

1999 SESSION

INTRODUCED
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HOUSE BILL NO. 1043

Offered January 26, 1998

A BILL to amend and reenact §§ 2.1-1.6, 2.1-20.4, 9-6.14:4.1, and 9-6.25:2 of the Code of Virginia and to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 21, consisting of sections numbered 22.1-355 through 22.1-361, relating to the creation of the Virginia Information Access Act of 1998.

Patrons—Jackson, Abbitt, Armstrong, Baskerville, Deeds, Johnson, Phillips, Shuler and Stump

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6, 2.1-20.4, 9-6.14:4.1, and 9-6.25:2 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 21, consisting of sections numbered 22.1-355 through 22.1-361, 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

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

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

- 122 Reciprocity Board, Department of Motor Vehicles
- 123 Recreational Fishing Advisory Board, Virginia
- 124 Recreation Specialists, Board of
- 125 Reforestation Board
- 126 Rehabilitation Providers, Advisory Board on
- 127 Rehabilitative Services, Board of
- 128 Respiratory Therapy, Advisory Board on
- 129 Rockfish State Scenic River Advisory Board
- 130 Safety and Health Codes Board
- 131 Seed Potato Board
- 132 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 133 Shenandoah State Scenic River Advisory Board
- 134 Small Business Advisory Board
- 135 Small Business Environmental Compliance Advisory Board
- 136 Small Grains Board, Virginia
- 137 Social Services, Board of
- 138 Social Work, Board of
- 139 Soil and Water Conservation Board, Virginia
- 140 Soybean Board, Virginia
- 141 State Air Pollution Control Board
- 142 Substance Abuse Certification Board
- 143 Surface Mining Review, Board of
- 144 Sweet Potato Board, Virginia
- 145 T & M Vehicle Dealers' Advisory Board
- 146 Teacher Education and Licensure, Advisory Board on
- 147 Transportation Board, Commonwealth
- 148 Transportation Safety, Board of
- 149 Treasury Board, The, Department of the Treasury
- 150 Veterans' Affairs, Board on
- 151 Veterinary Medicine, Board of
- 152 Virginia Board for Asbestos and Lead
- 153 Virginia Coal Mine Safety Board
- 154 Virginia Correctional Enterprises Advisory Board
- 155 Virginia Cotton Board
- 156 Virginia Employment Commission, State Advisory Board for the
- 157 Virginia Geographic Information Network Advisory Board
- 158 Virginia Horse Industry Board
- 159 Virginia Manufactured Housing Board
- 160 Virginia Retirement System, Board of Trustees
- 161 Virginia Schools for the Deaf and the Blind, Advisory Commission on the
- 162 Virginia Sheep Industry Board
- 163 Virginia Veterans Cemetery Board
- 164 Virginia Waste Management Board
- 165 Visually Handicapped, Virginia Board for the
- 166 Voluntary Formulary Board, Virginia
- 167 War Memorial Foundation, Virginia, Board of Trustees
- 168 Waste Management Facility Operators, Board for
- 169 Water Resources Research Center Statewide Advisory Board, Virginia
- 170 Waterworks and Wastewater Works Operators, Board for
- 171 Well Review Board, Virginia.
- 172 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 173 referred to as boards:
- 174 Compensation Board
- 175 State Board of Elections
- 176 State Water Control Board
- 177 Virginia Parole Board
- 178 Virginia Veterans Care Center Board of Trustees.
- 179 § 2.1-20.4. Bodies receiving compensation.
- 180 A. Notwithstanding any other provision of law, the following commissions, boards, etc., shall be
- 181 those which receive compensation from state funds pursuant to § 2.1-20.3:
- 182 Accountancy, Board for

