

987232860

HOUSE BILL NO. 279

Offered January 15, 1998

A BILL to amend and reenact §§ 2.1-1.1, 2.1-1.3, 2.1-1.7, 2.1-20.4, 2.1-51.27, 2.1-342, 2.1-343.1, 2.1-440.1, 9-6.14:4.1, 9-6.23, 9-6.25:2, 9-145.51, 9-361, 15.2-2232, 22.1-199.1, 42.1-80, 59.1-469, and 63.1-314.8 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 35.3, containing articles numbered 1 through 4, consisting of sections numbered 2.1-563.42 through 2.1-563.79; and to repeal Chapter 35.2 (§§ 2.1-563.13 through 2.1-563.41) of Title 2.1 and Chapter 22.13 (§§ 9-145.52 through 9-145.56) of Title 9 of the Code of Virginia and the second enactment of Chapter 917 of the 1997 Acts of Assembly, all relating to the creation of the Chief Information Officer of the Commonwealth and the Department of Technology Services and the abolishment of the Department of Information Technology and the Council on Information Management.

Patrons—DeBoer, Almand, Bennett, Callahan, Councill, Croshaw, Diamonstein, Dickinson, Hall, May, Murphy, Parrish, Plum, Putney, Scott and Watts; Senators: Gartlan, Holland, Howell, Miller, K.G., Ticer, Walker and Wampler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.1, 2.1-1.3, 2.1-1.7, 2.1-20.4, 2.1-51.27, 2.1-342, 2.1-343.1, 2.1-440.1, 9-6.14:4.1, 9-6.23, 9-6.25:2, 9-145.51, 9-361, 15.2-2232, 22.1-199.1, 42.1-80, 59.1-469, and 63.1-314.8 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 35.3, containing articles number 1 through 4, consisting of sections numbered 2.1-563.42 through 2.1-563.79, as follows:

§ 2.1-1.1. Departments generally.

There shall be, in addition to such others as may be established by law, the following administrative departments of the state government:

Chesapeake Bay Local Assistance Department.
 Department of Accounts.
 Department for the Aging.
 Department of Agriculture and Consumer Services.
 Department of Alcoholic Beverage Control.
 Department of Aviation.
 Department of Business Assistance.
 Department of Conservation and Recreation.
 Department of Corporations.
 Department of Correctional Education.
 Department of Corrections.
 Department of Criminal Justice Services.
 Department for the Deaf and Hard-of-Hearing.
 Department of Education.
 Department of Emergency Services.
 Department of Employee Relations Counselors.
 Department of Environmental Quality.
 Department of Fire Programs.
 Department of Forestry.
 Department of Game and Inland Fisheries.
 Department of General Services.
 Department of Health.
 Department of Health Professions.
 Department of Historic Resources.
 Department of Housing and Community Development.
~~Department of Information Technology.~~
 Department of Juvenile Justice.
 Department of Labor and Industry.
 Department of Law.
 Department of Medical Assistance Services.
 Department of Mental Health, Mental Retardation and Substance Abuse Services.

INTRODUCED

HB279

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

122 Department of State Police.
 123 Department of Taxation.
 124 *Department of Technology Services.*
 125 Department of Transportation.
 126 Department of the Treasury.
 127 Department of Veterans' Affairs.
 128 Department for the Visually Handicapped.
 129 Governor's Employment and Training Department.
 130 § 2.1-1.7. State councils.
 131 There shall be, in addition to such others as may be established by law, the following permanent
 132 collegial bodies either affiliated with more than one agency or independent of an agency within the
 133 executive branch:
 134 Adult Education and Literacy, Virginia Advisory Council for
 135 Agricultural Council, Virginia
 136 Alcohol and Drug Abuse Problems, Governor's Council on
 137 Apprenticeship Council
 138 Blue Ridge Regional Education and Training Council
 139 Child Day-Care Council
 140 Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
 141 Coastal Land Management Advisory Council, Virginia
 142 Commonwealth Competition Council
 143 Commonwealth's Attorneys' Services Council
 144 Developmental Disabilities Planning Council, Virginia
 145 Disability Services Council
 146 Equal Employment Opportunity Council, Virginia
 147 Housing for the Disabled, Interagency Coordinating Council on
 148 Human Rights, Council on
 149 Human Services Information and Referral Advisory Council
 150 Indians, Council on
 151 Interagency Coordinating Council, Virginia
 152 Job Training Coordinating Council, Governor's
 153 Land Evaluation Advisory Council
 154 Maternal and Child Health Council
 155 Military Advisory Council, Virginia
 156 Needs of Handicapped Persons, Overall Advisory Council on the
 157 Prevention, Virginia Council on Coordinating
 158 Public Records Advisory Council, State
 159 Rate-setting for Children's Facilities, Interdepartmental Council on
 160 Revenue Estimates, Advisory Council on
 161 Southside Virginia Marketing Council
 162 Specialized Transportation Council
 163 State Health Benefits Advisory Council
 164 Status of Women, Council on the
 165 Technology Council, Virginia
 166 Virginia Business-Education Partnership Program, Advisory Council on the
 167 Virginia Recycling Markets Development Council.
 168 Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall be
 169 referred to as councils:
 170 ~~Council on Information Management~~
 171 Higher Education, State Council of
 172 Independent Living Council, Statewide
 173 Rehabilitation Advisory Council, Statewide
 174 Rehabilitation Advisory Council for the Blind, Statewide.
 175 Transplant Council, Virginia
 176 § 2.1-20.4. Bodies receiving compensation.
 177 Notwithstanding any other provision of law, the following commissions, boards, etc., shall be those
 178 which receive compensation from state funds pursuant to § 2.1-20.3:
 179 Accountancy, Board for
 180 Agriculture and Consumer Services, Board of
 181 Air Pollution Control Board, State
 182 Airports Authority, Virginia

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

245 Public Defender Commission
 246 Public School Authority, Virginia
 247 Purchases and Supply Appeals Board
 248 Real Estate Appraiser Board
 249 Real Estate Board
 250 Recreation Specialists, Board of
 251 Rehabilitative Services, Board of
 252 Respiratory Therapy, Advisory Board on
 253 Safety and Health Codes Board
 254 Seed Potato Board
 255 Social Services, Board of
 256 Social Work, Board of
 257 State Health Department Sewage Handling and Disposal Appeal Review Board
 258 Substance Abuse Certification Board
 259 Surface Mining Review, Board of
 260 Treasury Board
 261 Veterans' Affairs, Board on
 262 Veterinary Medicine, Board of
 263 Virginia Board for Asbestos Licensing
 264 Virginia Health Planning Board
 265 Virginia Manufactured Housing Board
 266 Virginia Veterans Care Center Board of Trustees
 267 Virginia Waste Management Board
 268 Visually Handicapped, Virginia Board for the
 269 Waste Management Facility Operators, Board for
 270 Water Control Board, State
 271 Waterworks and Wastewater Works Operators, Board for
 272 Well Review Board, Virginia.
 273 Individual members of boards, commissions, committees, councils, and other similar bodies appointed
 274 at the state level and receiving compensation for their services on January 1, 1980, but who will not
 275 receive compensation under the provisions of this article, shall continue to receive compensation at the
 276 January 1, 1980, rate until such member's current term expires.
 277 § 2.1-51.27. Agencies for which responsible.
 278 The Secretary of Administration shall be responsible to the Governor for the following agencies and
 279 boards: ~~Department of Information Technology, Council on Information Management, Department of~~
 280 ~~Personnel and Training, Department of General Services, Compensation Board, Secretary of the~~
 281 ~~Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs,~~
 282 ~~Virginia Veterans Care Center Board of Trustees, Commission on Local Government, and Charitable~~
 283 ~~Gaming Commission, and Virginia Public Broadcasting Board.~~ The Governor may, by executive order,
 284 assign any other state executive agency to the Secretary of Administration, or reassign any agency listed
 285 above to another secretary.
 286 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding
 287 to request; charges; exceptions to application of chapter.
 288 Except as otherwise specifically provided by law, all official records shall be open to inspection and
 289 copying by any citizens of the Commonwealth during the regular office hours of the custodian of such
 290 records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of
 291 newspapers and magazines with circulation in the Commonwealth, and representatives of radio and
 292 television stations broadcasting in or into the Commonwealth. The custodian of such records shall take
 293 all necessary precautions for their preservation and safekeeping. Any public body covered under the
 294 provisions of this chapter shall make an initial response to citizens requesting records open to inspection
 295 within five work days after the receipt of the request by the public body which is the custodian of the
 296 requested records. Such citizen request shall designate the requested records with reasonable specificity.
 297 A specific reference to this chapter by the requesting citizen in his request shall not be necessary to
 298 invoke the provisions of this chapter and the time limits for response by the public body. The response
 299 by the public body within such five work days shall be one of the following responses:
 300 The requested records shall be provided to the requesting citizen.
 301 If the public body determines that an exemption applies to all of the requested records, it may refuse
 302 to release such records and provide to the requesting citizen a written explanation as to why the records
 303 are not available with the explanation making specific reference to the applicable Code sections which
 304 make the requested records exempt.
 305 If the public body determines that an exemption applies to a portion of the requested records, it may

306 delete or excise that portion of the records to which an exemption applies, but shall disclose the
307 remainder of the requested records and provide to the requesting citizen a written explanation as to why
308 these portions of the record are not available to the requesting citizen with the explanation making
309 specific reference to the applicable Code sections which make that portion of the requested records
310 exempt. Any reasonably segregable portion of an official record shall be provided to any person
311 requesting the record after the deletion of the exempt portion.

