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HOUSE BILL NO. 2380

Offered January 8, 2003

Prefiled January 8, 2003

A BILL to amend and reenact §§ 2.2-208, 2.2-2101, 10.1-105, 10.1-106, 10.1-107, 10.1-111, 10.1-112, 10.1-113, 10.1-202, 10.1-400, 10.1-401, 10.1-402, 10.1-405, 10.1-406, 10.1-409 through 10.1-418.1, 10.1-705, 10.1-707, 10.1-709, 28.2-1100, 63.2-226, 63.2-227, and 63.2-608 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 10.1-406.1 and by adding in Chapter 4 of Title 10.1 sections numbered 10.1-418.2 and 10.1-418.3; and to repeal Article 14 (§§ 2.2-2642 and 2.2-2643) and Article 19 (§§ 2.2-2652, 2.2-2653, and 2.2-2654) of Chapter 26 of Title 2.2 of the Code of Virginia, Chapter 2.1 (§§ 10.1-218 through 10.1-225) of Title 10.1 and Chapter 4.1 (§ 10.1-419) of Title 10.1 of the Code of Virginia, §§ 32.1-162.14 32.1-328, 63.2-223, 63.2-224, 63.2-225, and 63.2-228 of the Code of Virginia, Chapter 7 (§§ 63.2-700, 63.2-701, and 63.2-702) of Title 63.2 of the Code of Virginia, and House Joint Resolution No. 278 of the Acts of Assembly of 1979, relating to the elimination and consolidation of certain redundant, duplicative, unnecessary, or inactive collegial bodies and their programs; designation of state scenic rivers; establishment of certain special funds; report.

Patrons—Petersen, Landes and Moran

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-208, 2.2-2101, 10.1-105, 10.1-106, 10.1-107, 10.1-111, 10.1-112, 10.1-113, 10.1-202, 10.1-400, 10.1-401, 10.1-402, 10.1-405, 10.1-406, 10.1-409 through 10.1-418.1, 10.1-705, 10.1-707, 10.1-709, 28.2-1100, 63.2-226, 63.2-227, and 63.2-608 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 10.1-406.1 and by adding in Chapter 4 of Title 10.1 sections numbered 10.1-418.2 and 10.1-418.3 as follows:

§ 2.2-208. Position established; agencies for which responsible; powers and duties.

The position of Secretary of Education (the "Secretary") is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Education, State Council of Higher Education, Virginia Museum of Fine Arts, The Science Museum of Virginia, Frontier Culture Museum of Virginia, The Library of Virginia, Jamestown-Yorktown Foundation, Board of Regents of Gunston Hall, and the Commission for the Arts; and the Virginia Advisory Council for Adult Education and Literacy. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

Unless the Governor expressly reserves such a power to himself, the Secretary is empowered to resolve administrative, jurisdictional or policy conflicts between any agencies or officers for which he is responsible and to provide policy direction for programs involving more than a single agency. He is authorized to direct the preparation of alternative policies, plans and budgets for education for the Governor and, to that end, may require the assistance of the agencies for which he is responsible. He shall direct the formulation of a comprehensive program budget for cultural affairs encompassing the programs and activities of the agencies involved in cultural affairs.

§ 2.2-2101. Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who 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 of state government that 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 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 § 2.2-2421; to members of the Council on Indians, who shall be appointed as provided for in § 2.2-2628; 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 § 2.2-2642; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to

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59 members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be
60 appointed as provided in § 2.2-2600; to members of the Virginia Correctional Enterprises Advisory
61 Board, who shall be appointed as provided for in § 53.1-45.3; to members appointed to the Virginia
62 Veterans Cemetery Board pursuant to § 2.2-2438; to members appointed to the Board of Trustees of the
63 Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth
64 Competition Commission, who shall be appointed as provided for in § 2.2-2621; to members of the
65 Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in
66 § 2.2-2423; to members of the Advisory Commission on the Virginia Schools for the Deaf and the
67 Blind, who shall be appointed as provided for in § 22.1-346.1; to members of the Substance Abuse
68 Services Council, who shall be appointed as provided for in § 37.1-207; to members of the Criminal
69 Justice Services Board, who shall be appointed as provided in § 9.1-108; or to members of the Virginia
70 Workforce Council, who shall be appointed as provided for in § 2.2-2669.

71 § 10.1-105. Board of Conservation and Recreation.

72 The Board of Conservation and Recreation shall ~~hereafter in this chapter be referred to as the Board~~
73 *be reorganized and is established as a policy board in the executive branch in accordance with*
74 *§ 2.2-2100 and shall consist of 12 members to be appointed by the Governor. The Board shall consist of*
75 *nine members appointed by the Governor shall be the successor to the Board on Conservation and*
76 *Development of Public Beaches and the Virginia State Parks Foundation.* The members of the ~~board~~
77 Board shall initially be appointed for terms of office as follows: ~~three~~ 3 for a ~~one~~ 1-year term, ~~two~~ 3 for
78 a ~~two~~ 2-year term, ~~two~~ 3 for a ~~three~~ 3-year term, and ~~two~~ 3 for a ~~four~~ 4-year term. *The Governor shall*
79 *designate the term to be served by each appointee at the time of appointment.* Appointments thereafter
80 shall be made for ~~four~~ 4-year terms. No person shall serve more than ~~two~~ 2 consecutive full terms. Any
81 vacancy shall be filled by the Governor for the unexpired term. All terms shall begin July 1. Board
82 members shall serve at the pleasure of the Governor. In making appointments, the Governor shall
83 endeavor to select persons suitably qualified to consider and act upon the various special interests and
84 problems related to the programs of the Department. The Board may appoint subcommittees of not less
85 than ~~three~~ 3 to consider and deal with special interests and problems related to programs of the
86 Department.

