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SENATE BILL NO. 260
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by Delegate Reid
 on January 20, 1999)

(Patron Prior to Substitute—Senator Stosch)

A BILL to amend and reenact §§ 2.1-1.9, 2.1-504, 2.1-504.1, 2.1-512, 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, 2.1-512, 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 of a state
62 department, agency or institution should be classified as surplus to its current or proposed needs; (iii)
63 examine the utilization of state-owned property by departments, agencies and institutions; and (iv)
64 determine which properties are surplus to the needs of the 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 nongeneral funds or subject to such matters as deed restrictions.
67 No property declared surplus under this section shall be sold or title thereto conveyed without the
68 written approval of the Governor. Properties acquired by institutions of higher education through deed
69 of gift, will, or endowment funds or gifts, the income from such endowment funds or gifts, or private
70 funds belonging to students shall be exempt from the provisions of this section; however, conveyance of
71 such properties or any interests therein shall be subject to the requirements of § 23-4.1.

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

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

83 The members of the Commission shall elect annually a chairman and vice-chairman from among its
84 membership. Legislative members shall be compensated as specified in § 30-19.12, and all members
85 shall be reimbursed for their actual expenses incurred in the performance of their duties. Ten members
86 of the Commission shall constitute a quorum. The Department of General Services shall provide staff
87 support to the Commission. All departments, agencies and institutions shall cooperate with the
88 Commission in carrying out its duties.

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

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

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

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

118 § 2.1-512. Sale or lease of surplus property.

119 Except when a department, agency or institution notifies the Department of a need for property
120 which has been declared surplus under this section or § 2.1-505.1, and the Department finds that stated
121 need to be valid and best satisfied by the use of said property, the Department may dispose of such

property as herein provided.

A. After it determines the property to be surplus to the needs of the Commonwealth, the Department may, with the *written* approval of the Governor ~~in writing~~ first obtained, proceed to sell the property. The sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in which the property to be sold is located. At least thirty days shall elapse between publication of such notice and the auction or the date on which sealed bids will be opened.

In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$50,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

B. The Department shall have the right to reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of such property or if a need has been found for the property. If the Department deems the bid or offer fair and adequate in relation to the value of the property, and if no other need for the property has been found, the Department shall recommend acceptance of such bid or offer to the Governor for approval. In lieu of the sale of any such property, the Department may, with the approval of the Governor, lease the same to any responsible person, firm or corporation on such terms as shall be fair and adequate in relation to the value of such property. The provisions of this article requiring disposition of such property through the medium of sealed bids, public auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department. The deed or lease to such property shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding any law to the contrary and notwithstanding how title to such property was acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the Department of General Services, or his designee, and such action shall not create a cloud on the title to the property. The terms of such sale or lease shall be subject to the written approval of the Governor

B1. An exception to sale by sealed bids, public auction, or listing the property with a licensed real estate broker may be granted by the Governor if the property is landlocked and inaccessible from a public road or highway. In such cases, the Department shall notify all adjacent landowners of the Commonwealth's desire to dispose of the property. After such notice has been given, the Department may begin negotiations for the sale of the property with each interested adjacent landowner. The Department, with the approval of the Governor, may accept any offer which it deems to be fair and adequate consideration for the property. In all cases, such offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

C. Fifty percent of the proceeds from all such sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of such transaction, which costs shall include fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid, subject to any contrary provisions of law, into the Conservation Resources Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining fifty percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of such transactions, shall be deposited in the general fund of the Commonwealth. The Department of Planning and Budget shall develop guidelines which allow, with the approval of the Governor, any portion of the deposit in the general fund to be credited to the agency, department or institution having control of the property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used, upon appropriation, to supplement maintenance reserve funds, to supplement capital project appropriations, and for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases of special fund agency properties or property acquired through a gift for a specific purpose shall be retained by such agency or used in accordance with the original terms of the gift.

D. When the Department deems it to be in the best interests of the Commonwealth, it may, with the approval of the Governor, authorize the department, institution or agency in possession or control of the property to dispose of surplus property in accordance with the procedures set forth herein.