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

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

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

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

338 Official records maintained by a public body on a computer or other electronic data processing
339 system which are available to the public under the provisions of this chapter shall be made reasonably
340 accessible to the public at reasonable cost. Beginning July 1, 1997, every public body of state
341 government shall compile, and annually update, an index of computer databases which contains at a
342 minimum those databases created by them on or after July 1, 1997. "Computer database" means a
343 structured collection of data or documents residing in a computer. Such index shall be an official record
344 and shall include, at a minimum, the following information with respect to each database listed therein:
345 a list of data fields, a description of the format or record layout, the date last updated, a list of any data
346 fields to which public access is restricted, a description of each format in which the database can be
347 copied or reproduced using the public body's computer facilities, and a schedule of fees for the
348 production of copies in each available form. The form, context, language, and guidelines for the indices
349 and the databases to be indexed shall be developed by the Director of the Department of Information
350 Technology Services in consultation with the State Librarian and the State Archivist. The public body
351 shall not be required to disclose its software security, including passwords.

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

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

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

361 Memoranda, correspondence, evidence and complaints related to criminal investigations; adult
362 arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such
363 time as the release of such photograph will no longer jeopardize the investigation; reports submitted to
364 the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police
365 departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of
366 Title 23 in confidence; portions of records of local government crime commissions that would identify
367 individuals providing information about crimes or criminal activities under a promise of anonymity;

records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Documents as specified in § 58.1-3.

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

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

Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

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

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

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

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

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

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

Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Juvenile Justice, the Virginia Department of Juvenile Justice or any facility thereof to the extent as determined by the Director of the Department of Juvenile Justice, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

Security manuals, including emergency plans that are a part thereof;

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

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

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

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

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

Logs or other documents containing information on movement of inmates, juvenile clients or employees; and

Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

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

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

552 Authority concerning individuals who have applied for or received loans or other housing assistance or
553 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
554 the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the
555 waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and
556 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the
557 waiting list for housing assistance programs funded by local governments or by any such authority.
558 However, access to one's own information shall not be denied.

559 Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
560 disclosure of them would have a detrimental effect upon the negotiating position of a governing body or
561 on the establishment of the terms, conditions and provisions of the siting agreement.

562 Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to
563 the completion of such purchase, sale or lease.

564 Records containing information on the site specific location of rare, threatened, endangered or
565 otherwise imperiled plant and animal species, natural communities, caves, and significant historic and
566 archaeological sites if, in the opinion of the public body which has the responsibility for such
567 information, disclosure of the information would jeopardize the continued existence or the integrity of
568 the resource. This exemption shall not apply to requests from the owner of the land upon which the
569 resource is located.

570 Official records, memoranda, working papers, graphics, video or audio tapes, production models, data
571 and information of a proprietary nature produced by or for or collected by or for the State Lottery
572 Department relating to matters of a specific lottery game design, development, production, operation,
573 ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to
574 holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning,
575 advertising, or marketing, where such official records have not been publicly released, published,
576 copyrighted or patented. Whether released, published or copyrighted, all game-related information shall
577 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game
578 to which it pertains.

579 Official records of studies and investigations by the State Lottery Department of (i) lottery agents,
580 (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
581 regulations which cause abuses in the administration and operation of the lottery and any evasions of
582 such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where
583 such official records have not been publicly released, published or copyrighted. All studies and
584 investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under
585 this chapter upon completion of the study or investigation.

586 Those portions of engineering and construction drawings and plans submitted for the sole purpose of
587 complying with the building code in obtaining a building permit which would identify specific trade
588 secrets or other information the disclosure of which would be harmful to the competitive position of the
589 owner or lessee; however, such information shall be exempt only until the building is completed.
590 Information relating to the safety or environmental soundness of any building shall not be exempt from
591 disclosure.

592 [Repealed.]

593 Records concerning reserves established in specific claims administered by the Department of
594 General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et
595 seq.) of Chapter 32 of this title, or by any county, city, or town.

596 Information and records collected for the designation and verification of trauma centers and other
597 specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to
598 Article 2.1 (§ 32.1-111.1 et seq.) of Title 32.1.

599 Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

600 [Repealed.]

601 Investigative notes; correspondence and information furnished in confidence with respect to an
602 investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided
603 to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review
604 Commission; or investigative notes, correspondence, documentation and information furnished and
605 provided to or produced by or for the Department of the State Internal Auditor with respect to an
606 investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this
607 chapter shall prohibit disclosure of information from the records of completed investigations in a form
608 that does not reveal the identity of complainants, persons supplying information or other individuals
609 involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of
610 information from the records of completed investigations shall include, but is not limited to, the agency
611 involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and
612 the actions taken to resolve the complaint. In the event an investigation does not lead to corrective
613 action, the identity of the person who is the subject of the complaint may be released only with the

consent of the subject person.

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

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

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

In the case of corporations organized by the Virginia Retirement System, (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

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

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

[Repealed.]

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

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

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

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

Surveillance techniques;

Installation, operation, or utilization of any alarm technology;

Engineering and architectural drawings of the Museum or any warehouse;

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

Operation of the Museum or any warehouse used by the Museum involving the:

Number of employees, including security guards, present at any time; or

Busiest hours, with the maximum number of visitors in the Museum.

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

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

Surveillance techniques;

The installation, operation, or utilization of any alarm technology;

Engineering and architectural drawings of such government stores or warehouses;

The transportation of merchandise, including routes and schedules; and

675 The operation of any government store or the central warehouse used by the Department of
676 Alcoholic Beverage Control involving the:

677 Number of employees present during each shift;

678 Busiest hours, with the maximum number of customers in such government store; and

679 Banking system used, including time and place of deposits.

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

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

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

686 Investigative notes, correspondence, documentation and information provided to or produced by or
687 for the committee or the auditor with respect to an investigation or audit conducted pursuant to
688 § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of
689 completed investigations or audits in a form that does not reveal the identity of complainants or persons
690 supplying information.

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

694 Confidential proprietary records which are voluntarily provided by a private entity pursuant to a
695 proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et
696 seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible
697 public entity for purposes related to the development of a qualifying transportation facility; and
698 memoranda, working papers or other records related to proposals filed under the Public-Private
699 Transportation Act of 1995, where, if such records were made public, the financial interest of the public
700 or private entity involved with such proposal or the process of competition or bargaining would be
701 adversely affected. In order for confidential proprietary information to be excluded from the provisions
702 of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other
703 materials for which protection from disclosure is sought, (ii) identify the data or other materials for
704 which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of
705 this subdivision, the terms public entity and private entity shall be defined as they are defined in the
706 Public-Private Transportation Act of 1995.

707 Records of law-enforcement agencies, to the extent that such records contain specific tactical plans,
708 the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the
709 general public; engineering plans, architectural drawings, or operational specifications of governmental
710 law-enforcement facilities, including but not limited to courthouses, jails, and detention facilities, to the
711 extent that disclosure could jeopardize the safety or security of law-enforcement offices; however,
712 general descriptions shall be provided to the public upon request.

713 All records of the University of Virginia or the University of Virginia Medical Center which contain
714 proprietary, business-related information pertaining to the operations of the University of Virginia
715 Medical Center, including its business development or marketing strategies and its activities with
716 existing or future joint venturers, partners, or other parties with whom the University of Virginia
717 Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of
718 such information would be harmful to the competitive position of the Medical Center.

719 Patient level data collected by the Board of Health and not yet processed, verified, and released,
720 pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of
721 Health has contracted pursuant to § 32.1-276.4.

722 Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following:

723 (i) an individual's qualifications for or continued membership on its medical or teaching staffs;
724 proprietary information gathered by or in the possession of the Authority from third parties pursuant to a
725 promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for
726 construction or the purchase of goods or services; data, records or information of a proprietary nature
727 produced or collected by or for the Authority or members of its medical or teaching staffs; financial
728 statements not publicly available that may be filed with the Authority from third parties; the identity,
729 accounts or account status of any customer of the Authority; consulting or other reports paid for by the
730 Authority to assist the Authority in connection with its strategic planning and goals; and the
731 determination of marketing and operational strategies where disclosure of such strategies would be
732 harmful to the competitive position of the Authority; and (ii) data, records or information of a
733 proprietary nature produced or collected by or for employees of the Authority, other than the Authority's
734 financial or administrative records, in the conduct of or as a result of study or research on medical,
735 scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with
736 a governmental body or a private concern, when such data, records or information have not been

publicly released, published, copyrighted or patented.

Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information is made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

Confidential proprietary records which are provided by a franchisee under § 15.1-23.1 to its franchising authority pursuant to a promise of confidentiality from the franchising authority which relates to the franchisee's potential provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

Records of the Intervention Program Committee within the Department of Health Professions to the extent such records may identify any practitioner who may be, or who is actually, impaired to the extent disclosure is prohibited by § 54.1-2517.

Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1, to the extent such records contain: (i) medical or mental records, or other data identifying individual patients, or (ii) proprietary business or research related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

Information which would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Charitable Gaming Commission pursuant to subsection E of § 18.2-340.34.

Personal information, as defined in § 2.1-379, provided to the Board of the Virginia Higher Education Tuition Trust Fund or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit disclosure or publication of information in a statistical or other form which does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

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

No provision of this chapter shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.). However, this subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including but not limited to his rights to call for evidence in his favor in a criminal prosecution.

§ 2.1-343.1. Electronic communication meetings.

It is a violation of this chapter for any political subdivision or any governing body, authority, board, bureau, commission, district or agency of local government to conduct a meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means

798 where the members are not physically assembled. Nothing in this section shall be construed to prohibit
 799 the use of interactive audio or video means to expand public participation.