87 § 10.1-106. Officers; meetings; quorum.

88 The Board shall elect one of its members chairman, and another as vice chairman. ~~A representative~~
89 ~~of the Department~~ *The Director or his designee shall serve as executive secretary to the Board.*

90 The Board shall meet at least ~~four~~ 3 times a year on the call of the chairman or the Director. The
91 vice chairman shall fill the position of chairman in the event the chairman is not available. A majority
92 of the members of the Board shall constitute a quorum of the Board.

93 § 10.1-107. General powers and duties of the Board.

94 A. The Board shall advise the Governor and the Director on activities of the Department. Upon the
95 request of the Governor, or the Director, the Board shall institute investigations and make
96 recommendations.

97 The Board shall formulate recommendations to the Director concerning:

- 98 1. Requests for grants or loans pertaining to outdoor recreation.
- 99 2. Designation of recreational and historical sites eligible for recreational access road funds.
- 100 3. Designations proposed for scenic rivers, scenic highways, and Virginia byways.
- 101 4. Acquisition of real property by fee simple or other interests in property for the Department
102 including, but not limited to, state parks, state recreational areas, state trails, greenways, natural areas
103 and natural area preserves, and other lands of biological, environmental, historical, recreational or
104 scientific interest.
- 105 5. Acquisition of bequests, devises and gifts of real and personal property, and the interest and
106 income derived therefrom.
- 107 6. Stage one and stage two plans, master plans, and substantial acquisition or improvement
108 amendments to master plans as provided in § 10.1-200.1.

109 B. The Board shall have the authority to promulgate regulations necessary for the execution of the
110 Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of this title *and*
111 *for the execution of the Public Beach Conservation and Development Act, Article 2 (§ 10.1-705 et seq.)*
112 *of Chapter 7 of this title.*

113 C. *The Board shall assist the Department in the duties and responsibilities described in Subtitle I*
114 *(§ 10.1-100 et seq.) of Title 10.1.*

115 D. *The Board is authorized to conduct fund-raising activities as deemed appropriate and will deposit*
116 *such revenue into the State Parks Projects Fund pursuant to subsection D of § 10.1-202.*

117 § 10.1-111. Removal of minerals.

118 The Director, with the approval of the Governor, is authorized to make and execute leases, contracts
119 or deeds in the name of the Commonwealth, for the removal or mining of minerals that may be found
120 in Departmental lands whenever it appears to the Director that it would be in the best interest of the

Commonwealth to dispose of these minerals. Before any deed, contract or lease is made or executed, it shall be approved as to form by the Attorney General, and bids therefor shall be received after notice by publication once each week for four successive weeks in two newspapers of general circulation. The Director shall have the right to reject any or all bids and to readvertise for bids. The accepted bidder shall give bond with good and sufficient surety to the satisfaction of the Director, and in any amount that the Director may fix for the faithful performance of all the conditions and covenants of the lease, contract or deed. The proceeds arising from any contract, deed, or lease shall be deposited into the state treasury to the credit of the *State Park Conservation Resources Fund* established in *subsection A of § 10.1-202*.

§ 10.1-112. Capital improvement projects.

The Director is authorized to make and execute leases and contracts in the name of the Commonwealth for the development and operation of revenue-producing capital improvement projects in Virginia state parks upon the written approval of the Governor. Prior to approval, the Governor shall consider the written recommendation of the Director of the Department of General Services and the Attorney General shall review such leases and contracts as to form.

Any contract or lease for the development and operation of the capital improvement project shall be in accordance with the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The accepted bidder shall give a performance bond for the construction, operation and maintenance of the project with good and sufficient surety in an amount fixed by the Director for the faithful performance of the conditions and covenants of such lease or contract.

Such lease or contract, with an initial term not exceeding thirty years, shall be subject to terms, conditions, and limitations as the Director may prescribe and may be renewed with the approval of the Director. The proceeds arising from a contract or lease executed pursuant to this section shall be paid into the *State Park Conservation Resources Fund* established in *subsection A of § 10.1-202*.

§ 10.1-113. Sale of trees.

For the purpose of maintaining the production of forest products in Departmental lands, the Director, upon the recommendation of the State Forester, may designate and appraise trees to be cut under the principles of scientific forest management, and may sell them for not less than their appraised value. When the appraised value of the trees to be sold is more than \$10,000, the Director, before selling them, shall receive bids, after notice by publication once a week for two weeks in two newspapers of general circulation; but the Director shall have the right to reject any and all bids and to readvertise for bids. The proceeds arising from the sale of the timber and trees shall be paid into the *State Park Conservation Resources Fund* established in *subsection A of § 10.1-202*.

§ 10.1-202. Gifts, funds, and fees designated for state parks; establishment of funds.