183	Agriculture and Consumer Services, Board of
184	Air Pollution Control Board, State
185	Airports Authority, Virginia
186	Apprenticeship Council
187	Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
188	Athletic Board, Virginia
189	Auctioneers Board
190	Audiology and Speech-Language Pathology, Board of
191	Aviation Board, Virginia
192	Barbers, Board for
193	Branch Pilots, Board for
194	Building Code Technical Review Board, State
195	Charitable Gaming Commission
196	Chesapeake Bay Local Assistance Board
197	Coal Mining Examiners, Board of
198	College Building Authority
199	Commonwealth Competition Council
200	Commonwealth Transportation Board
201	Conservation and Development of Public Beaches, Board on
202	Conservation and Recreation, Board of
203	Contractors, Board for
204	Correctional Education, Board of
205	Corrections, Board of
206	Cosmetology, Board for
207	Criminal Justice Services Board
208	Deaf and Hard-of-Hearing, Advisory Board for the
209	Dentistry, Board of
210	Education, State Board of
211	Education Loan Authority, Virginia - Board of Directors
212	Elections, State Board of
213	Environment, Council on the
214	Fire Services Board, Virginia
215	Funeral Directors and Embalmers, Board of
216	Game and Inland Fisheries, Board of
217	Geology, Board for
218	Health, State Board of
219	Health Professions, Board of
220	Hearing Aid Specialists, Board for
221	Higher Education, State Council of
222	Historic Resources, Board of
223	Housing and Community Development, Board of
224	<i>Information Access, Board for</i>
225	Information Management, Council on
226	Juvenile Justice, State Board of
227	Marine Resources Commission
228	Medical Assistance Services, Board of
229	Medical Complaint Investigation Committee
230	Medicine, Board of
231	Mental Health, Mental Retardation and Substance Abuse Services Board, State
232	Milk Commission
233	Mineral Mining Examiners, Board of
234	Motor Vehicle Dealer Board
235	Nursing, Board of
236	Nursing Home Administrators, Board of
237	Occupational Therapy, Advisory Board on
238	Oil and Gas Conservation Board, Virginia
239	Opticians, Board for
240	Optometry, Board of
241	Pesticide Control Board
242	Pharmacy, Board of
243	Physical Therapy, Advisory Board on
244	Port Authority, Board of Commissioners of the Virginia

Professional and Occupational Regulation, Board for
 Professional Counselors, Board of
 Professional Soil Scientists, Board for
 Psychology, Board of
 Public Defender Commission
 Public School Authority, Virginia
 Purchases and Supply Appeals Board
 Real Estate Appraiser Board
 Real Estate Board
 Recreation Specialists, Board of
 Rehabilitative Services, Board of
 Respiratory Therapy, Advisory Board on
 Safety and Health Codes Board
 Seed Potato Board
 Social Services, Board of
 Social Work, Board of
 State Health Department Sewage Handling and Disposal Appeal Review Board
 Substance Abuse Certification Board
 Surface Mining Review, Board of
 Treasury Board
 Veterans' Affairs, Board on
 Veterinary Medicine, Board of
 Virginia Board for Asbestos Licensing
 Virginia Health Planning Board
 Virginia Manufactured Housing Board
 Virginia Veterans Care Center Board of Trustees
 Virginia Waste Management Board
 Visually Handicapped, Virginia Board for the
 Waste Management Facility Operators, Board for
 Water Control Board, State
 Waterworks and Wastewater Works Operators, Board for
 Well Review Board, Virginia.

B. Individual members of boards, commissions, committees, councils, and other similar bodies appointed at the state level and receiving compensation for their services on January 1, 1980, but who will not receive compensation under the provisions of this article, shall continue to receive compensation at the January 1, 1980, rate until such member's current term expires.

§ 9-6.14:4.1. Exemptions and exclusions.

A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the following agencies are exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

1. The General Assembly.

2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.

6. Educational institutions operated by the Commonwealth provided that, with respect to § 9-6.14:22, such educational institutions shall be exempt from the publication requirements only with respect to regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.

7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.