800 For purposes of subsections B through F of this section, "public body" means any public body of the
 801 Commonwealth, as provided in the definitions of "meeting" and "public body" in § 2.1-341, but
 802 excluding any political subdivision or any governing body, authority, board, bureau, commission, district
 803 or agency of local government. Such public bodies may conduct any meeting, except executive or closed
 804 meetings held pursuant to § 2.1-344, wherein the public business is discussed or transacted through
 805 telephonic or video means. Where a quorum of a public body of the Commonwealth is physically
 806 assembled at one location for the purpose of conducting a meeting authorized under this subsection,
 807 additional members of such public body may participate in the meeting through telephonic means
 808 provided such participation is available to the public.

809 Notice of any meetings held pursuant to this section shall be provided at least thirty days in advance
 810 of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the
 811 meeting and shall identify the location or locations for the meeting. All locations for the meeting shall
 812 be made accessible to the public. All persons attending the meeting at any of the meeting locations shall
 813 be afforded the same opportunity to address the public body as persons attending the primary or central
 814 location. Any interruption in the telephonic or video broadcast of the meeting shall result in the
 815 suspension of action at the meeting until repairs are made and public access restored.

816 Thirty-day notice shall not be required for telephonic or video meetings continued to address an
 817 emergency situation as provided in subsection F of this section or to conclude the agenda of a
 818 telephonic or video meeting of the public body for which the proper notice has been given, when the
 819 date, time, place and purpose of the continued meeting are set during the meeting prior to adjournment.

820 The public body shall provide the Director of the Department of Information Technology with notice
 821 of all public meetings held through telephonic or video means pursuant to this section.

822 An agenda and materials which will be distributed to members of the public body and which have
 823 been made available to the staff of the public body in sufficient time for duplication and forwarding to
 824 all location sites where public access will be provided shall be made available to the public at the time
 825 of the meeting. Minutes of all meetings held by telephonic or video means shall be recorded as required
 826 by § 2.1-343. Votes taken during any meeting conducted through telephonic or video means shall be
 827 recorded by name in roll-call fashion and included in the minutes. In addition, the public body shall
 828 make an audio recording of the meeting, if a telephonic medium is used, or an audio/visual recording, if
 829 the meeting is held by video means. The recording shall be preserved by the public body for a period of
 830 three years following the date of the meeting and shall be available to the public.

831 No more than twenty-five percent of all meetings held annually by a public body, including meetings
 832 of any ad hoc or standing committees, may be held by telephonic or video means. Any public body
 833 which meets by telephonic or video means shall file with the ~~Director of the Department of Information~~
 834 ~~Technology~~ *Chief Information Officer of the Commonwealth* by July 1 of each year a statement
 835 identifying the total number of meetings held during the preceding fiscal year, the dates on which the
 836 meetings were held and the number and purpose of those conducted through telephonic or video means.

837 Notwithstanding the limitations imposed by subsection E of this section, a public body may meet by
 838 telephonic or video means as often as needed if an emergency exists and the public body is unable to
 839 meet in regular session. As used in this subsection "emergency" means an unforeseen circumstance
 840 rendering the notice required by this section, or by § 2.1-343 of this chapter, impossible or impracticable
 841 and which circumstance requires immediate action. Public bodies conducting emergency meetings
 842 through telephonic or video means shall comply with the provisions of subsection D requiring minutes,
 843 recordation and preservation of the audio or audio/visual recording of the meeting. The basis for the
 844 emergency shall be stated in the minutes.

845 § 2.1-440.1. Procurement of computer equipment to be based on performance specifications.

846 Should any agency or institution elect to procure personal computers and related peripheral
 847 equipment pursuant to any type of blanket purchasing arrangement under which public bodies, as
 848 defined in § 11-37, may purchase such goods from any vendor following competitive procurement but
 849 without the conduct of an individual procurement by or for the using agency or institution, it shall
 850 establish, with the cooperation of the Department of ~~Information~~ *Technology Services*,
 851 performance-based specifications for the selection of brand name equipment. Any brand of equipment
 852 which meets such specifications shall be added to the blanket purchase arrangement at the request of
 853 any responsible bidder or offeror.

854 CHAPTER 35.3.

855 INFORMATION TECHNOLOGY.

856 Article 1.

857 Definitions.

858 § 2.1-563.42. Definitions.

859 As used in this chapter, unless the context clearly requires a different meaning:

"Base map data" means the digitized common geographic data that are used by most geographic information systems applications to reference or link attribute or other geographic data.

"Chief Information Officer (CIO)" means the Chief Information Officer of the Commonwealth appointed by the Governor pursuant to § 2.1-563.50.

"Department" means the Department of Technology Services.

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

"Geographic data" means data that contain either coordinates that reference a geographic location or area or attribute data that can be related to a geographic area or location.

"Geographic information system (GIS)" means a computerized system that stores and links geographic data to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

"Information technology" means telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods, and services.

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

"Public broadcasting station" means any noncommercial educational television or radio station which (i) is licensed and regulated by the Federal Communications Commission as a noncommercial, educational broadcasting station; (ii) is operated by a public agency or a nonprofit private foundation, corporation, or association; (iii) has offices, studios, and transmitters located in Virginia; and (iv) on or before January 1, 1997, was qualified to receive or was the recipient of a Virginia community service grant or other instructional television service funds, or, after January 1, 1997, was qualified by the Board to receive state funds under standards and criteria established by the Board pursuant to § 2.1-563.72; however, any institution of higher education which produces or transmits distance education and other credit and noncredit television programs, unless such institution requests qualification as a public broadcasting station and the Board approves its request, shall not be included in this definition.

"Resources" means all apparatus, equipment, facilities, and material necessary for, associated with, or useful in the production, distribution, or interconnection of the Commonwealth's information technology, including the buildings and structures necessary to house such apparatus, equipment, and material, and the land necessary therefor; however, telecommunications facilities, 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.

"Services" means delivering or providing information technology needs or requirements of or to state agencies and institutions of higher education; however, (i) public broadcasting services and (ii) telecommunications services and wireless communications services and systems under the direct control of the Department of State Police shall not be included in this definition.

"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.

[§ 2.1-563.43 through § 2.1-563.49 reserved.]

Article 2.

Chief Information Officer of the Commonwealth.

§ 2.1-563.50. CIO position established; appointment; term; oath.

To ensure the coordinated planning, practical acquisition, effective development, and efficient use of information technology resources and services to meet the needs of state agencies and institutions of higher education, the position of Chief Information Officer of the Commonwealth is hereby created. The CIO shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. The CIO shall be under the direction and supervision of the Governor and shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor shall be appointed and qualified. The CIO shall be responsible to the Governor for the Department of Technology Services, Virginia Geographic Information Network Advisory Board, and Virginia Public Broadcasting Board. Before entering upon the discharge of duties, the CIO shall take an oath to faithfully execute the duties of the office. The CIO shall be considered an extension of the Governor in the management coordination and cohesive direction of the Executive Department ensuring that the laws are faithfully executed. The CIO shall be paid such compensation as the Governor may fix.

The CIO shall be appointed by the Governor from among persons who have demonstrated the knowledge, skills, and abilities in management and information technology that are necessary to efficiently and effectively exercise the powers and fulfill the duties of the Office of the CIO. The

921 *qualifications considered shall include education, work experience, and professional activities related to*
922 *management and information technology resources and services. The CIO shall be the head of the*
923 *Office of the CIO.*

924 *§ 2.1-563.51. Powers and duties of the CIO.*

925 *A. The CIO shall have the following general powers:*

926 *1. Employ such personnel as may be required to carry out the purposes of this article.*

927 *2. Make and enter into all contracts and agreements necessary or incidental to the performance of*
928 *his duties and execution of his powers, including but not limited to contracts with the United States,*
929 *other state agencies and institutions of higher education, and political subdivisions of the*
930 *Commonwealth.*

931 *3. Accept grants from the United States government and agencies and instrumentalities thereof and*
932 *any other source. To these ends, the CIO shall have the power to comply with such conditions and*
933 *execute such agreements as may be necessary, convenient, or desirable.*

934 *4. Prescribe regulations pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) necessary or*
935 *incidental to the performance of his duties or execution of his powers.*

936 *5. Exercise such powers and perform such duties as are conferred or imposed upon him by law or*
937 *required of him by the Governor.*

938 *B. The CIO shall have the following powers and duties concerning the planning, budgeting,*
939 *acquiring, using, disposing, managing, and administering of information technology:*

940 *1. Monitor trends and advances in information technology; develop a comprehensive, statewide,*
941 *four-year planning process; and plan for the acquisition, management, and use of information*
942 *technology. The statewide plan shall be updated annually and submitted to the Governor, the Speaker of*
943 *the House of Delegates, and the President Pro Tempore of the Senate. In developing and updating such*
944 *plans, the CIO shall consider, at a minimum, the advice and recommendations of the Technology*
945 *Services Council provided for herein.*

946 *2. Plan and forecast future needs for information technology resources and services and conduct*
947 *studies and surveys of organizational structure and best management practices of information technology*
948 *systems and procedures.*

949 *3. Provide state agencies and institutions of higher education with assistance and guidance in*
950 *developing information technology plans and preparing budget requests for information technology.*

951 *4. Require state agencies and institutions of higher education to prepare and submit information*
952 *technology plans to the CIO. The CIO shall have the authority to approve such plans and amendments*
953 *thereto, including the Department's. All state agencies and institutions of higher education shall*
954 *maintain current information technology plans which have been approved by the CIO.*

955 *5. Monitor implementation of information technology plans.*

956 *6. Formulate, direct, and promulgate policies, standards, specifications, and guidelines for*
957 *information technology in the Commonwealth, including, but not limited to, those (i) required to support*
958 *state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic*
959 *or base map data and related technologies and (ii) concerning the use of digital signatures as provided*
960 *in § 59.1-469.*

