 146 Social Services, Board of
- 147 Social Work, Board of
- 148 Soil and Water Conservation Board, Virginia
- 149 Soybean Board, Virginia
- 150 State Air Pollution Control Board
- 151 Substance Abuse Certification Board
- 152 Surface Mining Review, Board of
- 153 Sweet Potato Board, Virginia
- 154 T & M Vehicle Dealers' Advisory Board
- 155 Teacher Education and Licensure, Advisory Board on
- 156 Tourism and Travel Services Advisory Board
- 157 Transportation Board, Commonwealth
- 158 Transportation Safety, Board of
- 159 Treasury Board, The, Department of the Treasury
- 160 Veterans' Affairs, Board on
- 161 Veterinary Medicine, Board of
- 162 Virginia Board for Asbestos Licensing
- 163 Virginia Coal Mine Safety Board
- 164 Virginia Correctional Enterprises Advisory Board
- 165 Virginia Employment Commission, State Advisory Board for the
- 166 Virginia Higher Education Tuition Trust Fund, Board of the
- 167 Virginia Horse Industry Board
- 168 Virginia Manufactured Housing Board
- 169 Virginia Retirement System, Board of Trustees
- 170 Virginia Sheep Industry Board
- 171 Virginia Veterans Cemetery Board
- 172 Virginia Waste Management Board
- 173 Visually Handicapped, Virginia Board for the
- 174 Voluntary Formulary Board, Virginia
- 175 War Memorial Foundation, Virginia, Board of Trustees
- 176 Waste Management Facility Operators, Board for
- 177 Water Resources Research Center Statewide Advisory Board, Virginia
- 178 Waterworks and Wastewater Works Operators, Board for
- 179 Well Review Board, Virginia.
- 180 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 181 referred to as boards:
- 182 Compensation Board

183 State Board of Elections  
184 State Water Control Board  
185 Virginia Parole Board  
186 Virginia Veterans Care Center Board of Trustees.

187 § 2.1-454.1. Aid and cooperation of Division may be sought by any public body or public  
188 broadcasting station in making purchases; use of facilities of central warehouse; Authority to furnish list  
189 of public broadcasting stations to Division; services to certain volunteer organizations.

190 A. Virginia public ~~telecommunications entities~~, *broadcasting stations* as defined in ~~§ 2.1-563.13,~~  
191 § 9-372 and public bodies as defined in § 11-37 who are empowered to purchase material, equipment,  
192 and supplies of any kind, in their discretion, may purchase through the Division of Purchases and  
193 Supply. When any such public body, public ~~telecommunications entity~~ *broadcasting station*, or duly  
194 authorized officer requests that the Division obtain bids for any materials, equipment and supplies, and  
195 such bids accordingly have been obtained by the Division of Purchases and Supply, the Division may  
196 award the contract to the lowest responsible bidder, and such public body or public ~~telecommunications~~  
197 ~~entity~~ *broadcasting station* shall be bound by such contract. The Division shall set forth in the purchase  
198 order that the materials, equipment and supplies be delivered to, and that the bill therein be rendered and  
199 forwarded to, such public body or public ~~telecommunications entity~~ *broadcasting station*. Any such bill  
200 shall be a valid and enforceable claim against the public body or public ~~telecommunications entity~~  
201 *broadcasting station* requesting the Division to seek such bids.

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

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

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

213 § 2.1-563.13. Definitions.

214 As used in this chapter:

215 "Board" means the Virginia Public Telecommunications Board.

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

220 "Department" means the Department of Information Technology.

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

222 "Noncommercial telecommunications entity" means any enterprise which:

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

225 2. Has been organized primarily for the purpose of disseminating audio or video noncommercial  
226 educational and cultural programs to the public by means other than a primary television or radio  
227 broadcast station, including but not limited to, coaxial cable, optical fiber, broadcast translators,  
228 cassettes, discs, microwave or laser transmission through the atmosphere *public broadcasting station as*  
229 *defined in § 9-372.*

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

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

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

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

238 "Public telecommunications entity" means any enterprise which:

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

240 2. Disseminates public telecommunications services to the public *public broadcasting station as*  
241 *defined in § 9-372.*

242 "Public telecommunications facilities" means all apparatus, equipment and material necessary for or  
243 associated in any way with the production, distribution, interconnection captioning or broadcasting or  
244 interconnection or other distribution of programming *public broadcasting stations or public*

broadcasting services as those terms are defined in § 9-372, 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 § 9-372.