~~Gifts of money.~~*A. The State Park Conservation Resources Fund shall consist of all entrance fees, fees from contractor-operated concessions, civil penalties assessed pursuant to § 10.1-200.2 and under § 10.1-200.3, and all funds accruing from, on account of, or to the use of state parks acquired or held by the Department shall constitute the Conservation Resources Fund. This special fund shall be noninterest bearing. The Fund shall be under the direction and control of the Director and may be expended for the conservation, development, maintenance, and operations of state parks acquired or held by the Department, but the amount to be expended shall be annually approved by the Secretary of Natural Resources and shall be reported on a quarterly basis to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance. However, expenditures from the Fund for operation of state parks shall not exceed, in any fiscal year, an amount equal to twenty-five percent of the revenues deposited into the Fund from fees and charges paid by visitors to state parks. The remainder of the revenues deposited into the Fund from fees and charges paid by visitors to state parks shall be expended for the conservation and development of state parks. Unexpended portions of the fund shall not revert to the state treasury at the close of any fiscal year unless specified by an act of the General Assembly.*

~~Revenues.~~*B. The State Park Operated Concessions Fund shall consist of revenues generated from state park concessions operated by the Department shall be deposited into a separate special fund. This special fund shall be noninterest bearing. The fund shall be under the direction and control of the Director for use in operating such concessions. Unexpended portions of the Fund shall not revert to the state treasury at the close of any fiscal year unless specified by an act of the General Assembly. The Fund shall not include any gifts of money to the Virginia Land Conservation Foundation or other funds deposited in the Virginia Land Conservation Fund.*

~~The.~~*C. The State Park Acquisition and Development Fund shall consist of the proceeds from the sales sale of surplus property. This special fund shall be noninterest bearing. The fund shall be under the direction and control of the Director and shall be used exclusively for the acquisition and development of state parks. Unexpended portions of the fund shall not revert to the state treasury at the close of any fiscal year unless specified by an act of the General Assembly.*

182 *D. The State Park Projects Fund shall consist of all income, including grants from any source, gifts*
 183 *and bequests of money, securities and other property, and gifts and devises of real property or interests*
 184 *therein given or bequeathed to the Department for the conservation, development, maintenance, or*
 185 *operations of state parks. This special fund shall be interest bearing and any income earned from these*
 186 *gifts, bequests, securities or other property shall be deposited to the credit of the fund. This fund shall*
 187 *be under the control of the Director and may be expended with advice from the Board for the*
 188 *conservation, development, maintenance, or operations of state parks. Unexpended portions of the fund*
 189 *shall not revert to the state treasury at the close of any fiscal year unless specified by an act of the*
 190 *General Assembly.*

191 *E. The Director is authorized to receive and to sell, exchange, or otherwise dispose of or invest as*
 192 *he deems proper the moneys, securities, or other real or personal property or any interest therein given*
 193 *or bequeathed to the Department for any of the funds established under this section, unless such action*
 194 *is restricted by the terms of a gift or bequest. The Director may enter into contracts and agreements, as*
 195 *approved by the Attorney General, to accomplish the purposes of these funds. The Director may do any*
 196 *and all lawful acts necessary or appropriate to carry out the purposes for which the above funds were*
 197 *established.*

198 *F. These funds shall not include any gifts of money to the Virginia Land Conservation Foundation or*
 199 *other funds deposited in the Virginia Land Conservation Fund.*

200 § 10.1-400. Definitions.

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

202 "Board" means the Virginia Scenic River Board.

203 "Department" means the Department of Conservation and Recreation.

204 "Director" means the Director of the Department of Conservation and Recreation.

205 "River" means a flowing body of water, or a section or portion thereof.

206 "Scenic river" means a river or section or portion of a river that has been designated a "scenic river"
 207 by an act of the General Assembly *and that possesses superior natural and scenic beauty, fish and*
 208 *wildlife, and historic, recreational, geologic, cultural, and other assets.*

209 "Virginia Scenic Rivers System" means those rivers or sections of rivers designated as a scenic river
 210 by an act of the General Assembly.

211 § 10.1-401. Powers and duties of Director; acquisition of property.

212 A. The Director shall have the duty to:

213 1. Identify rivers or sections of rivers, including their shores and natural environs, which should be
 214 considered for designation because of their scenic, recreational and historic attributes and natural beauty.

215 2. Conduct studies of rivers or sections of rivers to be considered for designation as wild, scenic or
 216 recreational rivers in cooperation with appropriate agencies of the Commonwealth and the United States.

217 3. Recommend to the Governor and to the General Assembly rivers or sections thereof to be
 218 considered for designation as scenic rivers.

219 4. *Appoint, with agreement by the Virginia Scenic River Board, Scenic River Advisory Committees or*
 220 *other local or regional committees of not less than 3 members to consider and manage scenic river*
 221 *interests and issues. The committees shall assist and advise the Director and the local governing body*
 222 *with the protection or management of the scenic river segment in their jurisdiction. The committees may*
 223 *consider and comment to the Director on any federal, state, or local governmental plans to approve,*
 224 *license, fund, or construct facilities that would alter any of the assets that qualified the river for scenic*
 225 *designation.*

226 B. The Director is authorized to acquire in the name of the Commonwealth, either by gift or
 227 purchase, any real property or interest therein which the Director considers necessary or desirable for the
 228 protection of any scenic river, and may retain title to or transfer the property to other state agencies. The
 229 Director may not exercise the right of eminent domain in acquiring any such property or interest.

230 § 10.1-402. Development of water and related resources and evaluation as scenic resource.