961 *7. Develop policies and procedures, in consultation with the Department of Planning and Budget,*
962 *which state agencies and institutions of higher education shall follow when making budget requests for*
963 *information technology. Such policies and procedures shall require consideration of current and future*
964 *operating expenses, and shall be utilized by all state agencies and institutions of higher education in*
965 *preparing budget requests.*

966 *8. Review budget requests for information technology from state agencies and institutions of higher*
967 *education and recommend budget priorities to the Department of Planning and Budget.*

968 *9. Develop an approval process to ensure that all procurements of information technology conform*
969 *to the statewide information technology plan and the information technology plans of state agencies and*
970 *institutions of higher education.*

971 *10. For amounts exceeding \$50,000, review and approve procurements of information technology and*
972 *agreements and contracts for information technology prior to execution between a state agency or*
973 *institution of higher education and any other public agency or private entity. The CIO may exempt from*
974 *such review any state agency or institution of higher education which establishes, to the satisfaction of*
975 *the CIO, its ability and willingness to efficiently and effectively procure information technology pursuant*
976 *to the state's competitive procurement process. Computing or other equipment containing*
977 *microprocessors which is to be used solely for "realtime" research purposes by institutions of higher*
978 *education shall be exempt. All exemptions shall be subject to post-audit by the CIO.*

979 *11. Disapprove procurements which do not conform to the statewide information technology plan or*
980 *the individual plans of state agencies or institutions of higher education.*

981 *12. Develop and administer a system to monitor and evaluate executed contracts and billing and*
982 *collection systems.*

13. Compile and maintain an inventory of all information technology resources, including but not limited to personnel, facilities, equipment, goods, and contracts.

14. Establish statewide standards for the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the Commonwealth.

15. Manage, oversee, and administer the Commonwealth Telecommunications Network and the Richmond Metropolitan Area Network.

16. Oversee and administer the Virginia Technology Infrastructure Fund created in § 2.1-563.54.

17. Undertake or cause to be undertaken a biennial benchmarking analysis of data center and telecommunications resources and services performed at or provided by the Department.

18. Evaluate the feasibility of outsourcing information technology resources and services and outsource those resources and services which would be beneficial to the Commonwealth.

19. Report annually to the Joint Commission on Technology and Science created pursuant to § 30-85 on the use and application of information technology by state agencies and institutions of higher education to increase economic efficiency, citizen convenience, and public access to state government and assist the Commission in its effort to stimulate, encourage, and promote the development of technology in the Commonwealth and sound public policies related thereto.

§ 2.1-563.52. Technology Services Council created; membership; duties.

A. There is hereby established a Technology Services Council (the "TSC") to advise and assist the CIO in exercising the powers and performing the duties conferred by this article. The TSC shall consist of twenty-six members. The Governor shall designate two managers or directors of information system divisions employed by state agencies in the Secretariats of Administration; Commerce and Trade; Education, only one of which may be from a state-supported institution of higher education; Finance; Health and Human Resources; Natural Resources; Public Safety; and Transportation; one manager or director of an information system division employed by an independent agency of state government; and two information technology managers or directors of information system divisions employed by local government. For terms coincident with their terms of office, the following shall serve as ex-officio, voting members of the TSC: Director of the Department of Technology Services, Vice Provost for Information Technology and Services at George Mason University, Vice President for Information Technology and Communication at the University of Virginia, Vice President for Information Systems at Virginia Polytechnic Institute and State University, Director of Information Systems of the Supreme Court of Virginia, and Director of the Division of Legislative Automated Systems. The CIO shall be the chairman of the TSC.

B. Of the sixteen TSC members initially designated by the Governor from state agencies in the Secretariats, one from each of the Secretariats shall be appointed for a three-year term and one for a four-year term. The TSC member initially designated by the Governor from an independent agency of the executive branch shall be appointed for a four-year term. Of the two TSC members initially designated by the Governor from local government, one shall be appointed for a three-year term and one for a four-year term. Thereafter, the successors to the persons so designated shall be appointed to four-year terms. No person designated by the Governor shall serve more than two full consecutive terms, and any vacancy occurring other than by expiration of a term shall be filled by the Governor for the unexpired term.

C. The TSC shall meet each month or more frequently upon the call of the chairman.

§ 2.1-563.53. CIO advisory committees.

The CIO may form such advisory committees as he deems necessary, convenient, or desirable to advise and assist him in exercising the powers and performing the duties conferred by this article. Such committees shall be comprised of persons representative of (i) private, (ii) nonprofit, or (iii) public sectors (excluding employees of the Commonwealth or its political subdivisions), who shall be selected for their knowledge of, background in, or experience with information technology. The disclosure requirements of subsection B of § 2.1-639.13 of the State and Local Government Conflicts of Interests Act shall apply to members of the advisory committees. No member of an advisory committee shall be entitled to compensation.

§ 2.1-563.54. Virginia Technology Infrastructure Fund created and continued; purposes; administration.

A. In order for the Commonwealth to take advantage of information technology to provide services and solve problems, there is a need to invest in new and emerging technologies that will provide greater efficiencies in and better responsiveness by state government. To achieve this purpose, the Virginia Technology Infrastructure Fund (the "Fund") is hereby created and continued in the state treasury to fund information technology projects in state government which benefit state agencies and Virginia's citizens and businesses.

B. The Fund shall consist of transfers made from the three internal service funds created pursuant to § 2.1-563.63. Such transfers, in a total amount not to exceed \$250,000 in any fiscal year, shall be

1044 contributed to the Fund in a percentage proportionate to the amount contained in each internal service
1045 fund on the date of the transfer.

1046 C. Interest earned on the Fund shall be credited to the Fund. The Fund shall be permanent and
1047 nonreverting. Any unexpended balance exceeding \$500,000 at the end of the biennium shall be
1048 transferred to the internal service funds in the percentage proportionate to the contributions from each
1049 internal service fund. No transfers from the Fund shall be made to the general fund of the state
1050 treasury.

1051 D. The CIO shall oversee and administer the Fund and approve funding of appropriate information
1052 technology projects. In considering projects for approval, the CIO shall consider the availability of
1053 other moneys to fund the project, the project's long-term operation and maintenance costs, and whether
1054 the project benefits more than one state agency or institution of higher education.

1055 [2.1-563.55 through § 2.1-563.59 reserved.]

1056 Article 3.

1057 Department of Technology Services.

1058 § 2.1-563.60. Creation of Department; appointment of Director.

1059 There is hereby created the Department of Technology Services to manage the Commonwealth's
1060 centralized information technology resources and provide centralized information technology services to
1061 state agencies and institutions of higher education. The Department shall be headed by a Director who
1062 shall be appointed by the Governor, in consultation with the CIO, to serve at his pleasure for a term
1063 coincident with his own.

1064 Whenever in this title and in the Code of Virginia reference is made to a division, department, or
1065 agency hereinafter transferred to this Department, it shall mean the Department of Technology Services.

1066 § 2.1-563.61. Powers and duties of Director.

1067 The Director shall, under the direction and control of the Governor and the immediate supervision of
1068 the CIO, exercise such powers and perform such duties as are conferred or imposed upon him by law
1069 and he shall perform such other duties as may be required of him by the Governor or, upon the consent
1070 of the Governor, the CIO.

1071 § 2.1-563.62. Powers and duties of Department.

1072 A. The Department shall have the following general powers and duties, all of which, with the
1073 approval of the Director, may be exercised by a division of the Department with respect to matters
1074 assigned to that division:

1075 1. Employ such personnel as may be required to carry out the purposes of this article.

1076 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
1077 its duties and the execution of its powers under this article, including, but not limited to, contracts with
1078 the United States, other state agencies and institutions of higher education, and political subdivisions of
1079 the Commonwealth.

1080 3. Accept grants from the United States government and agencies and instrumentalities thereof and
1081 any other source. To these ends, the Department shall have the power to comply with such conditions
1082 and execute such agreements as may be necessary, convenient, or desirable.

1083 4. Prescribe rules and regulations necessary or incidental to the performance of duties or execution
1084 of powers conferred under this chapter.

1085 5. Establish fee schedules which may be collectible from users when general fund appropriations are
1086 not applicable to the services rendered.

1087 6. Do all acts necessary or convenient to carry out the purposes of this chapter.

1088 B. The Department shall have the following powers and duties concerning the development,
1089 operation, and management of information technology resources and services:

1090 1. Manage the state data center and provide mainframe and client/server data processing services to
1091 state agencies and institutions of higher education.

1092 2. Manage and coordinate the various information technology resources and services used by the
1093 Commonwealth.

1094 3. Acquire, lease, or construct facilities and equipment necessary to deliver comprehensive
1095 information technology services; and maintain such facilities and equipment owned or leased.

1096 4. Provide technical assistance to state agencies in such areas as: (i) designing information
1097 technology systems; (ii) performing systems development services, including design, application
1098 programming, and maintenance; (iii) conducting research and sponsoring demonstration projects
1099 pertaining to all facets of information technology; and (iv) effecting economies in information
1100 technology systems and equipment.

1101 5. Develop and implement information, billing, and collections systems which assist state agencies
1102 and institutions of higher education in forecasting information technology needs and managing
1103 information technology operations.

1104 6. Prepare and submit a biennial cost allocation plan and any amendments thereto to the Joint
1105 Legislative Audit and Review Commission for its approval.

C. 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 CIO may disapprove such inclusion from a specific contract or agreement.

D. Neither this section nor the powers and duties conferred herein shall be construed or applied so as to infringe upon, in any manner, the responsibilities for accounting systems assigned to the Comptroller under § 2.1-196.1.

§ 2.1-563.63. Internal service funds created; purposes.

