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SENATE BILL NO. 260

Offered January 16, 1998

A BILL to amend and reenact §§ 2.1-1.9, 2.1-504, 2.1-504.1, 9-6.23, 9-6.25, and 9-6.25:2 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 2.1-505.1; and to repeal § 2.1-505 of the Code of Virginia, relating to the powers of the Director of the Department of General Services; Land Management and Stewardship Commission created.

Patrons—Stosch; Delegate: Purkey

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.9, 2.1-504, 2.1-504.1, 9-6.23, 9-6.25, and 9-6.25:2 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 2.1-505.1 as follows:

§ 2.1-1.9. Commissions.

Notwithstanding the definition for "commission" as provided in § 2.1-1.2, the following entities shall be referred to as commissions:

Advisory Commission on the Virginia Schools for the Deaf and the Blind

Charitable Gaming Commission

Commission on Local Government

Land Management and Stewardship Commission

Marine Resources Commission

Milk Commission

Virginia Commission for the Arts

Virginia Employment Commission.

§ 2.1-504. Definitions.

As used in §§ 2.1-504.1 through 2.1-512, unless a different meaning clearly appears from the context:

"Commission" means the *Land Management and Stewardship Commission created pursuant to § 2.1-505.1.*

"Institutions" ~~shall include~~ *include*, but are not be limited to, any corporation owned by the Commonwealth and subject to the control of the General Assembly.

"Property" ~~shall mean~~ *means* an interest in land and any improvements thereon held by the Commonwealth and under the control of or occupied by any of its departments, agencies or institutions, but shall not include (i) real estate or rights-of-way acquired by the Department of Transportation for the construction of highways and (ii) ungranted shores of the sea, marsh and meadowlands as defined in § 28.2-1500.

"Recommend," "recommended," or "recommendation," when used with reference to a recommendation by the Department of General Services to the Governor, ~~shall mean~~ *means* to advise either for or against a proposed action.

§ 2.1-504.1. Approval of actions; conveyances in name of the Commonwealth.

A. All actions to be taken or approvals to be given by the Governor or the Attorney General pursuant to §§ 2.1-504.2 through 2.1-512 may be taken or given by the Governor or his designee, or by the Attorney General or one of his deputies or assistant attorneys general.

B. All conveyances of any interest in property to or from the Commonwealth or any department or agency thereof or any institution thereof which is not a corporation, shall be in the name of the Commonwealth and shall designate the department, agency or institution in control or possession of the property in the following manner: "Commonwealth of Virginia, Department of (name of department, agency or institution, or other appropriate name)." All interests in property conveyed to any department, agency or institution of the Commonwealth, whether past or future, is and shall be the property of the Commonwealth. Conveyance of an interest in property on behalf of the Commonwealth by a department, agency or institution other than that which acquired title on behalf of the Commonwealth shall not create a cloud upon the title.

C. All conveyances of property of the Commonwealth that is not under the possession or control of a state department, agency or institution may be executed in the name of the Commonwealth by the Director of the Department of General Services or his designee. The terms of any such conveyance, whether by sale or lease, shall be subject to the written approval of the Governor.

§ 2.1-505.1. *Land Management and Stewardship Commission created; duties; membership; terms; determination of state-owned surplus property.*

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60 A. There is hereby created the Land Management and Stewardship Commission ("the Commission"),
61 which shall (i) establish guidelines that ensure the most efficient and effective use of state-owned
62 property, (ii) establish criteria for ascertaining whether property under the control a state department,
63 agency or institution should be classified as surplus to its current or proposed needs, (iii) examine the
64 utilization of state-owned property by state departments, agencies and institutions, and (iv) determine
65 which properties are surplus to the needs of the state departments, agencies or institutions.

66 B. The Commission shall be composed of fourteen members as follows: the Secretaries of
67 Administration and Finance, the Directors of the Departments of General Services and Planning and
68 Budget; two legislative members, one member of the Senate to be appointed by the Committee on
69 Privileges and Elections, and one member of the House of Delegates to be appointed by the Speaker of
70 the House; and eight citizen members, four members to be appointed by the Governor, two members to
71 be appointed by the Senate Committee on Privileges and Elections, and two members to be appointed by
72 the Speaker of the House.

73 Citizen members shall serve for five-year terms. The remainder of the membership of the Commission
74 shall serve terms coincident with their respective terms of office. Vacancies shall be filled in the same
75 manner as the original appointment. Each member shall continue to serve until his successor is
76 appointed and qualified.