8. The Virginia Resources Authority.

9. Agencies expressly exempted by any other provision of this Code.

10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments

306 to the Formulary pursuant to § 32.1-81.
307 11. The Council on Information Management.
308 12. The Department of General Services in promulgating standards for the inspection of buildings for
309 asbestos pursuant to § 2.1-526.14.
310 13, 14. [Repealed.]
311 15. The State Council of Higher Education for Virginia, in developing, issuing, and revising
312 guidelines pursuant to § 23-9.6:2.
313 16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to
314 subsection B of § 3.1-726.
315 17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and
316 Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4,
317 subsection B of § 3.1-126.12:1, § 3.1-271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and
318 subsection A of § 3.1-884.21:1.
319 18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,
320 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of
321 optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
322 19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating
323 amendments to the Physician Assistant Formulary established pursuant to § 54.1-2952.1.
324 20. The Boards of Medicine and Nursing in promulgating amendments to the Nurse Practitioner
325 Formulary established pursuant to § 54.1-2957.01.
326 21. The Virginia War Memorial Foundation.
327 22. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to
328 the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage
329 pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
330 23. The State Board of Education, in developing, issuing, and revising guidelines pursuant to
331 § 22.1-280.3.
332 24. The Virginia Student Assistance Authorities.
333 25. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in
334 matters related to any specific race meeting.
335 26. The Virginia Small Business Financing Authority.
336 27. The Virginia Economic Development Partnership Authority.
337 28. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations
338 pursuant to subdivision A (ii) of § 59.1-156.
339 29. The Insurance Continuing Education Board pursuant to § 38.2-1867.
340 30. *The Board for Information Access.*
341 B. Agency action relating to the following subjects is exempted from the provisions of this chapter:
342 1. Money or damage claims against the Commonwealth or agencies thereof.
343 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
344 3. The location, design, specifications or construction of public buildings or other facilities.
345 4. Grants of state or federal funds or property.
346 5. The chartering of corporations.
347 6. Customary military, naval or police functions.
348 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of
349 the Commonwealth.
350 8. The conduct of elections or eligibility to vote.
351 9. Inmates of prisons or other such facilities or parolees therefrom.
352 10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as
353 well as the treatment, supervision, or discharge of such persons.
354 11. Traffic signs, markers or control devices.
355 12. Instructions for application or renewal of a license, certificate, or registration required by law.
356 13. Content of, or rules for the conduct of, any examination required by law.
357 14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter
358 14 of Title 2.1.
359 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent
360 with duly adopted regulations of the State Lottery Board, and provided that such regulations are
361 published and posted.
362 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
363 finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
364 17. Any operating procedures for review of child deaths developed by the State Child Fatality
365 Review Team pursuant to § 32.1-283.1.
366 18. The regulations for the implementation of the Health Practitioners' Intervention Program and the
367 activities of the Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title

54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1. Agency orders or regulations fixing rates or prices.

2. Regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations which:

(a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

(b) Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

(c) Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof.

5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date of the emergency regulation and published as soon as practicable.

6. [Repealed.]

7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

9. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 which are limited to reducing fees charged to regulants and applicants.

10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in

the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

12. General permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

13. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

14. Regulations of the Board of the Virginia Higher Education Tuition Trust Fund promulgated pursuant to § 23-38.77.

15. The development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307 if the Commission: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

Whenever regulations are adopted under this subsection C, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall become effective as provided in subsection A of § 9-6.14:9.

D. The following agency actions otherwise subject to this chapter are excluded from the operation of Article 3 (§ 9-6.14:11 et seq.) of this chapter:

1. The assessment of taxes or penalties and other rulings in individual cases in connection with the administration of the tax laws.