A. The following internal service funds are hereby created: (i) the Information Technology Consulting Fund to be used exclusively to finance information technology consulting services, automated systems design, development and testing services, and related staff of the Department; (ii) the Computer Services Fund to be used exclusively to finance computer operations and related staff of the Department; and (iii) the Telecommunication Services Fund to be used exclusively to finance telecommunications operations and related staff of the Department.

B. All users of information technology resources or services delivered or provided by the Department shall be assessed a surcharge which shall be (i) in accordance with the cost allocation plan or amendments thereto approved by the Joint Legislative Audit and Review Commission pursuant to § 2.1-563.62, (ii) deposited in the appropriate internal service fund, and (iii) an amount sufficient to finance the general operations of the Department and the Office of the CIO.

C. Additional moneys necessary to establish the funds or finance the general operations of the Department or the Office of the CIO may be paid from the general fund of the state treasury of the Commonwealth of Virginia.

§ 2.1-563.64. Geographic Information Network Division established; powers and duties; Division coordinator.

A. Among other divisions which the Director may deem necessary, convenient, or desirable to carrying out the purposes of this article, there is hereby established within the Department, a Geographic Information Network Division, which shall foster the creative utilization of geographic information and oversee the development of a catalog of GIS data available in the Commonwealth. The Division shall be headed by a coordinator who shall report to the Director. The Division shall have the following powers and duties:

1. Fix, alter, charge, and collect rates, rentals, and other charges for the use or sale of products of, or services rendered by, the Division, at rates which reflect the fair market value.

2. Solicit, receive, and consider proposals for funding projects or initiatives from any state or federal agency, local or regional government, institution of higher education, nonprofit organization, or private person or corporation.

3. Solicit and accept funds, goods, and in-kind services that are part of any accepted project proposal.

4. Establish ad hoc committees or project teams to investigate related technology or technical issues and provide results and recommendations for Division action.

5. Establish such bureaus, sections or units as the Division deems appropriate to carry out its powers and duties.

B. The Division shall have a coordinator, under the supervision of the Director, who shall:

1. Foster the development of a coordinated comprehensive system for providing ready access to electronic state government geographic data products for individuals, businesses, and other entities.

2. Initiate and manage projects or conduct procurement activities relating to the development or acquisition of geographic data and/or statewide base map data.

3. Plan for and coordinate the development or procurement of priority geographic base map data.

4. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of Virginia geographic data and governmental geographic data users.

5. Provide, upon request, advice and guidance on all agreements and contracts from all branches of state government for geographic data acquisition and design and the installation and maintenance of geographic information systems.

6. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual state and local government agencies; however, nothing in this section shall be construed to require that GIS data be physically delivered to the Division. All state agencies that maintain GIS data bases shall report to the Division the details of the data that they develop, acquire, and maintain. This information shall be reported to the Division no later than June 30, 1998, after which each agency shall submit quarterly reports to the Division specifying all updates to existing data as well as all data development and acquisition currently in progress. Data exempt from the Virginia Freedom of Information Act (§ 2.1-340 et seq.) need not be reported to the Division.

7. Identify and collect information and technical requirements to assist the Division in setting

1167 priorities for the development of state digital geographic data and base maps that meet the needs of
1168 state agencies, institutions of higher education, and local governments.

1169 8. Provide services, geographic data products, and access to the repository at rates established by
1170 the Division.

1171 9. Ensure the compliance of those policies, standards, and guidelines adopted by the Department
1172 required to support and govern the security of state and local government exchange, acquisition,
1173 storage, use, sharing, and distribution of geographic or base map data and related technologies.

1174 § 2.1-563.65. GIS Fund created.

1175 There is hereby created in the state treasury a special, nonreverting fund to be known as the GIS
1176 Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the
1177 Comptroller. All moneys collected pursuant to subsection A of § 2.1-563.64 shall be paid into the state
1178 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and
1179 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each
1180 fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall
1181 be used solely for the purposes set forth in § 2.1-563.64. Expenditures and disbursements from the Fund
1182 shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed
1183 by the Director.

1184 § 2.1-563.66. Additional powers and duties of Director.

1185 The Director shall have the power and duty, on the recommendation of the coordinator, to (i)
1186 receive and dispense funds; (ii) enter into contracts for carrying out the purposes set forth in
1187 § 2.1-563.64; (iii) rent office space and procure equipment, goods, and services that are necessary to
1188 carry out the purposes set forth in § 2.1-563.64; and (iv) employ full- or part-time personnel and to fix
1189 their compensation.

1190 § 2.1-563.67. Virginia Geographic Information Network Advisory Board created; membership; terms;
1191 meetings; quorum.

1192 A. The Virginia Geographic Information Network Advisory Board (the "Board") is hereby created
1193 under the direction and supervision of the Chief Information Officer and shall advise the Division on
1194 issues related to the exercise of the Division's powers and duties.

1195 B. The Board shall consist of seventeen members appointed as follows: (i) eleven members to be
1196 appointed by the Governor, including: four state agency officials or their designees consisting of the
1197 Commonwealth Transportation Commissioner, the Executive Director of the Economic Development
1198 Partnership Authority, an agency director from one of the natural resources agencies, and one official
1199 from a state institution of higher education; one elected official representing a local government in the
1200 Commonwealth; one member of the Virginia Association of Surveyors; one elected official who serves
1201 on a planning district commission; two representatives of utilities or transportation industries utilizing
1202 geographic data; and two representatives of private businesses with expertise and experience in the
1203 establishment, operation, and maintenance of geographic information systems; and (ii) five members of
1204 the General Assembly, three of whom shall be members of the House of Delegates, to be appointed by
1205 the Speaker of the House of Delegates, and two of whom shall be members of the Senate, to be
1206 appointed by the Senate Committee on Privileges and Elections. The Director shall serve as an ex
1207 officio, voting member. Any members of the Board who are representatives of private businesses that
1208 provide geographic information services, and their companies, are precluded from contracting to
1209 provide goods or services to the Division.

1210 C. The gubernatorial appointees to the Board shall serve five-year terms, except that three initial
1211 appointees shall serve three-year terms, three shall serve four-year terms, and the remainder shall serve
1212 five-year terms. Members appointed by the Governor shall serve no more than two consecutive full
1213 terms. All Board members appointed by the Governor shall be confirmed by each house of the General
1214 Assembly. Legislative members' terms shall be coincident with their terms of office.

1215 D. The Board shall elect from its membership a chairman, vice chairman, and any other officers
1216 deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority
1217 of the Board shall constitute a quorum. Board members shall receive no compensation for their services,
1218 but the nongovernmental members shall receive actual expenses in accordance with § 14.1-5. The Board
1219 shall meet at least quarterly or at the call of its chairman or the Chief Information Officer.

1220 [§ 2.1-563.68 through § 2.1-563.69 reserved.]

1221 Article 4.

1222 Virginia Public Broadcasting Board.

1223 § 2.1-563.70. Declaration of public purpose; Board created.

1224 A. It is hereby found and determined by the General Assembly that there exists in the Commonwealth
1225 a need to support and capitalize on the universal access of public broadcasting to: (i) enrich the lives of
1226 all citizens of the Commonwealth without regard to their geographic location or economic status by
1227 providing them with programs and services that educate, inform and enlighten; (ii) improve and
1228 enhance the educational opportunities available to children from pre-kindergarten through secondary

schools, adults, home educators, and students and personnel at colleges and universities of the Commonwealth; (iii) provide the citizens of the Commonwealth with comprehensive information on the activities of state government; (iv) maintain and improve the public broadcasting stations' infrastructures for distribution of broadcast and related services; (v) promote economic development through the wider availability of worker-training and job-skills enhancements; (vi) promote tourism through the widespread distribution of programming that recognizes and displays Virginia's historical, educational, recreational and cultural resources; and (vii) improve efficiency in state government through the use of public broadcasting production and distribution systems.

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

§ 2.1-563.71. Board membership; chairman and vice chairman; duties.

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

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

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

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

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

§ 2.1-563.72. Powers of the Board.

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

1. Receive, allocate, and dispense funds appropriated by the General Assembly and any funds received by the Board from other sources, subject to the approval of the Director of the Department of Planning and Budget;

2. Develop reasonable and fair formulas for allocating and distributing state funds and other funds of the Board to Virginia's public broadcasting stations consistent with the intent of such appropriations;

3. Apply for, accept, and receive grants of federal funds and funds from other public and private sources;

4. Adopt, administer, and apply standards and criteria by which the Board may permit television and radio stations to qualify as public broadcasting stations if those stations did not qualify for or receive Virginia community service grants or other instructional television service funds as of January 1, 1997, but otherwise qualify as such under the definition of a public broadcasting station in § 2.1-563.42. To avoid unnecessary duplication of public broadcasting services, the Board shall consider the: (i) adequacy of existing programming, coverage, and other public broadcasting services in the geographic area to be served and the extent to which those services would be duplicated by an additional public

1290 broadcasting station and (ii) sufficiency of funds administered by the Board to support existing or
1291 proposed public broadcasting stations;

1292 5. Coordinate such strategic planning by the public broadcasting stations as the Board deems
1293 appropriate and identify and communicate to the Governor and the General Assembly the funding and
1294 other requirements of Virginia's public broadcasting stations; and

1295 6. Enter into contracts with public broadcasting stations, state agencies and institutions of higher
1296 education, public schools and private entities for goods and services.

1297 § 2.1-563.73. Funds of the Board.

1298 The Director of the Department of Planning and Budget shall oversee and approve the disbursement
1299 of all funds appropriated to the Board. Upon approval, the funds of the Board shall be dispensed for
1300 the following general purposes:

1301 1. Community services. Annual operating grant-funding to public broadcasting stations for
1302 developing, acquiring, producing, and distributing programs and related services which support local
1303 needs of pre-school and adult education; disseminating information to the citizenry regarding the
1304 government and its affairs; promoting tourism and enhancing the Commonwealth's economic
1305 development; and supporting other programs which inform, educate, and entertain the citizenry with
1306 noncommercial programming.

