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## SENATE BILL NO. 923

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on February 12, 1997)

(Patron Prior to Substitute—Senator Ticer)

*A BILL to amend and reenact § 2.1-563.31 of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 39, consisting of sections numbered 59.1-467, 59.1-468, and 59.1-469, relating to trade and commerce; digital signatures.*

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

**1. That § 2.1-563.31 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 39, consisting of sections numbered 59.1-467, 59.1-468, and 59.1-469 as follows:**

§ 2.1-563.31. General powers of Council; powers and duties of Council.

A. The Council shall have the following general powers:

1. To make and enter into all contracts and agreements necessary or incidental to the performance of duties and the execution of its powers, including but not limited to contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth.

2. To accept grants from the United States government and agencies and instrumentalities thereof and any source, other than any person, firm, or corporation, or director, officer, or agent thereof which manufactures or sells information technology equipment, goods or services. To these ends, the Council shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable.

3. To prescribe regulations necessary or incidental to the performance of its duties or execution of its powers, *including such regulations as the Council deems appropriate concerning the use of digital signatures as provided in § 59.1-469*; however, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) shall not apply to such regulations.

B. The Council shall have the following powers and duties concerning the planning, budgeting, management and use of information technology resources. All agencies and institutions of higher education shall cooperate with the Council in the performance of its powers and duties:

1. To monitor trends and advances in information technology, to develop a comprehensive, statewide, four-year planning process, and plan for the acquisition, management, and use of information technology resources. The statewide plan shall be updated annually and submitted to the Governor. In developing and updating such plans, the Council shall consider the advice of the Department, and of agencies and institutions of higher education through the Advisory Committees to the Council provided for herein.

2. To provide agencies and institutions of higher education with information and guidelines in the development of information management plans and the preparation of budget requests for information technology resources.

3. To require agencies and institutions of higher education to submit information management plans to the Council and a copy to the Department. The Council shall have the authority to approve such plans and amendments thereto, including the Department's. All agencies and institutions of higher education shall maintain current information management plans which have been approved by the Council.

4. To monitor implementation of information management plans.

5. To direct the development and promulgation of policies, standards, and guidelines for managing information technology resources in the Commonwealth.

6. To review agency and institution budget requests for information technology resources and to recommend budget request priorities to the Department of Planning and Budget.

7. To direct the compilation and maintenance of an inventory of all information technology resources, including but not limited to personnel, facilities, equipment, goods and contracts for services.

8. To develop an approval process to ensure that all information technology procurements conform to the statewide information management plan and the information management plans of agencies and institutions of higher education. The Council shall be authorized to disapprove the procurements that do not conform to the statewide information management plan and the agency plans.

9. To establish statewide standards for the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the Commonwealth. In cooperation with the Division of Legislative Automated Systems, the Council shall also establish standards for public access to the Legislative Information System which standards shall include provisions for protecting the security and integrity of the system and the cost of public access.

10. To oversee and administer the Virginia Technology Infrastructure Fund created in Chapter 22.13

60 (§ 9-145.52 et seq.) of Title 9.

61 *CHAPTER 39.*  
62 *DIGITAL SIGNATURES.*

63 § 59.1-467. Definitions.

64 *As used in this chapter, the following words shall have the following meanings unless the context*  
65 *clearly indicates otherwise:*

66 *"Digital signature" means an electronic identifier, created by a computer, intended by the party*  
67 *using it to have the same force and effect as the use of a manual signature.*

68 *"Signed" or "signature" means any symbol or method executed or adopted by a party with present*  
69 *intention to be bound by or to authenticate a record, including digital methods.*

70 § 59.1-468. Authentication of digital signatures.

71 *A. Where law requires a signature, or provides for certain consequences in the absence of a*  
72 *signature, that law is satisfied by a digital signature.*

73 *B. In assessing whether a digital signature was executed or adopted with respect to a record by a*  
74 *particular person, the trier of fact may consider any relevant information or circumstances, including*  
75 *whether the digital signature is unique to the signer, is capable of verification, is under the signer's sole*  
76 *control, or is linked to the record in such a manner that if the data is changed the signature is*  
77 *invalidated, and whether the method used to create the signature was appropriately reliable for the*  
78 *purpose for which the digital signature was used.*

79 § 59.1-469. State agencies' use of digital signatures.

80 *Every agency, department, board, commission, authority, political subdivision or other instrumentality*  
81 *of the Commonwealth may receive digital signatures in lieu of manual signatures, provided such digital*  
82 *signatures meet the standards established by the Council on Information Management. The use or*  
83 *acceptance of a digital signature shall be at the option of the parties. Nothing in this chapter shall*  
84 *require a public entity to use or permit the use of a digital signature.*

85 **2. That, on or before September 1, 1998, the Council on Information Management shall adopt**  
86 **final regulations on the use of digital signatures as authorized by this act.**