2. The award or denial of claims for workers' compensation.

3. The grant or denial of public assistance.

4. Temporary injunctive or summary orders authorized by law.

5. The determination of claims for unemployment compensation or special unemployment.

6. The suspension of any license, certificate, registration or authority granted any person by the Department of Health Professions or the Department of Professional and Occupational Regulation for the dishonor, by a bank or financial institution named, of any check, money draft or similar instrument used in payment of a fee required by statute or regulation.

E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject to this chapter are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.

F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act, is excluded from the operation of subdivision C 5 of this section and of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter.

G. A regulation for which an exemption is claimed under this section and which is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of exemptions and exclusions authorized by this section. The purpose of this review shall be to assess whether there are any exemptions or exclusions which should be discontinued or modified.

I. Minor changes to regulations being published in the Virginia Administrative Code under the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

§ 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

491	Blue Ridge Regional Education and Training Council
492	Board for Accountancy
493	Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects
494	Board for Barbers
495	Board for Contractors
496	Board for Cosmetology
497	Board for Geology
498	Board for Hearing Aid Specialists
499	<i>Board for Information Access</i>
500	Board for Opticians
501	Board for Professional and Occupational Regulation
502	Board for Professional Soil Scientists
503	Board for Waterworks and Wastewater Works Operators
504	Board of Agriculture and Consumer Services
505	Board of Audiology and Speech-Language Pathology
506	Board of Coal Mining Examiners
507	Board of Conservation and Recreation
508	Board of Correctional Education
509	Board of Dentistry
510	Board of Directors, Virginia Student Assistance Authorities
511	Board of Funeral Directors and Embalmers
512	Board of Health Professions
513	Board of Historic Resources
514	Board of Housing and Community Development
515	Board of Medical Assistance Services
516	Board of Medicine
517	Board of Mineral Mining Examiners
518	Board of Nursing
519	Board of Nursing Home Administrators
520	Board of Optometry
521	Board of Pharmacy
522	Board of Professional Counselors
523	Board of Psychology
524	Board of Recreation Specialists
525	Board of Social Services
526	Board of Social Work
527	Board of Surface Mining Review
528	Board of Veterinary Medicine
529	Board on Conservation and Development of Public Beaches
530	Chesapeake Bay Local Assistance Board
531	Child Day-Care Council
532	Commission on Local Government
533	Commonwealth Transportation Board
534	Council on Human Rights
535	Council on Information Management
536	Criminal Justice Services Board
537	Design-Build/Construction Management Review Board
538	Disability Services Council
539	Farmers Market Board, Virginia
540	Interdepartmental Council on Rate-setting for Children's Facilities
541	Library Board, The Library of Virginia
542	Marine Resources Commission
543	Milk Commission
544	Pesticide Control Board
545	Real Estate Appraiser Board
546	Real Estate Board
547	Reciprocity Board, Department of Motor Vehicles
548	Safety and Health Codes Board
549	Seed Potato Board
550	Southside Virginia Marketing Council
551	Specialized Transportation Council

552 State Air Pollution Control Board
 553 State Board of Corrections
 554 State Board of Elections
 555 State Board of Health
 556 State Board of Juvenile Justice
 557 State Health Department, Sewage Handling and Disposal Appeal Review Board
 558 State Library Board
 559 State Mental Health, Mental Retardation and Substance Abuse Services Board
 560 State Water Control Board
 561 Substance Abuse Certification Board
 562 Treasury Board, The, Department of the Treasury
 563 Virginia Aviation Board
 564 Virginia Board for Asbestos and Lead
 565 Virginia Fire Services Board
 566 Virginia Gas and Oil Board
 567 Virginia Health Planning Board
 568 Virginia Manufactured Housing Board
 569 Virginia Parole Board
 570 Virginia Public Broadcasting Board
 571 Virginia Soil and Water Conservation Board
 572 Virginia Voluntary Formulary Board
 573 Virginia Waste Management Board
 574 Waste Management Facility Operators, Board for.

CHAPTER 21.

VIRGINIA INFORMATION ACCESS ACT OF 1998.