1307 2. Instructional services. Annual contract-funding to public broadcasting stations to regionally
1308 manage and provide programming and related services which directly support the instructional activities
1309 of local schools and home educators.

1310 3. Capital improvements. Matching capital-funding to public broadcasting stations for construction
1311 and equipment modernization to keep Virginia stations consistent with industry standards.

1312 4. Special appropriations. Funding for specific programs and projects to be provided by a public
1313 broadcasting station which may not be included in another funding category.

1314 § 2.1-563.74. Exemption from Virginia Public Procurement Act.

1315 State agencies, institutions of higher education, and political subdivisions of the Commonwealth may
1316 enter into contracts with public broadcasting stations for program production, broadcasting,
1317 transmission, distribution, and related communications services without competitive sealed bidding or
1318 competitive negotiation as required by the Virginia Public Procurement Act (§ 11-35 et seq.).

1319 § 2.1-563.75. Staff and employees prohibited; cooperation of other agencies.

1320 The Board shall not be authorized to hire, employ, or contract for its own staff or employees, but
1321 may request administrative support from public broadcasting stations and the Office of the Chief
1322 Information Officer. The Department of Technology Services shall, upon request, provide to the Board
1323 and public broadcasting stations the same scope of technical communications and related services which
1324 the Department or its predecessor agencies provided on or before July 1, 1998, to the Virginia Public
1325 Telecommunications Board and Virginia's public broadcasting stations. All departments, commissions,
1326 boards, agencies, officers, and institutions of higher education of the Commonwealth or any political
1327 subdivision thereof shall cooperate with the Board in carrying out the purposes of this article.

1328 § 2.1-563.76. Forms of accounts and records; audit; annual report.

1329 The accounts and records of the Board showing the receipt and disbursement of funds from whatever
1330 source derived shall be in such form as the Auditor of Public Accounts prescribes. The Auditor of
1331 Public Accounts, or his legally authorized representatives, shall annually examine the accounts and
1332 books of the Board. The Board shall submit an annual report to the Governor and General Assembly on
1333 or before November 1 of each year. Such report shall contain the audited annual financial statements of
1334 the Board for the year ending the preceding June 30. The annual report shall be distributed in
1335 accordance with the provisions of § 2.1-467.

1336 [§ 2.1-563.77 through § 2.1-563.79 reserved.]

1337 § 9-6.14:4.1. Exemptions and exclusions.

1338 A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the
1339 following agencies are exempted from the provisions of this chapter, except to the extent that they are
1340 specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

1341 1. The General Assembly.

1342 2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly
1343 granted any of the powers of a court of record.

1344 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the
1345 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2
1346 (§ 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
1347 (§ 29.1-700 et seq.) of Title 29.1.

1348 4. The Virginia Housing Development Authority.

1349 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created
1350 under this Code, including those with federal authorities.

1351 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 to the Formulary pursuant to § 32.1-81.

11. ~~The Council on Information Management.~~

12. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.1-526.14.

13, 14. [Repealed.]

15. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23-9.6:2.

16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.1-726.

17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4, 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 subsection A of § 3.1-884.21:1.

18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating amendments to the Physician Assistant Formulary established pursuant to § 54.1-2952.1.

20. The Boards of Medicine and Nursing in promulgating amendments to the Nurse Practitioner Formulary established pursuant to § 54.1-2957.01.

21. The Virginia War Memorial Foundation.

22. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

23. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-280.3.

24. The Virginia Student Assistance Authorities.

25. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in matters related to any specific race meeting.

26. The Virginia Small Business Financing Authority.

27. The Virginia Economic Development Partnership Authority.

28. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subdivision A (ii) of § 59.1-156.

29. The Insurance Continuing Education Board pursuant to § 38.2-1867.

B. Agency action relating to the following subjects is exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, naval or police functions.

7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.

8. The conduct of elections or eligibility to vote.

9. Inmates of prisons or other such facilities or parolees therefrom.

10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

11. Traffic signs, markers or control devices.

12. Instructions for application or renewal of a license, certificate, or registration required by law.

13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter

1413 14 of Title 2.1.

1414 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent
1415 with duly adopted regulations of the State Lottery Board, and provided that such regulations are
1416 published and posted.

1417 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
1418 finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

1419 17. Any operating procedures for review of child deaths developed by the State Child Fatality
1420 Review Team pursuant to § 32.1-283.1.

1421 18. The regulations for the implementation of the Health Practitioners' Intervention Program and the
1422 activities of the Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title
1423 54.1.

1424 19. The process of reviewing and ranking grant applications submitted to the Commonwealth
1425 Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title
1426 32.1.

1427 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4
1428 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

1429 C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia
1430 Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1431 1. Agency orders or regulations fixing rates or prices.

1432 2. Regulations which establish or prescribe agency organization, internal practice or procedures,
1433 including delegations of authority.

1434 3. Regulations which consist only of changes in style or form or corrections of technical errors. Each
1435 promulgating agency shall review all references to sections of the Code of Virginia within their
1436 regulations each time a new supplement or replacement volume to the Code of Virginia is published to
1437 ensure the accuracy of each section or section subdivision identification listed.

1438 4. Regulations which:

1439 (a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no
1440 agency discretion is involved;

1441 (b) Are required by order of any state or federal court of competent jurisdiction where no agency
1442 discretion is involved; or

1443 (c) Are necessary to meet the requirements of federal law or regulations, provided such regulations
1444 do not differ materially from those required by federal law or regulation, and the Registrar has so
1445 determined in writing; notice of the proposed adoption of these regulations and the Registrar's above
1446 determination shall be published in the Virginia Register not less than thirty days prior to the effective
1447 date thereof.

1448 5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of
1449 this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public
1450 health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law
1451 or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of
1452 the law or the appropriation act or the effective date of the federal regulation, and the regulation is not
1453 exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in
1454 writing the nature of the emergency and of the necessity for such action and may adopt such
1455 regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the
1456 Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than
1457 twelve months in duration. During the twelve-month period, an agency may issue additional emergency
1458 regulations as needed addressing the subject matter of the initial emergency regulation, but any such
1459 additional emergency regulations shall not be effective beyond the twelve-month period from the
1460 effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject
1461 matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace
1462 the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this
1463 chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed
1464 with the Registrar within sixty days of the effective date of the emergency regulation and published as
1465 soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180
1466 days after the effective date of the emergency regulation and published as soon as practicable.

1467 6. [Repealed.]

1468 7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to
1469 subsection C of § 10.1-1322.2.

1470 8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or
1471 clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board
1472 meetings and one public hearing.

1473 9. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant
1474 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

1536 whether there are any exemptions or exclusions which should be discontinued or modified.

1537 I. Minor changes to regulations being published in the Virginia Administrative Code under the
1538 Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code
1539 Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

1540 § 9-6.23. Prohibition against service by legislators on boards, commissions, and councils within the
1541 executive branch.

1542 Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils
1543 within the executive branch which are responsible for administering programs established by the General
1544 Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in
1545 policy studies or commemorative activities. If any law directs the appointment of any member of the
1546 General Assembly to a board, commission, or council in the executive branch which is responsible for
1547 administering programs established by the General Assembly, such portion of such law shall be void,
1548 and the Governor shall appoint another person from the Commonwealth at large to fill such a position.
1549 The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who
1550 shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who
1551 shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be
1552 appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be
1553 appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia
1554 Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the
1555 Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of
1556 the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.1-750; to
1557 members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be
1558 appointed as provided in § 9-326; to members of the Advisory Commission on Welfare Reform, who
1559 shall be appointed as provided for in § 63.1-133.44; to members of the Virginia Correctional Enterprises
1560 Advisory Board, who shall be appointed as provided for in § 2.1-451.2; to members appointed to the
1561 Virginia Veterans Cemetery Board pursuant to § 2.1-739.2; to members appointed to the Board of
1562 Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the
1563 Commonwealth Competition Commission, who shall be appointed as provided for in § 9-343; to
1564 members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as
1565 provided for in ~~§ 2.1-563.41~~ § 2.1-563.67; or to members of the Advisory Commission on the Virginia
1566 Schools for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.1.

1567 § 9-6.25:2. Policy boards, commissions and councils.