231 The Department ~~or administering agency~~ may review and make recommendations regarding all
 232 planning for the use and development of water and related land resources including the construction of
 233 impoundments, diversions, roadways, crossings, channels, locks, canals, or other uses ~~which~~ *that* change
 234 the character of a stream or waterway or destroy its scenic ~~values~~ *assets*, so that full consideration and
 235 evaluation of the river as a scenic resource will be given before alternative plans for use and
 236 development are approved. To effectuate the purposes of this section, all state and local agencies shall
 237 consider the recommendations of the Department ~~or administering agency~~.

238 § 10.1-405. Duties of the Department; eminent domain prohibited.

239 A. The agency designated by the General Assembly Department shall:

240 1. Administer the ~~scenic river or section thereof~~ *Virginia Scenic Rivers System* to preserve and
 241 protect its natural beauty and to assure its use and enjoyment for its scenic, recreational, geologic, fish
 242 and wildlife, historic, cultural or other ~~values~~ *assets* and to encourage the continuance of existing
 243 agricultural, horticultural, forestry and open space land and water uses.

2. Periodically survey ~~the each~~ scenic river and its immediate environs and monitor all existing and proposed uses of ~~the each~~ scenic river and its related land resources.

3. Assist local governments in solving problems associated with the ~~scenic river~~ Virginia Scenic Rivers System, in consultation with the Director, ~~the Board~~, and the ~~Advisory Board~~ advisory committees.

B. The ~~administering agency~~ Department shall not exercise the right of eminent domain to acquire any real property or interest therein for the purpose of providing additional access to ~~the any~~ scenic river. Nothing in this subsection shall limit or modify any powers granted otherwise to any locality.

C. ~~The Department may seek assistance and advice related to the scenic river program from the Department of Game and Inland Fisheries, the Department of Forestry, the Department of Historic Resources, the Virginia Marine Resources Commission, the United States Forest Service, other state and federal agencies and instrumentalities, and affected local governing bodies.~~

D. ~~The Department shall have the following powers, which may be delegated by the Director:~~

1. ~~To make and enter into all contracts and agreements necessary or incidental to the performance of its scenic river duties and the execution of its scenic river powers, including but not limited to contracts with private nonprofit organizations, the United States, other state agencies and political subdivisions of the Commonwealth;~~

2. ~~To accept bequests and gifts of real and personal property as well as endowments, funds, and grants from the United States government, its agencies and instrumentalities, and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable; and~~

3. ~~To conduct fund-raising activities as deemed appropriate related to scenic river issues.~~

§ 10.1-406. Virginia Scenic River Board.

A. ~~Except as provided in § 10.1-412, when the General Assembly acts to include a river or section of river in the Scenic Rivers System, the Governor shall appoint an Advisory Board of residents, including at least one riparian landowner, in the locality or localities of the scenic river or river section and other qualified persons. The Virginia Scenic River Board (the "Board") is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall be composed of 16 voting members as follows: the Director and 15 members-at-large appointed by the Governor. The 15 members-at-large shall initially be appointed for terms of office as follows: 3 for a 1-year term, 4 for a 2-year term, 4 for a 3-year term, and 4 for a 4-year term. The Governor shall designate the term to be served by each appointee at the time of appointment. Appointments thereafter shall be made for 4-year terms. No person shall serve more than 2 consecutive full terms. Any vacancy shall be filled by the Governor for the unexpired term. All terms shall begin July 1. In making appointments, the Governor shall select persons suitably qualified to consider and act upon the various special interests and problems related to scenic river issues. The Advisory Board shall elect a chairman and a vice chairman from among its members-at-large. Members of the Advisory CommitteeBoard shall serve at the pleasure of the Governor and receive no compensation.~~

~~The Director, or his designee, shall serve as executive secretary to the Board.~~

~~The Board shall meet at least 2 times a year with additional meetings at the call of the chairman or the Director. The vice chairman shall fill the position of chairman in the event that the chairman is not available. A majority of the members of the Board shall constitute a quorum of the Board.~~

~~The Board shall have no regulatory authority.~~

B. ~~The Advisory Board shall assist and advise the Governor and the Director and the administering agency concerning the protection or management of the scenic river~~ Virginia Scenic Rivers System. ~~The Advisory Board may~~ Upon the request of the Governor, or the Director, the Board shall institute investigations and make recommendations. The Board shall have general powers and duties to (i) advise the Director on plans for development promulgated by the Northern Virginia Regional Park Authority, prior to their implementation; (ii) formulate recommendations concerning designations for proposed scenic rivers or extensions of existing scenic rivers; (iii) consider and comment to the Director on any federal, state or local governmental plans to approve, license, fund or construct facilities ~~which~~ that would alter ~~the natural, scenic or historic~~ any of the assets ~~which~~ that qualified the river for scenic designation; (iv) assist the Director in reviewing and making recommendations regarding all planning for the use and development of water and related land resources including the construction of impoundments, diversions, roadways, crossings, channels, locks, canals, or other uses that change the character of a stream or waterway or destroy its scenic assets, so that full consideration and evaluation of the river as a scenic resource will be given before alternative plans for use and development are approved; (v) assist the Director in preserving and protecting the natural beauty of the scenic rivers, assuring the use and enjoyment of scenic rivers for fish and wildlife, scenic, recreational, geologic, historic, cultural or other assets, and encouraging the continuance of existing agricultural, horticultural, forestal and open space land and water uses; (vi) advise the Director and the affected local jurisdiction on the impacts of proposed uses of each scenic river and its related land resources; and (vii) assist