"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 § 9-372 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 Virginia Public Broadcasting Authority.

§ 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.

§ 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

306	Board for Professional and Occupational Regulation
307	Board for Professional Soil Scientists
308	Board for Waterworks and Wastewater Works Operators
309	Board of Agriculture and Consumer Services
310	Board of Audiology and Speech-Language Pathology
311	Board of Coal Mining Examiners
312	Board of Conservation and Recreation
313	Board of Correctional Education
314	Board of Dentistry
315	Board of Directors, Virginia Student Assistance Authorities
316	Board of Funeral Directors and Embalmers
317	Board of Health Professions
318	Board of Historic Resources
319	Board of Housing and Community Development
320	Board of Medical Assistance Services
321	Board of Medicine
322	Board of Mineral Mining Examiners
323	Board of Nursing
324	Board of Nursing Home Administrators
325	Board of Optometry
326	Board of Pharmacy
327	Board of Professional Counselors
328	Board of Psychology
329	Board of Recreation Specialists
330	Board of Social Services
331	Board of Social Work
332	Board of Surface Mining Review
333	Board of Veterinary Medicine
334	Board on Conservation and Development of Public Beaches
335	Chesapeake Bay Local Assistance Board
336	Child Day-Care Council
337	Commission on Local Government
338	Commonwealth Transportation Board
339	Council on Human Rights
340	Council on Information Management
341	Criminal Justice Services Board
342	Design-Build/Construction Management Review Board
343	Disability Services Council
344	Farmers Market Board, Virginia
345	Interdepartmental Council on Rate-setting for Children's Facilities
346	Library Board, The Library of Virginia
347	Marine Resources Commission
348	Milk Commission
349	Pesticide Control Board
350	Real Estate Appraiser Board
351	Real Estate Board
352	Reciprocity Board, Department of Motor Vehicles
353	Safety and Health Codes Board
354	Seed Potato Board
355	Southside Virginia Marketing Council
356	Specialized Transportation Council
357	State Air Pollution Control Board
358	State Board of Corrections
359	State Board of Elections
360	State Board of Health
361	State Board of Juvenile Justice
362	State Health Department, Sewage Handling and Disposal Appeal Review Board
363	State Library Board
364	State Mental Health, Mental Retardation and Substance Abuse Services Board
365	State Water Control Board
366	Substance Abuse Certification Board
367	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 Soil and Water Conservation Board  
 Virginia Voluntary Formulary Board  
 Virginia Waste Management Board  
 Waste Management Facility Operators, Board for.

#### CHAPTER 49.

#### VIRGINIA PUBLIC BROADCASTING ACT OF 1997.

§ 9-371. Declaration of public purpose; Authority 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, as a political subdivision and independent agency of the Commonwealth, the Virginia Public Broadcasting Authority. The exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions.

§ 9-372. Definitions.

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

"Authority" means the Virginia Public Broadcasting Authority.

"Board" means the Board of Trustees of the Authority.

"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 broadcast station; (ii) is operated by a public agency or a nonprofit private foundation, corporation, or association; (iii) ~~is licensed and~~, 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 Authority approves its request ] 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 Authority to receive state funds under standards and criteria established by the Authority pursuant to § 9-374.

§ 9-373. Board of Trustees.

A. The Authority shall be governed by a Board of Trustees consisting of nine citizen members. The Governor shall appoint five members who shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The chairmen of the Rules Committees of the House of Delegates and the Senate shall each appoint two members who shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly.

B. All appointments shall be for four-year terms; however, the initial terms of the board members shall be: two gubernatorial appointees for four-year terms, one gubernatorial appointee for a three-year term, one gubernatorial appointee for a two-year term, and one gubernatorial appointee for a one-year term and one legislative appointee for a four-year term, one legislative appointee for a three-year term,

one legislative appointee for a two-year term, and one legislative appointee for a one-year term. No member 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. The gubernatorial appointees shall be as follows: three shall have expertise in at least one of the areas of education, tourism, and economic development and two shall be participating members of different public broadcasting stations in the Commonwealth. The legislative appointees shall be as follows: two shall have expertise in at least one of the areas of education, tourism, and, economic development and two shall be participating members of different public broadcasting stations in the Commonwealth.