1568 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the
1569 following policy boards, commissions and councils:

1570 Apprenticeship Council

1571 Athletic Board

1572 Auctioneers Board

1573 Blue Ridge Regional Education and Training Council

1574 Board for Accountancy

1575 Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects

1576 Board for Barbers

1577 Board for Contractors

1578 Board for Cosmetology

1579 Board for Geology

1580 Board for Hearing Aid Specialists

1581 Board for Opticians

1582 Board for Professional and Occupational Regulation

1583 Board for Professional Soil Scientists

1584 Board for Waterworks and Wastewater Works Operators

1585 Board of Agriculture and Consumer Services

1586 Board of Audiology and Speech-Language Pathology

1587 Board of Coal Mining Examiners

1588 Board of Conservation and Recreation

1589 Board of Correctional Education

1590 Board of Dentistry

1591 Board of Directors, Virginia Student Assistance Authorities

1592 Board of Funeral Directors and Embalmers

1593 Board of Health Professions

1594 Board of Historic Resources

1595 Board of Housing and Community Development

1596 Board of Medical Assistance Services

1597 Board of Medicine

- 1598 Board of Mineral Mining Examiners
- 1599 Board of Nursing
- 1600 Board of Nursing Home Administrators
- 1601 Board of Optometry
- 1602 Board of Pharmacy
- 1603 Board of Professional Counselors
- 1604 Board of Psychology
- 1605 Board of Recreation Specialists
- 1606 Board of Social Services
- 1607 Board of Social Work
- 1608 Board of Surface Mining Review
- 1609 Board of Veterinary Medicine
- 1610 Board on Conservation and Development of Public Beaches
- 1611 Chesapeake Bay Local Assistance Board
- 1612 Child Day-Care Council
- 1613 Commission on Local Government
- 1614 Commonwealth Transportation Board
- 1615 Council on Human Rights
- 1616 ~~Council on Information Management~~
- 1617 Criminal Justice Services Board
- 1618 Design-Build/Construction Management Review Board
- 1619 Disability Services Council
- 1620 Farmers Market Board, Virginia
- 1621 Interdepartmental Council on Rate-setting for Children's Facilities
- 1622 Library Board, The Library of Virginia
- 1623 Marine Resources Commission
- 1624 Milk Commission
- 1625 Pesticide Control Board
- 1626 Real Estate Appraiser Board
- 1627 Real Estate Board
- 1628 Reciprocity Board, Department of Motor Vehicles
- 1629 Safety and Health Codes Board
- 1630 Seed Potato Board
- 1631 Southside Virginia Marketing Council
- 1632 Specialized Transportation Council
- 1633 State Air Pollution Control Board
- 1634 State Board of Corrections
- 1635 State Board of Elections
- 1636 State Board of Health
- 1637 State Board of Juvenile Justice
- 1638 State Health Department, Sewage Handling and Disposal Appeal Review Board
- 1639 State Library Board
- 1640 State Mental Health, Mental Retardation and Substance Abuse Services Board
- 1641 State Water Control Board
- 1642 Substance Abuse Certification Board
- 1643 Treasury Board, The, Department of the Treasury
- 1644 Virginia Aviation Board
- 1645 Virginia Board for Asbestos and Lead
- 1646 Virginia Fire Services Board
- 1647 Virginia Gas and Oil Board
- 1648 Virginia Health Planning Board
- 1649 Virginia Manufactured Housing Board
- 1650 Virginia Parole Board
- 1651 Virginia Public Broadcasting Board
- 1652 Virginia Soil and Water Conservation Board
- 1653 Virginia Voluntary Formulary Board
- 1654 Virginia Waste Management Board
- 1655 Waste Management Facility Operators, Board for.
- 1656 § 9-145.51. Membership; terms; chairman and vice chairman; staff.
- 1657 The Council shall be composed of the following nineteen members: one member of the House of
- 1658 Delegates, one member of the Senate, the Secretary of Commerce and Trade, the Secretary of

Administration, the President of the Center for Innovative Technology, the ~~Director of the Council on Information Management~~ *Chief Information Officer of the Commonwealth*, and a representative of the Virginia Chamber of Commerce. After consultation with the regional technology councils and regional chambers of commerce, the Governor shall appoint twelve members representing the geographic diversity of the Commonwealth.

The member of the House of Delegates shall be appointed by the Speaker of the House of Delegates for a term of two years and the member of the Senate by the Senate Committee on Privileges and Elections for a term of four years. Legislators' terms shall be concurrent with their elected terms of office, provided that the terms of such members shall terminate in the event they no longer are members of their respective houses. Appointments to fill legislative vacancies shall be for the unexpired term and shall be made in the same manner as the original appointment.

The Council shall elect a chairman and a vice chairman from among its members and develop bylaws that govern the terms served by the nonlegislative members.

Staff support for the Council shall be provided by the Center for Innovative Technology.

§ 9-361. Board of directors.

The Authority shall be governed by a board of directors consisting of eleven members, two of whom shall be the Secretary of Administration and the ~~Director of the Council on Information Management~~ *Chief Information Officer of the Commonwealth*, both of whom shall serve during their terms of office. The remaining nine members shall be appointed by the Governor as follows: three members who are chief executive officers of agencies in the executive branch; two members from a list submitted by the Virginia State Bar; three members from user associations of a statewide character, except that no two shall represent the same user association; and one member from a list submitted by the State Librarian. Three members appointed by the Governor shall be appointed for terms of one year, three for terms of two years, and three for terms of three years, effective from their dates of appointment. Thereafter, board members shall be appointed for terms of three years. All board members appointed by the Governor shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Vacancies in board membership shall be filled by appointment for the unexpired portion of the term. Board members shall be subject to removal from office for cause. The board shall annually elect one of its members as chairman, one as vice-chairman, and another as secretary. The board may also elect other subordinate officers, who may or may not be members of the board, as it deems proper. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the board. In the absence of both the chairman and vice-chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings. Six members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. Pursuant to § 14.1-5, board members shall be entitled to reimbursement for their reasonable travel, meal and lodging expenses incurred in attending board meetings or while otherwise engaged in discharging their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by the board chairman or by such other person as the board designates for this purpose. The board shall employ a network manager of the Authority, who shall serve at the pleasure of the board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him as may be delegated to him by the board. The network manager and employees of the Authority shall be compensated in the manner provided by the board.

§ 15.2-2232. Legal status of plan.

A. Whenever a local planning commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than railroad facility, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination the commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.2-2204.

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

sixty days from its filing. A majority vote of the governing body shall overrule the commission.

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

D. Any public area, facility or use as set forth in subsection A which is identified within, but not the entire subject of, a submission under either § 15.2-2258 for subdivision or provision 8 of § 15.2-2286 for development or both may be deemed a feature already shown on the adopted master plan, and, therefore, excepted from the requirement for submittal to and approval by the commission or the governing body; provided, that the governing body has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility or use or has approved it through acceptance of a proffer made pursuant to § 15.2-2303.

E. Approval and funding of a public telecommunications facility by the Virginia Public Broadcasting Board pursuant to ~~Article 6.1 (§ 2.1-563.27:1 et seq.) of Chapter 35.2~~ *Article 4 (§ 2.1-563.70 et seq.) of Chapter 35.3* of Title 2.1 shall be deemed to satisfy the requirements of this section and local zoning ordinances with respect to such facility with the exception of television and radio towers and structures not necessary to house electronic apparatus. The exemption provided for in this subsection shall not apply to facilities existing or approved by the Virginia Public Telecommunications Board prior to July 1, 1990. The Virginia Public Broadcasting Board shall notify the governing body of the locality in advance of any meeting where approval of any such facility shall be acted upon.

§ 22.1-199.1. Programs designed to promote educational opportunities.

The General Assembly finds that Virginia educational research supports the conclusion that poor children are more at risk of educational failure than children from more affluent homes and that reduced pupil-teacher ratios and class sizes result in improved academic performance among young children; to this end, the General Assembly establishes a long-term goal of reducing pupil-teacher ratios and class sizes for grades K through 3 in those schools in the Commonwealth with high or moderate concentrations of at-risk students.

Effective July 1, 1996, and with such funds as are provided in the appropriation act for this purpose, there is hereby established the statewide voluntary pupil-teacher ratio and class size reduction program for the purpose of reaching the long-term goal of statewide voluntary pupil-teacher ratio and class size reductions for grades K through 3 in schools with high or moderate concentrations of at-risk students, consistent with the provisions first provided during the 1994-1995 school year.

In order to facilitate these primary grade ratio and class size reductions, the Department of Education shall calculate the state funding of these voluntary ratio and class size reductions based on the incremental cost of providing the lower class sizes according to the greater of the division average per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching funds for these voluntary ratio and class size reductions based on the composite index of local ability to pay. School divisions shall notify the Department of Education of their intention to implement the reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall forward data substantiating that each participating school has a complying pupil-teacher ratio.

In developing the proposed 1996-1998 biennium budget for public education, the Board of Education shall include funding for these ratios and class sizes. Effective July 1, 1996, the ratios and class sizes shall be included in the annual budget for public education.

The General Assembly finds that educational technology is one of the most important components, along with highly skilled teachers, in ensuring the delivery of quality public school education throughout the Commonwealth. Further, the General Assembly notes that education technology can only be successful if teachers and administrators are provided adequate training and assistance. To this end, the following program is established. With such funds as are appropriated for this purpose, the Board of Education shall award to the several school divisions grants for expanded access to educational technology. Funding for educational technology training for instructional personnel shall be provided as set forth in the appropriation act, including funds for providing a technology resource assistant to serve every elementary school in this Commonwealth beginning on July 1, 1998. Any local school board accepting these funds to hire such technology resource assistants shall commit to providing the required matching funds, based on the composite index of local ability to pay. Each qualifying school board shall establish an individualized technology plan, which shall be approved by the Superintendent of Public Instruction, for integrating technology into the classroom and into schoolwide instructional programs. The grants shall be prioritized as follows:

In the 1994 biennium, the first priority for these funds shall be to automate the library media centers and provide network capabilities in Virginia's elementary, middle and high schools, or combination thereof, in order to ensure access to the statewide library and other information networks. If any

1782 elementary, middle or high school has already met this priority, the 1994 biennium grant shall be used
1783 to provide other educational technologies identified in the relevant division's approved technology plan,
1784 such as multimedia and telecomputing packages, integrated learning systems, laptop computer loan
1785 programs, vocational technology laboratories or other electronic techniques designed to enhance public
1786 education and to facilitate teacher training in and implementation of effective instructional technology.
1787 The Board shall also distribute, as provided in the appropriation act, funds to support the purchase of
1788 electronic reference materials for use in the statewide automated reference system.