305 *local governments in solving problems associated with the Virginia Scenic Rivers System, in consultation*
306 *with the Director.*

307 *§ 10.1-406.1. Powers of local governments.*

308 *In consultation with the Director, local governments shall have the authority, where a committee has*
309 *not been established pursuant to subdivision A 4 of § 10.1-401, to appoint a local scenic river advisory*
310 *committee to advise the local government and the Director in administering that section of designated*
311 *scenic river within the local government's jurisdiction. The committees shall assist and advise the*
312 *Director and the local governing body on the protection or management of the scenic river segment in*
313 *their jurisdiction. The committees may consider and comment to the Director on any federal, state or*
314 *local governmental plans to approve, license, fund or construct facilities that would alter any of the*
315 *assets that qualified the river for scenic designation.*

316 *§ 10.1-409. Appomattox State Scenic River.*

317 *A. The Appomattox River 100 feet from the base of the Lake Chesdin Dam, to the Route 36 bridge*
318 *crossing in the City of Petersburg, a distance of approximately 6.2 miles, is hereby designated a*
319 *component of the Virginia Scenic Rivers System.*

320 *B. The Department of Game and Inland Fisheries is designated to administer the Appomattox State*
321 *Scenic River in accordance with this section.*

322 *C. The Governor, in consultation with the Director and affected local governing bodies, shall appoint*
323 *the Appomattox State Scenic River Advisory Board, which shall be composed of at least three riparian*
324 *landowners within the designated section and other local residents.*

325 *§ 10.1-410. Catoctin Creek State Scenic River.*

326 *A. The Catoctin Creek from bank to bank in Loudoun County from the Town of Waterford to its*
327 *junction with the Potomac River, a distance of approximately sixteen 16 river miles, is hereby*
328 *designated a component of the Virginia Scenic Rivers System.*

329 *B. The Northern Virginia Regional Park Authority is designated to administer the Catoctin Creek*
330 *State Scenic River in accordance with this section.*

331 *C. The Governor, in consultation with the Director and affected local governing bodies, shall appoint*
332 *the Catoctin Creek State Scenic River Advisory Board, which shall be composed of five area residents*
333 *including at least three riparian landowners within the designated section.*

334 *DB. No dam or other structure that impedes the natural flow of Catoctin Creek shall be constructed,*
335 *operated, or maintained within the section of Catoctin Creek designated as a scenic river by this*
336 *legislation unless specifically authorized by an act of the General Assembly.*

337 *As used in this section, the words "dam or other structure" mean any structure extending from bank*
338 *to bank of Catoctin Creek which that will interfere with the normal movement of waterborne traffic,*
339 *interfere with the normal movement of fish or wildlife, raise the water level on the upstream side of the*
340 *structure or lower the water level on the downstream side of the structure.*

341 *§ 10.1-410.1. Chickahominy State Scenic River.*

342 *A. The main channel of the Chickahominy River from the Mechanicsville Turnpike (Route 360)*
343 *eastward until the terminus of the Henrico County/Hanover County border, is hereby designated a*
344 *component of the Virginia Scenic Rivers System.*

345 *B. The Department of Conservation and Recreation is designated to administer this section of the*
346 *Chickahominy River.*

347 *C. The Governor, in consultation with the Boards of Supervisors from Henrico and Hanover*
348 *Counties, shall appoint the Chickahominy Scenic River Advisory Board, which shall be composed of*
349 *seven residents, including a riparian landowner from each county, from within the designated section.*

350 *DB. Nothing in this chapter shall preclude the construction or reconstruction of any road or bridge by*
351 *the Commonwealth or by any county, city or town.*

352 *EC. Nothing in this chapter shall preclude the construction, operation, repair, maintenance, or*
353 *replacement of a natural gas pipeline for which the State Corporation Commission has issued a*
354 *certificate of public convenience and necessity or any connections with such pipeline owned by the*
355 *Richmond Gas Utility and connected to such pipeline.*

356 *§ 10.1-410.2. Clinch State Scenic River.*

357 *A. The Clinch River in Russell County from its confluence with the Little River to the Nash Ford*
358 *Bridge at mile 279.5, a distance of approximately twenty 20 miles and including its tributary, Big Cedar*
359 *Creek from the confluence to mile 5.8 near Lebanon, is hereby designated a component of the Virginia*
360 *Scenic Rivers System.*

361 *B. The Department of Conservation and Recreation is designated to administer the Clinch Scenic*
362 *River.*

363 *C. The Governor, in consultation with the Director and the Russell County Board of Supervisors,*
364 *shall appoint the Clinch Scenic River Advisory Board, which shall be composed of five area residents,*
365 *including at least one riparian landowner, from within the designated section.*

366 *DB. This designation shall not be used:*

1. To designate the lands along the river and its tributaries as unsuitable for mining pursuant to § 45.1-252 or regulations promulgated with respect to such section; however, the Department of Conservation and Recreation shall still be permitted to exercise the powers granted under § 10.1-402; or

2. To be a criterion for purposes of imposing water quality standards under the federal Clean Water Act.

§ 10.1-411. Goose Creek State Scenic River.

A. Goose Creek, from bank to bank in Loudoun County from the Loudoun-Fauquier County line to its junction with the Potomac River, a distance of approximately ~~twenty-eight~~ 28 river miles, is hereby designated a component of the Virginia Scenic Rivers System.