D. Vacancies shall be filled for unexpired terms by the persons authorized to make the original appointments, subject to confirmation by a majority vote of each house at the next session of the General Assembly. After the expiration of an unexpired term to which appointed, a member 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.

E. Subject to confirmation by the affirmative vote of a majority of those voting in each house of the General Assembly, the Governor shall designate the chairman of the Board. The chairman 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. The Board shall elect one of the legislative appointees as vice chairman and appoint a secretary who may or may not be a member of the Board. A majority of the members of the Board shall constitute a quorum.

F. No member of the Board may be an officer, employee, or member of the board of directors of any public broadcasting station.

G. ~~[ The Board shall receive such expenses, reimbursements, and per diem allowances as authorized for members of the General Assembly Board members shall be reimbursed for their actual and necessary expenses for travel and subsistence incurred in performance of their duties as Board members away from their places of residence. Such expenses 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 expenses of the Authority ] .~~

§ 9-374. Powers and duties.

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

1. Receive, allocate, and dispense funds appropriated by the General Assembly and any funds received by the Authority 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 Authority 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 Authority 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 § 9-372. To avoid unnecessary duplication of public broadcasting services, it 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 Authority to support the existing public broadcasting stations and any additional such stations;

5. Coordinate such strategic planning by the public broadcasting stations as the Authority 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.

§ 9-375. Public broadcasting funds.

The funds of the Authority 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. Appropriations for specific programs and projects to be provided by a public broadcasting station which may not be included in another funding category.

§ 9-376. Exemption from Virginia Public Procurement Act.

State agencies, institutions, and political subdivisions of the Commonwealth may enter into contracts with the Authority or 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.).

§ 9-377. Staff; cooperation of other agencies.

The public broadcasting stations may provide staff to serve the Board and the Authority. The Director of the Department of Planning and Budget shall oversee and approve the disbursement of all funds appropriated to the Authority. The Department of Information Technology shall, upon request, provide to the Authority 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 Authority in carrying out the purposes of this chapter.

§ 9-378. Forms of accounts and records; audit; annual report.

The accounts and records of the Authority 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 Authority. The Authority 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 Authority for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of § 2.1-467.

§ 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

552 cable service is the physical connection to the individual subscriber location as of fifteen days prior to  
553 any subsequent application for a franchise.

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

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

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

583 § 15.1-456. Legal status of plan.

584 A. Whenever the local commission shall have recommended a comprehensive plan or part thereof for  
585 the county or municipality and such plan shall have been approved and adopted by the governing body,  
586 it shall control the general or approximate location, character and extent of each feature shown on the  
587 plan. Thereafter, unless such feature is already shown on the adopted master plan or part thereof or is  
588 deemed so under subsection D, no street or connection to an existing street, park or other public area,  
589 public building or public structure, public utility facility or public service corporation facility other than  
590 railroad facility, whether publicly or privately owned, shall be constructed, established or authorized,  
591 unless and until the general location or approximate location, character, and extent thereof has been  
592 submitted to and approved by the local commission as being substantially in accord with the adopted  
593 comprehensive plan or part thereof. In connection with any such determination the commission may, and  
594 at the direction of the governing body shall, hold a public hearing, after notice as required by  
595 § 15.1-431.

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

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

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

614 establishment or authorization of such public area, facility or use or has approved it through acceptance  
 615 of a proffer made pursuant to § 15.1-491 (a).

616 E. [Expired.]

617 F. Approval and funding of a public telecommunications facility by the Virginia Public  
 618 Telecommunications Board *Broadcasting Authority* pursuant to Article 6 (§ ~~2.1-563.23~~ et seq.) of  
 619 ~~Chapter 35.2~~ *Chapter 49* (§ 9-371 et seq.) of Title ~~2.1~~ 9 shall be deemed to satisfy the requirements of  
 620 this section and local zoning ordinances with respect to such facility with the exception of television and  
 621 radio towers and structures not necessary to house electronic apparatus. The exemption provided for in  
 622 this subsection shall not apply to facilities existing or approved by the *Virginia Public*  
 623 *Telecommunications* Board prior to July 1, 1990. The Board of the *Virginia Public Broadcasting*  
 624 *Authority* shall notify the governing body of the locality in advance of any meeting where approval of  
 625 any such facility shall be acted upon.

626 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  
 627 Virginia is repealed.

ENGROSSED

HB2249E