577 § 22.1-355. *Purpose of chapter.*

578 *It is hereby found, determined, and declared that information access through computer hardware,*
 579 *software programs, databases, networks, and information systems which are supported in whole or in*
 580 *part by the general funds of the Commonwealth is a privilege and not a right. The purpose of this*
 581 *chapter, which may be cited as the "Virginia Information Access Act of 1998," is to create and empower*
 582 *a policy board to develop, design, deploy, maintain, and update information access for (i) students in*
 583 *the Commonwealth's public elementary and secondary schools who are under the age of eighteen and*
 584 *(ii) patrons of the Commonwealth's public libraries who are under the age of eighteen.*

585 § 22.1-356. *Board created; membership; terms; meetings; quorum; compensation.*

586 *A. There is hereby created the Board for Information Access (the "Board") as a policy board within*
 587 *the meaning of § 9-6.25:2. The Board shall consist of the nine members of the Board of Education*
 588 *appointed pursuant to § 22.1-9, the Superintendent of Public Instruction appointed pursuant to*
 589 *§ 22.1-21, the fifteen members of the Library Board appointed pursuant to § 42.1-2, and the State*
 590 *Librarian appointed pursuant to § 42.1-13. In even-numbered years, the Superintendent of Public*
 591 *Instruction shall be the chairman of the Board. In odd-numbered years, the State Librarian shall be the*
 592 *chairman of the Board. The Board may elect from among its membership such other officers as it deems*
 593 *necessary, convenient, or desirable to properly and efficiently discharge its duties. Board members shall*
 594 *serve terms coincident with the terms of their gubernatorial appointments.*

595 *B. Upon the call of the chairman, the Board may meet as often as is necessary, convenient, or*
 596 *desirable to properly and efficiently discharge its duties, but not less than once every three months.*
 597 *Unless otherwise specified in this chapter, a majority of the members of the Board shall constitute a*
 598 *quorum for the transaction of its business.*

599 *C. Pursuant to § 2.1-20.3, Board members shall be entitled to receive compensation for their service*
 600 *and to be reimbursed reasonable and necessary expenses incurred for attending Board meetings.*

601 § 22.1-357. *Powers and duties.*

602 *The Board shall have the following powers and duties:*

603 *1. To develop and design the Virginia Information Access Intranet (the "VIAI") created pursuant to*
 604 *§ 22.1-358.*

605 *2. To deploy the VIAI on July 1, 1999, and to continue to provide it thereafter, free of any fees or*
 606 *charges, to the Commonwealth's public elementary and secondary schools and public libraries.*

607 *3. To maintain and update the VIAI and ensure that its content furthers the purposes of this Act.*

608 *4. To sell or license the VIAI and any updates thereto under such terms and conditions and at such*
 609 *prices as the Board deems appropriate, to deposit the proceeds from the sale or license of the VIAI and*
 610 *any updates thereto into the Virginia Information Access Intranet Fund (the "VIAIF") created pursuant*
 611 *to § 22.1-359, and to administer the VIAIF consistent with the purposes of this Act.*

612 § 22.1-358. *Virginia Information Access Intranet created; content; maintenance and updates.*

613 *A. The Board shall develop, design, deploy, maintain, and update the Virginia Information Access*

Intranet (the "VIAI"). The VIAI shall be an electronic information network which connects the community of interest shared by (i) students in the Commonwealth's public elementary and secondary schools who are under the age of eighteen and (ii) patrons of the Commonwealth's public libraries who are under the age of eighteen. Consistent with the finding, determination, and declaration of this Act that information access through computer hardware, software programs, databases, networks, and information systems which are supported in whole or in part by the general funds of the Commonwealth is a privilege and not a right, the VIAI shall consist of information and material which furthers purposes, pursuits, or endeavors related to education; instruction; research; world, national, state, or local government events and affairs; and public service and civic duties. The Board shall not include in the VIAI any information or material which (i) is in violation of any federal, state, or local law; (ii) infringes upon the rights of any person; (iii) is defamatory, threatening, abusive, obscene, profane, pornographic, or lascivious; (iv) constitutes an advertisement, solicitation, or political lobbying; or (v) encourages or incites the use of controlled dangerous substances, alcohol, tobacco, or other illegal products or activities.