77 The members of the Commission shall elect annually a chairman and vice chairman from among its
78 membership. Legislative members shall be compensated as specified in § 14.1-18, and all members shall
79 be reimbursed for their actual expenses incurred in the performance of their duties. A majority of the
80 membership of the Commission shall constitute a quorum. The Department of General Services shall
81 provide staff support to the Commission. All state departments, agencies and institutions shall cooperate
82 with the Commission in carrying out its duties.

83 B. The Commission shall inquire periodically of all state departments, agencies or institutions as to
84 the current and proposed use of state-owned property under their control to determine whether any such
85 property should be declared surplus to the needs of such state department, agency or institution. The
86 Commission, by a majority vote of its members present at a meeting duly called, may declare such
87 property surplus and the property shall be surplus as if the state department, agency or institution in
88 possession or control of the property had declared it surplus.

89 C. Whenever any state department, agency or institution is in possession or control of state-owned
90 property which is not being used or is not required for the programs of the department, agency or
91 institution, it shall so notify the Director of the Department of General Services.

92 D. Until final disposition of state-owned property determined to be surplus in accordance with
93 subsection B is effected, the property shall continue to be maintained by the state department, agency or
94 institution possessing or controlling it, unless upon the recommendation of the Department, the
95 Governor authorizes the transfer of such property to the Department. If the Governor authorizes such
96 transfer, the state department, agency or institution shall have no further interest in the property.

97 E. Notwithstanding the provisions of subsections B, C, and D, the property known as College Woods,
98 which includes Lake Matoaka and is possessed and controlled by a college founded in 1693, regardless
99 of whether such property has been declared surplus property pursuant to this section, shall not be
100 transferred or disposed of without the approval of the board of visitors of such college by a two-thirds
101 vote of all board members at a regularly scheduled board meeting. The General Assembly shall also
102 approve such disposal or transfer.

103 § 9-6.23. Prohibition against service by legislators on boards, commissions, and councils within the
104 executive branch.

105 Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils
106 within the executive branch which are responsible for administering programs established by the General
107 Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in
108 policy studies or commemorative activities. If any law directs the appointment of any member of the
109 General Assembly to a board, commission, or council in the executive branch which is responsible for
110 administering programs established by the General Assembly, such portion of such law shall be void,
111 and the Governor shall appoint another person from the Commonwealth at large to fill such a position.
112 The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who
113 shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who
114 shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be
115 appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be
116 appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia
117 Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the
118 Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of
119 the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.1-750; to
120 members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be
121 appointed as provided in § 9-326; to members of the Advisory Commission on Welfare Reform, who

shall be appointed as provided for in § 63.1-133.44; to members of the Virginia Correctional Enterprises Advisory Board, who shall be appointed as provided for in § 2.1-451.2; to members appointed to the Virginia Veterans Cemetery Board pursuant to § 2.1-739.2; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 9-343; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.1-563.41; ~~or~~ to members of the Advisory Commission on the Virginia Schools for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.1; *or to members of the Land Management and Stewardship Commission as provided for in § 2.1-505.1.*

9-6.25. Classification of executive branch boards, commissions and councils.

A. Effective July 1, 1986, every collegial body established by law or executive order within the executive branch of state government shall be classified according to its level of authority as follows:

"Advisory" - A board, commission or council shall be classified as advisory when its purpose is to provide advice and comment to an executive branch agency or office. An advisory board, commission or council serves as a formal liaison between the agency or office and the public to ensure that the agency or office understands public concerns and that the activities of the agency or office are communicated to the public. An advisory board, commission or council does not serve a regulatory or rule-making purpose. It may participate in the development of public policy by providing comment and advice.

"Policy" - A board, commission or council shall be classified as policy if it is specifically charged by statute to promulgate public policies or regulations. It may also be charged with adjudicating violations of those policies or regulations. Specific functions of the board, commission or council may include, but are not limited to, rate setting, distributing federal funds, and adjudicating regulatory or statutory violations, but each power shall be enumerated by law. Policy boards, commissions or councils are not responsible for supervising agencies or employing personnel. They may review and comment on agency budget requests. *Notwithstanding the foregoing, the Land Management and Stewardship Commission shall be considered a policy commission.*

"Supervisory" - A board, commission, or council shall be classified as supervisory if it is responsible for agency operations including approval of requests for appropriations. A supervisory board, commission, or council appoints the agency director and ensures that the agency director complies with all board and statutory directives. The agency director is subordinate to the board. Notwithstanding the foregoing, the Board of Education shall be considered a supervisory board.