B. The Northern Virginia Regional Park Authority, hereinafter referred to as the Authority, is designated to administer the Goose Creek Scenic River.

C. The Governor, in consultation with the Director, shall appoint the Goose Creek Scenic River Advisory Board, which shall be composed of seven area residents including at least four riparian landowners within the designated section.

D. The Advisory Board shall advise the Director on plans for development promulgated by the Authority, prior to their implementation.

~~E~~B. The Northern Virginia Regional Park Authority is authorized to acquire, either by gift or purchase, any real property or interests therein ~~which~~ that the Northern Virginia Regional Park Authority considers necessary or desirable to provide public use areas as identified in the Goose Creek Scenic River Report published in 1975.

~~F~~C. No new dam or other structure or enlargement of an existing dam or other structure that impedes the natural flow of Goose Creek shall be constructed, operated or maintained within the section of Goose Creek designated as a ~~scenic river~~ Scenic River by this legislation unless specifically authorized by an act of the General Assembly.

As used in this section, the words "dam or other structure" mean any structure extending from bank to bank of Goose Creek ~~which~~ that will interfere with the normal movement of waterborne traffic, interfere with the normal movement of fish or wildlife, or raise the water level on the upstream side of the structure or lower the water level on the downstream side of the structure.

~~G~~D. Nothing in this chapter shall preclude the continued use, operation, and maintenance of the existing Fairfax City water impoundment, or the installation of new water intake facilities in the existing reservoir located within the designated section of Goose Creek.

§ 10.1-411.1. Clinch-Guest State Scenic River.

A. The Clinch River from the Route 58 bridge in St. Paul to the junction with the Guest River, a distance of approximately 9.2 miles, and a segment of the Guest River in Wise County, from a point 100 feet downstream from the Route 72 bridge to its confluence with the Clinch River, a distance of approximately 6.5 miles, are hereby designated a component of the Virginia Scenic Rivers System; however, this description shall not be construed as making the lands along such river unsuitable for underground mining pursuant to § 45.1-252 or regulations promulgated thereunder.

B. The Department of Conservation and Recreation is designated to administer the Clinch-Guest State Scenic River in accordance with this section.

C. The Governor, in consultation with the Director, shall appoint the Clinch-Guest Scenic River Advisory Board, which shall be composed of nine area residents, including at least one riparian landowner on the Clinch River and at least one riparian landowner from within the LENOXISCO Planning District Area.

~~D~~B. Nothing in this chapter shall be construed to prevent the construction, use, operation and maintenance of a natural gas pipeline on or beneath the ~~two~~ 2 existing railroad trestles, ~~one~~ 1 located just south of the Swede Tunnel and the other located just north of the confluence of the Guest River with the Clinch River, or to prevent the use, operation and maintenance of such railroad trestles in furtherance of the construction, operation, use and maintenance of such pipeline. Nothing in this chapter shall be construed to prevent the construction, use, operation and maintenance of a natural gas pipeline traversing the river at, or at any point north of, the existing power line ~~which~~ that is located approximately 200 feet north of the northern entrance to the Swede Tunnel.

~~E~~C. Nothing in this chapter shall preclude the federal government, Commonwealth or a local jurisdiction from constructing or reconstructing any road or bridge.

§ 10.1-412. Historic Falls of the James State Scenic River.

A. The Historic Falls of the James from Orleans Street extended in the City of Richmond westward to the 1970 corporate limits of the city is hereby designated a component of the Virginia Scenic Rivers System.

B. The City of Richmond is designated to administer this section of the James River.

C. The Falls of the James Committee is continued as the Falls of the James Advisory Board, which shall be composed of nine members, including at least five residents of the City of Richmond. The

428 Governor, in consultation with the Director shall appoint four members and the Richmond City Council,
429 shall appoint five members.

430 DB. The City of Richmond shall be allowed to reconstruct, operate and maintain existing facilities at
431 the Byrd Park and Hollywood Hydroelectric Power Stations at current capacity.

432 EC. Nothing in this chapter shall be construed to prevent the Commonwealth, the City of Richmond
433 or any common carrier railroad from constructing or reconstructing floodwalls or public common carrier
434 facilities ~~which~~that may traverse the river, such as road or railroad bridges, raw water intake structures,
435 or water or sewer lines ~~which~~that would be constructed below water level.

436 § 10.1-413. James River State Scenic River.

437 A. That portion of the James River in Botetourt County, from a point ~~two~~ 2 miles southeast of the
438 point where Route 43 (old Route 220) crosses the James River at Eagle Rock running approximately
439 ~~fourteen~~ 14 miles southeastward to the point where Route 630 crosses the James River at Springwood is
440 hereby designated a component of the Virginia Scenic Rivers System.

441 B. ~~The Botetourt County Board of Supervisors is designated to administer this section of the James~~
442 ~~River Scenic River.~~

443 CB. No dam or other structure that impedes the natural flow of the James River in Botetourt County
444 shall be constructed, operated or maintained within the section of the James River designated as a scenic
445 river by this statute unless specifically authorized by an act of the General Assembly.

446 § 10.1-413.1. Moormans State Scenic River.

447 A. The Moormans River in Albemarle County, from the Charlottesville Reservoir to its junction with
448 the Mechums River, is hereby designated a component of the Virginia Scenic Rivers System.