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

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils 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

183 policy studies or commemorative activities. If any law directs the appointment of any member of the
 184 General Assembly to a board, commission, or council in the executive branch which is responsible for
 185 administering programs established by the General Assembly, such portion of such law shall be void,
 186 and the Governor shall appoint another person from the Commonwealth at large to fill such a position.
 187 The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who
 188 shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who
 189 shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be
 190 appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be
 191 appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia
 192 Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the
 193 Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of
 194 the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.1-750; to
 195 members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be
 196 appointed as provided for in § 9-326; to members of the Advisory Commission on Welfare Reform, who
 197 shall be appointed as provided for in § 63.1-133.44; to members of the Virginia Correctional Enterprises
 198 Advisory Board, who shall be appointed as provided for in § 2.1-451.2; to members appointed to the
 199 Virginia Veterans Cemetery Board pursuant to § 2.1-739.2; to members appointed to the Board of
 200 Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the
 201 Commonwealth Competition Commission, who shall be appointed as provided for in § 9-343; to
 202 members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as
 203 provided for in § 2.1-563.41; to members of the Advisory Commission on the Virginia Schools for the
 204 Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.1; to members of the Council
 205 on Coordinating Prevention, who shall be appointed as provided for in § 9-268; ~~or~~ to members of the
 206 Substance Abuse Services Council, who shall be appointed as provided for in § 37.1-207; *or to members*
 207 *of the Land Management and Stewardship Commission who shall be appointed as provided for in*
 208 *§ 2.1-505.1.*

209 9-6.25. Classification of executive branch boards, commissions and councils.

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

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

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

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

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

235 § 9-6.25:2. Policy boards, commissions and councils.

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

238 Apprenticeship Council

239 Athletic Board

240 Auctioneers Board

241 Blue Ridge Regional Education and Training Council

242 Board for Accountancy

243 Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and

244 Landscape Architects

245	Board for Barbers
246	Board for Contractors
247	Board for Cosmetology
248	Board for Geology
249	Board for Hearing Aid Specialists
250	Board for Opticians
251	Board for Professional and Occupational Regulation
252	Board for Professional Soil Scientists
253	Board for Waterworks and Wastewater Works Operators
254	Board of Agriculture and Consumer Services
255	Board of Audiology and Speech-Language Pathology
256	Board of Coal Mining Examiners
257	Board of Conservation and Recreation
258	Board of Correctional Education
259	Board of Dentistry
260	Board of Directors, Virginia Student Assistance Authorities
261	Board of Funeral Directors and Embalmers
262	Board of Health Professions
263	Board of Historic Resources
264	Board of Housing and Community Development
265	Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse
266	Treatment Professionals
267	Board of Medical Assistance Services
268	Board of Medicine
269	Board of Mineral Mining Examiners
270	Board of Nursing
271	Board of Nursing Home Administrators
272	Board of Optometry
273	Board of Pharmacy
274	Board of Psychology
275	Board of Recreation Specialists
276	Board of Social Services
277	Board of Social Work
278	Board of Surface Mining Review
279	Board of Veterinary Medicine
280	Board on Conservation and Development of Public Beaches
281	Cemetery Board
282	Chesapeake Bay Local Assistance Board
283	Child Day-Care Council
284	Commission on Local Government
285	Commonwealth Transportation Board
286	Council on Human Rights
287	Council on Information Management
288	Criminal Justice Services Board
289	Design-Build/Construction Management Review Board
290	Disability Services Council
291	Farmers Market Board, Virginia
292	Interdepartmental Council on Rate-setting for Children's Facilities
293	<i>Land Management and Stewardship Commission</i>
294	Library Board, The Library of Virginia
295	Marine Resources Commission
296	Milk Commission
297	Pesticide Control Board
298	Real Estate Appraiser Board
299	Real Estate Board
300	Reciprocity Board, Department of Motor Vehicles
301	Safety and Health Codes Board
302	Seed Potato Board
303	Specialized Transportation Council
304	State Air Pollution Control Board
305	State Board of Corrections

306 State Board of Elections
307 State Board of Health
308 State Board of Juvenile Justice
309 State Health Department, Sewage Handling and Disposal Appeal Review Board
310 State Library Board
311 State Mental Health, Mental Retardation and Substance Abuse Services Board
312 State Water Control Board
313 Substance Abuse Certification Board
314 Treasury Board, The, Department of the Treasury
315 Virginia Aviation Board
316 Virginia Board for Asbestos and Lead
317 Virginia Fire Services Board
318 Virginia Gas and Oil Board
319 Virginia Health Planning Board
320 Virginia Manufactured Housing Board
321 Virginia Parole Board
322 Virginia Public Broadcasting Board
323 Virginia Soil and Water Conservation Board
324 Virginia Voluntary Formulary Board
325 Virginia Waste Management Board
326 Waste Management Facility Operators, Board for.
327 **2. That § 2.1-505 of the Code of Virginia is repealed.**