B. Each executive branch board, commission or council shall be assigned only one of the above classifications. The classification for boards and councils which are created by law shall be designated by the enabling legislation. The classification for commissions which are created by executive order shall be designated by the executive order.

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

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

- Apprenticeship Council
- Athletic Board
- Auctioneers Board
- Blue Ridge Regional Education and Training Council
- Board for Accountancy
- Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects
- Board for Barbers
- Board for Contractors
- Board for Cosmetology
- Board for Geology
- Board for Hearing Aid Specialists
- Board for Opticians
- Board for Professional and Occupational Regulation
- Board for Professional Soil Scientists
- Board for Waterworks and Wastewater Works Operators
- Board of Agriculture and Consumer Services
- Board of Audiology and Speech-Language Pathology
- Board of Coal Mining Examiners
- Board of Conservation and Recreation
- Board of Correctional Education
- Board of Dentistry
- Board of Directors, Virginia Student Assistance Authorities
- Board of Funeral Directors and Embalmers

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| 183 | Board of Health Professions |
| 184 | Board of Historic Resources |
| 185 | Board of Housing and Community Development |
| 186 | Board of Medical Assistance Services |
| 187 | Board of Medicine |
| 188 | Board of Mineral Mining Examiners |
| 189 | Board of Nursing |
| 190 | Board of Nursing Home Administrators |
| 191 | Board of Optometry |
| 192 | Board of Pharmacy |
| 193 | Board of Professional Counselors |
| 194 | Board of Psychology |
| 195 | Board of Recreation Specialists |
| 196 | Board of Social Services |
| 197 | Board of Social Work |
| 198 | Board of Surface Mining Review |
| 199 | Board of Veterinary Medicine |
| 200 | Board on Conservation and Development of Public Beaches |
| 201 | Chesapeake Bay Local Assistance Board |
| 202 | Child Day-Care Council |
| 203 | Commission on Local Government |
| 204 | Commonwealth Transportation Board |
| 205 | Council on Human Rights |
| 206 | Council on Information Management |
| 207 | Criminal Justice Services Board |
| 208 | Design-Build/Construction Management Review Board |
| 209 | Disability Services Council |
| 210 | Farmers Market Board, Virginia |
| 211 | Interdepartmental Council on Rate-setting for Children's Facilities |
| 212 | <i>Land Management and Stewardship Commission</i> |
| 213 | Library Board, The Library of Virginia |
| 214 | Marine Resources Commission |
| 215 | Milk Commission |
| 216 | Pesticide Control Board |
| 217 | Real Estate Appraiser Board |
| 218 | Real Estate Board |
| 219 | Reciprocity Board, Department of Motor Vehicles |
| 220 | Safety and Health Codes Board |
| 221 | Seed Potato Board |
| 222 | Southside Virginia Marketing Council |
| 223 | Specialized Transportation Council |
| 224 | State Air Pollution Control Board |
| 225 | State Board of Corrections |
| 226 | State Board of Elections |
| 227 | State Board of Health |
| 228 | State Board of Juvenile Justice |
| 229 | State Health Department, Sewage Handling and Disposal Appeal Review Board |
| 230 | State Library Board |
| 231 | State Mental Health, Mental Retardation and Substance Abuse Services Board |
| 232 | State Water Control Board |
| 233 | Substance Abuse Certification Board |
| 234 | Treasury Board, The, Department of the Treasury |
| 235 | Virginia Aviation Board |
| 236 | Virginia Board for Asbestos and Lead |
| 237 | Virginia Fire Services Board |
| 238 | Virginia Gas and Oil Board |
| 239 | Virginia Health Planning Board |
| 240 | Virginia Manufactured Housing Board |
| 241 | Virginia Parole Board |
| 242 | Virginia Public Broadcasting Board |
| 243 | Virginia Soil and Water Conservation Board |
| 244 | Virginia Voluntary Formulary Board |

245 Virginia Waste Management Board
246 Waste Management Facility Operators, Board for.
247 2. That § 2.1-505 of the Code of Virginia is repealed.

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