B. Upon written request to the Board from a member of (i) the Board for Information Access, (ii) a local school board appointed or elected pursuant to § 22.1-29, or (iii) a library board appointed pursuant to § 42.1-35, the Board shall consider the addition or deletion of information or materials from the VIAI. Upon a two-thirds vote of the total membership of the Board, requests to delete information or materials shall be granted. Upon a majority vote of a quorum of the Board, requests to add information or material to the VIAI shall be granted.

C. The VIAI and its development, design, deployment, maintenance, and updates shall, for all purposes, be held and owned as the intellectual property of the Commonwealth. Upon such terms, conditions, and prices as the Board deems appropriate, the Board may sell or license the VIAI and any updates thereto to any person or entity desiring to purchase or license same. Prior to execution, the form of any agreement to sell or license the VIAI shall be subject to approval by the Attorney General.

§ 22.1-359. Virginia Information Access Intranet Fund created; purposes.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Information Access Intranet Fund (the "VIAIF"). The VIAIF shall be established on the books of the Comptroller. All proceeds from sales or licensing of the VIAI and any updates thereto shall be paid into the state treasury and credited to the VIAIF. Interest earned on moneys in the VIAIF shall remain in the VIAIF and be credited to it. Any moneys remaining the VIAIF, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the VIAIF.

B. Moneys in the VIAIF shall be used by the Board to further the purposes of this Act in developing, designing, deploying, maintaining, and updating information access for (i) students in the Commonwealth's public elementary and secondary schools who are under the age of eighteen and (ii) patrons of the Commonwealth's public libraries who are under the age of eighteen. Such uses may include purchasing or leasing computer hardware, software programs, databases, networks, and information systems for or on behalf of the Commonwealth's public elementary and secondary schools and public libraries; providing training or retraining for teachers, librarians, administrators, and staff of the Commonwealth's public elementary and secondary schools and public libraries; and supplying the Board with adequate and appropriate staff to support the technical and nontechnical requirements to develop, design, deploy, maintain, and update the VIAI.

C. Expenditures and disbursements from the VIAIF shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Board.

§ 22.1-360. Exemption from Administrative Process Act; Board staff and additional support.

A. The Board shall be exempt from the Administrative Process Act (§ 9-6.14:1 et seq.), but shall comply the Virginia Register Act (§ 9-6.15 et seq.).

B. Staff shall be provided to the Board by the Department of Education and the Library of Virginia and from such funds appropriated by the General Assembly to further the purposes of this Act. Upon the Board's request, the Council on Information Management (or its successor agency or office) and the Department of Information Technology (or its successor agency) shall provide additional assistance and support to the Board.

§ 22.1-361. Obligations of public schools and libraries; violations; Governor authorized to withhold general funds.

A. Consistent with the finding, determination, and declaration of this Act that information access through computer hardware, software programs, databases, networks, and information systems which are supported in whole or in part by the general funds of the Commonwealth is a privilege and not a right, on and after July 1, 1999, no public elementary or secondary school or public library in this Commonwealth shall provide access to the international network of computer systems commonly known as the Internet to (i) students in the Commonwealth's public elementary and secondary schools who are under the age of eighteen and (ii) patrons of the Commonwealth's public libraries who are under the

675 age of eighteen.

676 B. Upon written recommendation from the Board to the Governor that a public elementary or
677 secondary school or public library in this Commonwealth has violated subsection A of this section, the
678 Governor is authorized to direct the Comptroller to withhold the distribution of all or part of the
679 general funds of this Commonwealth to such school or library until such violation is remedied.