1789 In the 1996 biennium, the first priority for funding shall be consistent with those components of the
1790 Board of Education's revised six-year technology plan which focus on (i) retrofitting and upgrading
1791 existing school buildings to efficiently use educational technology; (ii) providing (a) one network-ready
1792 multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to network-ready
1793 microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required by the
1794 Standards of Learning, and (d) training and professional development on available technologies and
1795 software to all levels and positions; and (iii) assisting school divisions in developing integrated voice,
1796 video, and data-connectivity to local, national and international resources. This funding may be used to
1797 implement a local school division's long-range technology plan, at the discretion of the relevant school
1798 board, if the local plan meets or exceeds the goals and standards of the Board's revised six-year
1799 technology plan and has been approved by the Superintendent of Public Instruction.

1800 The Departments of Education, ~~Information~~ Technology Services, and General Services shall
1801 coordinate master contracts for the purchase by local school boards of the aforementioned educational
1802 technologies and reference materials.

1803 Beginning on July 1, 1998, a technology replacement program shall be, with such funds as may be
1804 appropriated for this purpose, implemented to replace obsolete educational hardware and software. As
1805 provided in § 22.1-129 D, school boards may donate obsolete educational technology hardware and
1806 software which is being replaced. Any such donations shall be offered to other school divisions and to
1807 preschool programs in the Commonwealth.

1808 The General Assembly finds that effective prevention programs designed to assist children at risk of
1809 school failure and dropout are practical mechanisms for reducing violent and criminal activity and for
1810 ensuring that Virginia's children will reach adulthood with the skills necessary to succeed in the
1811 twenty-first century; to this end, the following program is hereby established. With such funds as are
1812 appropriated for this purpose, the General Assembly hereby establishes a grant program to be disbursed
1813 by the Department of Education to schools and community-based organizations to provide quality
1814 preschool programs for at-risk four-year-olds who are unserved by another such program. The grants
1815 shall be used to provide full-day and at least school-year programs for at-risk four-year-old children that
1816 include quality preschool education, health services, social services, parental involvement including
1817 activities to promote family literacy, and transportation. The Department of Education, in cooperation
1818 with such other state agencies which may coordinate child day care and early childhood programs, shall
1819 establish guidelines for quality preschool education and criteria for the service components, consistent
1820 with the findings of the November 1993 study by the Board of Education, the Department of Education,
1821 and the Council on Child Day Care and Early Childhood Programs. During the 1995-96 fiscal year, the
1822 Board of Education shall, with such funds as are appropriated for this purpose, distribute grants, based
1823 on an allocation formula providing the state share of the grant per child, as specified in the
1824 appropriation act, for thirty percent of the unserved at-risk four-year-olds in the Commonwealth pursuant
1825 to the funding provided in the appropriation act. During the 1996-97 fiscal year, grants shall be
1826 distributed, with such funds as are appropriated for this purpose, based on an allocation formula
1827 providing the state share of the grant per child, as specified in the appropriation act, for sixty percent of
1828 the unserved at-risk four-year-olds in the Commonwealth, such sixty percent to be calculated by adding
1829 services for thirty percent more of the unserved at-risk children to the thirty percent of unserved at-risk
1830 children in each locality provided funding in the appropriation act.

1831 Local school boards may elect to serve more than sixty percent of the at-risk four-year-olds and may
1832 use federal funds or local funds for this expansion or may seek funding through this grant program for
1833 such purposes. Grants may be awarded, if funds are available in excess of the funding for the sixty
1834 percent allocation, to expand services to at-risk four-year-olds beyond the sixty percent goal.

1835 In order for a locality to qualify for these grants, the local governing body shall commit to providing
1836 the required matching funds, based on the composite index of local ability to pay. Localities may use,
1837 for the purposes of meeting the local match, local expenditures for existing qualifying programs and
1838 shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds
1839 received through this program shall be used to supplement, not supplant, any funds currently provided
1840 for preschool programs within the locality.

1841 The General Assembly finds that local autonomy in making decisions on local educational needs and
1842 priorities results in effective grass-roots efforts to improve education in the Commonwealth's public
1843 schools only when coupled with sufficient state funding; to this end, the following block grant program

is hereby established. With such funds as are provided in the appropriation act, the Department of Education shall distribute block grants to localities to enable compliance with the Commonwealth's requirements for school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act for the covered programs, including the at-risk add-on program; dropout prevention, specifically Project YES; Project Discovery; English as a second language programs, including programs for overage, nonschooled students; Advancement Via Individual Determination (AVID); the Homework Assistance Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds shall not be used to pay any college expenses of participating students; Reading Recovery; and school/community health centers. Each school board may use any funds received through the block grant to implement the covered programs and other programs designed to save the Commonwealth's children from educational failure.

§ 42.1-80. State Public Records Advisory Council continued; members; chairman and vice-chairman; compensation.

The State Public Records Advisory Council is continued. The Council shall consist of twelve members. The Council membership shall include the Secretary of the Commonwealth, the State Librarian, the Attorney General, the State Health Commissioner, the Commonwealth Transportation Commissioner, the ~~Director of the Department of Information Technology~~ *Chief Information Officer of the Commonwealth*, the Auditor of Public Accounts, the Executive Secretary of the Supreme Court, the ~~Director of the Council on Information Management~~ *Department of Technology Services*, or their designated representatives and three members to be appointed by the Governor from the Commonwealth at large. The gubernatorial appointments shall include two clerks of courts of record and a member of a local governing body. Those members appointed by the Governor shall remain members of the Council for a term coincident with that of the Governor making the appointment, or until their successors are appointed and qualified. The Council shall elect annually from its membership a chairman and vice-chairman. Members of the Council shall receive no compensation for their services but shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

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

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

§ 63.1-314.8. Technical Assistance Committee created; duties; membership.

There is hereby created a Technical Assistance Committee, which shall provide technical and support services on the operations of the information and referral system as the Council may deem appropriate and shall advise the Council in performing its powers and duties.

The membership of the Technical Assistance Committee shall include but not be limited to:

Two directors of local departments of public welfare or social services, one serving a rural and one an urban locality, to be appointed by the Commissioner of Social Services; and

The Commissioners or Directors, or their designees, of the Department of Medical Assistance Services; Department of Health; Department of Mental Health, Mental Retardation and Substance Abuse Services; Department of Rehabilitative Services; Department for the Aging; Department for the Visually Handicapped; Department for Rights of Virginians With Disabilities; Department of ~~Information Technology Services~~; Department for the Deaf and Hard-of-Hearing; Department of Health Professions; Department of Corrections; Department of Education; Department of Juvenile Justice; and the Virginia Employment Commission.

2. That the membership of the Virginia Geographic Information Network Advisory Board, appointed pursuant to § 2.1-563.41, as it exists on the effective date of this act, shall be transferred to the Virginia Geographic Information Network Advisory Board created and continued pursuant to § 2.1-563.67. Members' terms shall expire in accordance with their appointments pursuant to § 2.1-563.41 to the Virginia Geographic Information Network Advisory Board. Members shall be eligible for reappointment pursuant to § 2.1-563.67.

3. That the membership of the Virginia Public Broadcasting Board, appointed pursuant to § 2.1-563.27:3, as it exists on the effective date of this act, shall be transferred to the Virginia Public Broadcasting Board created and continued pursuant to § 2.1-563.70. Members' terms shall expire in accordance with their appointments pursuant to § 2.1-563.27:3 to the Virginia Public Broadcasting Board. Members shall be eligible for reappointment pursuant to § 2.1-563.71.

4. That, on the effective date of this act, the employees of the Department of Information Technology shall be transferred to the Department of Technology Services created pursuant to § 2.1-563.60 of this act.

- 1905 5. That, on the effective date of this act, employees of the Council on Information Management
1906 shall be transferred to the Office of the Chief Information Officer created pursuant to § 2.1-563.50
1907 of this act.
- 1908 6. That, on or before September 1, 1998, the CIO shall prepare a proposed reorganization plan for
1909 the Office of the CIO and the Department of Technology Services which considers the
1910 recommendations set forth by the Joint Legislative Audit and Review Commission in its report,
1911 "Overview: Review of Information Technology in Virginia State Government," published as House
1912 Document No. 42 (1998), and submit such plan to the Governor and the Chairmen of the House
1913 Committee on Appropriations and the Senate Committee on Finance.
- 1914 7. That, on or before October 1, 1999, the CIO shall prepare a plan for state agencies to
1915 discontinue the use of the Unisys mainframe on or before July 1, 2002 (except for the ADAPT
1916 system at the Department of Social Services), and submit such plan to the Governor and the
1917 chairmen of the House Committee on Appropriations, the Senate Committee on Finance, and the
1918 Joint Legislative Audit and Review Commission.
- 1919 8. That each state agency in the executive branch of state government shall (i) conduct an
1920 assessment of its information technology structure and organization, with assistance from the
1921 Department of Technology Services, upon request, and (ii) report the results of its assessment to
1922 the CIO by January 1, 2001.
- 1923 9. That, on or before July 1, 2001, the CIO shall report the results of the assessments conducted
1924 pursuant to the eighth enactment of this act to the Joint Commission on Technology and Science
1925 created pursuant to § 30-85.
- 1926 10. That wherever the terms the "Director of the Department of Information Technology" and the
1927 "Director of the Council on Information Management" appear in the Code of Virginia, they shall
1928 mean the Chief Information Officer of the Commonwealth created pursuant to § 2.1-563.50.
- 1929 11. That wherever the terms the "Department of Information Technology" and the "Council on
1930 Information Management" appear in the Code of Virginia, they shall mean the Office of the CIO
1931 created pursuant to § 2.1-563.50.
- 1932 12. That Chapter 35.2 (§§ 2.1-563.13 through 2.1-563.41) of Title 2.1 and Chapter 22.13
1933 (§§ 9-145.52 through 9-145.56) of Title 9 of the Code of Virginia are repealed.
- 1934 13. That the second enactment of Chapter 917 of the 1997 Acts of Assembly is repealed.