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## SENATE BILL NO. 260

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on December 15, 1998)

(Patron Prior to Substitute—Senator Stosch)

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.

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~~ includes, but is 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 used for highways as defined in § 33.1-351, including residue parcels acquired pursuant to § 33.1-92, 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 any interest in 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.

A. There is hereby created the Land Management and Stewardship Commission ("the Commission"),

60 which shall (i) establish guidelines that ensure the most efficient and effective use of state-owned  
61 property, (ii) establish criteria for ascertaining whether property under the control a state department,  
62 agency or institution should be classified as surplus to its current or proposed needs, (iii) examine the  
63 utilization of state-owned property by state departments, agencies and institutions, and (iv) determine  
64 which properties are surplus to the needs of the state departments, agencies or institutions. The  
65 Commission shall not recommend property as surplus without first evaluating the source of acquisition  
66 of the property, whether acquired by non-general funds or subject to such matters as deed restrictions.  
67 No property declared surplus under this section shall be sold or title thereto or any interest therein  
68 conveyed without the written approval of the Governor. Properties acquired by public institutions of  
69 higher education through deed of gift, will, or endowment funds or gifts, the income from such  
70 endowment funds or gifts, or private funds belonging to students shall be exempt from the provisions of  
71 this section; however, conveyance of such properties or any interests therein shall be subject to the  
72 requirements of § 23-4.1.

73 B. The Commission shall be composed of fifteen members as follows: the Secretaries of  
74 Administration, Natural Resources, and Finance; the Directors of the Departments of General Services  
75 and Planning and Budget; two legislative members, one member of the Senate to be appointed by the  
76 Committee on Privileges and Elections, and one member of the House of Delegates to be appointed by  
77 the Speaker of the House; and eight citizen members, four members to be appointed by the Governor,  
78 two members to be appointed by the Senate Committee on Privileges and Elections, and two members to  
79 be appointed by the Speaker of the House.

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

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

90 C. The Commission shall inquire periodically of all state departments, agencies or institutions as to  
91 the current and proposed use of state-owned property under their control to determine whether any such  
92 property should be declared surplus to the needs of such state department, agency or institution. The  
93 Commission, after consultation with the department, agency or institution in possession or control of the  
94 property, by a majority vote of its members present at a meeting duly called, may declare such property  
95 surplus and the property shall be surplus as if the state department, agency or institution in possession  
96 or control of the property had declared it surplus. Within thirty days following such declaration, the  
97 Commission shall notify the Governor and the department, agency or institution in possession or control  
98 of the property of its decision to declare the property surplus. The Governor may override, in writing,  
99 such declaration upon consideration of a written appeal by the department, agency or institution in  
100 possession or control of the property. Such written appeal shall be submitted to the Governor within  
101 sixty days following the notification of the Commission. The decision of the Governor shall be final.

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

105 E. Until final disposition of state-owned property determined to be surplus in accordance with  
106 subsection C is effected, the property shall continue to be maintained by the state department, agency or  
107 institution possessing or controlling it, unless upon the recommendation of the Department, the  
108 Governor authorizes the transfer of such property to the Department. If the Governor authorizes such  
109 transfer, the state department, agency or institution shall have no further interest in the property.

110 F. Notwithstanding the provisions of subsections C, D, and E, (i) the property known as College  
111 Woods, which includes Lake Matoaka and is possessed and controlled by a college founded in 1693,  
112 and (ii) properties acquired in whole or in part by the Department of Game and Inland Fisheries with  
113 funds collected from the sales of hunting and fishing licenses or Federal Aid in Fish and Wildlife  
114 Restoration funds, regardless of whether such properties have been declared surplus property pursuant  
115 to this section, shall not be transferred or disposed of without the approval of the board of visitors of  
116 such college or by the board of such department by a two-thirds vote of all board members at a  
117 regularly scheduled board meeting. The General Assembly shall also approve such disposal or transfer.

118 § 9-6.23. Prohibition against service by legislators on boards, commissions, and councils within the  
119 executive branch.

120 Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils  
121 within the executive branch which are responsible for administering programs established by the General

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

183	Board for Cosmetology
184	Board for Geology
185	Board for Hearing Aid Specialists
186	Board for Opticians
187	Board for Professional and Occupational Regulation
188	Board for Professional Soil Scientists
189	Board for Waterworks and Wastewater Works Operators
190	Board of Agriculture and Consumer Services
191	Board of Audiology and Speech-Language Pathology
192	Board of Coal Mining Examiners
193	Board of Conservation and Recreation
194	Board of Correctional Education
195	Board of Dentistry
196	Board of Directors, Virginia Student Assistance Authorities
197	Board of Funeral Directors and Embalmers
198	Board of Health Professions
199	Board of Historic Resources
200	Board of Housing and Community Development
201	Board of Medical Assistance Services
202	Board of Medicine
203	Board of Mineral Mining Examiners
204	Board of Nursing
205	Board of Nursing Home Administrators
206	Board of Optometry
207	Board of Pharmacy
208	Board of Professional Counselors
209	Board of Psychology
210	Board of Recreation Specialists
211	Board of Social Services
212	Board of Social Work
213	Board of Surface Mining Review
214	Board of Veterinary Medicine
215	Board on Conservation and Development of Public Beaches
216	Chesapeake Bay Local Assistance Board
217	Child Day-Care Council
218	Commission on Local Government
219	Commonwealth Transportation Board
220	Council on Human Rights
221	Council on Information Management
222	Criminal Justice Services Board
223	Design-Build/Construction Management Review Board
224	Disability Services Council
225	Farmers Market Board, Virginia
226	Interdepartmental Council on Rate-setting for Children's Facilities
227	<i>Land Management and Stewardship Commission</i>
228	Library Board, The Library of Virginia
229	Marine Resources Commission
230	Milk Commission
231	Pesticide Control Board
232	Real Estate Appraiser Board
233	Real Estate Board
234	Reciprocity Board, Department of Motor Vehicles
235	Safety and Health Codes Board
236	Seed Potato Board
237	Southside Virginia Marketing Council
238	Specialized Transportation Council
239	State Air Pollution Control Board
240	State Board of Corrections
241	State Board of Elections
242	State Board of Health
243	State Board of Juvenile Justice
244	State Health Department, Sewage Handling and Disposal Appeal Review Board

- 245 State Library Board
- 246 State Mental Health, Mental Retardation and Substance Abuse Services Board
- 247 State Water Control Board
- 248 Substance Abuse Certification Board
- 249 Treasury Board, The, Department of the Treasury
- 250 Virginia Aviation Board
- 251 Virginia Board for Asbestos and Lead
- 252 Virginia Fire Services Board
- 253 Virginia Gas and Oil Board
- 254 Virginia Health Planning Board
- 255 Virginia Manufactured Housing Board
- 256 Virginia Parole Board
- 257 Virginia Public Broadcasting Board
- 258 Virginia Soil and Water Conservation Board
- 259 Virginia Voluntary Formulary Board
- 260 Virginia Waste Management Board
- 261 Waste Management Facility Operators, Board for.
- 262 **2. That § 2.1-505 of the Code of Virginia is repealed.**