449 B. ~~The County of Albemarle is designated to administer the Moormans Scenic River in accordance~~
450 ~~with this section.~~

451 C. ~~The Governor, in consultation with the Director and the County of Albemarle, shall appoint the~~
452 ~~Moormans Scenic River Advisory Board, which shall be composed of five area residents, including at~~
453 ~~least one riparian landowner, from within the designated section.~~

454 DB. No dam or other structure impeding the natural flow of the river shall be constructed, operated,
455 or maintained unless specifically authorized by an act of the General Assembly.

456 § 10.1-413.2. North Landing and Tributaries State Scenic River.

457 A. The North Landing from the North Carolina line to the bridge at Route 165, the Pocaty River
458 from its junction with the North Landing River to the Blackwater Road bridge, West Neck Creek from
459 the junction with the North Landing River to Indian River Road bridge, and Blackwater Creek from the
460 junction with the North Landing River to the confluence, approximately 4.2 miles, of an unnamed
461 tributary approximately 1.75 miles, more or less, west of Blackwater Road, are hereby designated as
462 components of the Virginia Scenic Rivers System.

463 B. ~~The Department of Conservation and Recreation is designated to administer the North Landing~~
464 ~~and Tributaries Scenic River in accordance with this section.~~

465 C. ~~The Governor, in consultation with the Director and the Cities of Virginia Beach and Chesapeake,~~
466 ~~shall appoint the North Landing and Tributaries Scenic River Advisory Board, which shall be composed~~
467 ~~of five area residents, including at least one riparian landowner, from within the designated section.~~

468 DB. No dam or other structure impeding the natural flow of the river shall be constructed, operated,
469 or maintained unless specifically authorized by an act of the General Assembly.

470 § 10.1-414. Nottoway State Scenic River.

471 A. ~~The Nottoway River in Sussex County and Southampton County, from the Route 40 bridge at~~
472 ~~Stony Creek to the Careys Bridge at Route 653, a distance of approximately 39 1/2 miles, is hereby~~
473 ~~designated a component of the Virginia Scenic Rivers System.~~

474 B. ~~The Department of Conservation and Recreation is designated to administer the Nottoway Scenic~~
475 ~~River in accordance with this section.~~

476 C. ~~The Governor, in consultation with the Director, shall appoint the Nottoway State Scenic River~~
477 ~~Advisory Board. The Advisory Board shall be composed of local residents, including at least four~~
478 ~~riparian landowners within the designated section. An equal number of members of the Advisory Board~~
479 ~~shall be residents of Sussex County and Southampton County.~~

480 § 10.1-415. Rappahannock State Scenic River.

481 A. ~~The mainstem of the Rappahannock River in Rappahannock, Culpeper, Fauquier, Stafford, and~~
482 ~~Spotsylvania Counties and the City of Fredericksburg from its headwaters near Chester Gap to the Ferry~~
483 ~~Farm-Mayfield Bridge, a distance of approximately ~~eighty-six~~86 river miles, is hereby designated a~~
484 ~~component of the Virginia Scenic Rivers System.~~

485 B. ~~The Department of Game and Inland Fisheries is designated to administer the Rappahannock State~~
486 ~~Scenic River.~~

487 C. ~~The Governor shall appoint a Rappahannock Scenic River Advisory Board. The Director shall~~
488 ~~make recommendations to the Governor after consulting with the affected county boards of supervisors~~
489 ~~and the Fredericksburg City Council. The Advisory Board shall be composed of local residents,~~

including riparian landowners within the designated section. Each of the involved counties and the City shall enjoy equal representation on the Advisory Board.

DB. Nothing in this chapter shall preclude the continued operation and maintenance of existing dams in the designated section.

EC. Nothing in this chapter shall preclude the continued operation, maintenance, alteration, expansion, or destruction of the Embrey Dam or its appurtenances by the City of Fredericksburg, including the old VEPCO canal and the existing City Reservoir behind the Embrey Dam, or any other part of the City's waterworks.

FD. Nothing in this chapter shall preclude the Commonwealth, the City of Fredericksburg, or the Counties of Stafford, Spotsylvania, or Culpeper from constructing or reconstructing any road or bridge or from constructing any new raw water intake structures or devices, including pipes and reservoirs but not dams, or laying water or sewer lines below water level.

GE. Nothing in this chapter shall preclude the construction, operation, repair, maintenance, or replacement of the natural gas pipeline, case number PUE 860065, for which the State Corporation Commission has issued a certificate of public convenience and necessity.

§ 10.1-415.1. Rockfish State Scenic River.

A. The Rockfish River in Albemarle and Nelson Counties from the Route 693 bridge in Schuyler to its confluence with the James River, a distance of approximately 9.75 miles, is hereby designated a component of the Virginia Scenic Rivers System.

B. The Department of Conservation and Recreation is designated to administer the Rockfish State Scenic River in accordance with this section.

C. The Governor, in consultation with the Director and the Nelson County and Albemarle County Boards of Supervisors, shall appoint the Rockfish State Scenic River Advisory Board, which shall be composed of five area residents, including at least one riparian landowner, from within the designated section.

DB. Nothing in this chapter shall preclude the Commonwealth or local governing body from constructing or reconstructing any road or bridge.

§ 10.1-416. Rivanna State Scenic River.

A. The river, stream or waterway known as the Rivanna from the base of the dam of the woolen mills in the City of Charlottesville to the junction of the Rivanna with the James River, a distance of approximately ~~thirty-seven~~³⁷ miles, is hereby designated the Rivanna Scenic River, a component of the Virginia Scenic Rivers System.

B. The Department is designated to administer the Rivanna State Scenic River.

C. The Governor, in consultation with the Director and the Counties of Albemarle and Fluvanna, shall appoint the Rivanna Scenic River Advisory Board, which shall be composed of seven area residents, including at least one riparian landowner, from within the designated section.

DB. No dam or other structure impeding the natural flow of the river shall be constructed, operated, or maintained unless specifically authorized by an act of the General Assembly.

§ 10.1-417. Shenandoah State Scenic River.

A. The Shenandoah River in Clarke County from the Warren-Clarke County line to the Virginia line, a distance of approximately 21.6 miles, is hereby designated a component of the Virginia Scenic Rivers System.

B. The Department of Game and Inland Fisheries is designated to administer the Shenandoah State Scenic River.

C. The Governor shall appoint the Shenandoah State Scenic River Advisory Board. The Director shall make recommendations to the Governor after consulting with the Clarke County Board of Supervisors. The Advisory Board shall be composed of local residents, a majority of whom shall be riparian landowners within the designated section.

DB. No dam or other structure that impedes the natural flow of the Shenandoah River shall be constructed, operated, or maintained within the section of the Shenandoah River designated as a scenic river by this legislation unless specifically authorized by an act of the General Assembly.

As used in this section, the words "dam or other structure" mean any structure extending from bank to bank of the Shenandoah River ~~which~~^{that} will interfere with the normal movement of fish or wildlife, raise the water level on the upstream side of the structure or lower the water level on the downstream side of the structure.

§ 10.1-418. Staunton State Scenic River.

A. The river, stream or waterway known as the Staunton or the Roanoke from State Route 360 to State Route 761 at the Long Island Bridge, a distance of approximately ~~40.5~~^{51.3} river miles, is hereby designated the Staunton State Scenic River, a component of the Virginia Scenic Rivers System.

B. The Department of Game and Inland Fisheries is designated to administer the Staunton State Scenic River.

§ 10.1-418.1. North Meherrin State Scenic River.

A. The North Meherrin River in Lunenburg County from the Route 712 Bridge to the junction with the South Meherrin River, a distance of approximately 7.5 miles, is hereby designated a component of the Virginia Scenic Rivers System.

B. The Department of Conservation and Recreation is designated to administer the North Meherrin State Scenic River.

C. The Governor, in consultation with the Director and the Board of Supervisors of Lunenburg County, shall appoint a North Meherrin Scenic River Advisory Board, which shall be composed of five area residents, including at least one riparian landowner, from within the designated section.

§ 10.1-418.2. Historic Lower James State Scenic River.

A. In keeping with the public policy of the Commonwealth to conserve the portions of certain rivers possessing superior natural beauty, thereby assuring their use and enjoyment for their fish and wildlife, historic, scenic, recreational, geologic, cultural and other assets, that portion of the Lower James River in Charles City, James City and Surry Counties, from an unnamed tributary to the James River approximately 1.2 miles east of Trees Point in Charles City County (northside) and Upper Chippokes Creek (southside) to Grices Run (northside) and Lawnes Creek (southside) is hereby declared to be an historic river with noteworthy scenic and ecological qualities and is hereby designated a component of the Virginia Scenic Rivers System.

B. In all planning for the use and development of water and related land resources that changes the character of a stream or waterway or destroys its historic, scenic or ecological assets, full consideration and evaluation of the river as an historic, scenic, and ecological resource shall be given before such work is undertaken. Alternative solutions shall also be considered before such work is undertaken.

C. Nothing in this designation shall impair the powers and duties of the local jurisdictions listed above or the Virginia Department of Transportation.

§ 10.1-418.3. St. Mary's State Scenic River.

A. As the authority of the federal government over the St. Mary's River prevents the Commonwealth from legally including the river as a component of the Virginia Scenic Rivers System, the segment of the St. Mary's River from its headwaters to the border of the George Washington National Forest, all on national forest property, is hereby recognized as one of Virginia's Scenic River resources and is worthy of designation as such.

B. All land and water uses along this portion of the St. Mary's River that are permitted by law shall not be restricted.

C. The Department shall consult with the Augusta County Board of Supervisors and the Supervisor of the George Washington National Forest on matters related to this Scenic River.

§ 10.1-705. Definitions.

As used in this article, unless the context requires a different meaning:

"Agency of this Commonwealth" includes the government of this Commonwealth and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this Commonwealth.

"Board" means the Board of Conservation and Development of Public Beaches Recreation.

"Develop" or "development" means the replenishment and restoration of existing public beaches.

"Erosion" means the process of destruction by the action of wind, water, or ice of the land bordering the tidal waters of the Commonwealth.

"Government" or "governmental" includes the government of this Commonwealth, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

"Locality" means a county, city or town.

"Program" means the provisions of the Public Beach Conservation and Development Act.

"Public beach" means a sandy beach located on a tidal shoreline suitable for bathing in a county, city or town and open to indefinite public use.

"Reach" means a shoreline segment wherein there is mutual interaction of the forces of erosion, sediment transport and accretion.

"United States" or "agencies of the United States" includes the United States of America, the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

§ 10.1-707. Board duties; allocation of funds.

A. The Board on Conservation and Development of Public Beaches is continued and shall be composed of eight members as follows: the Directors of the Virginia Marine Resources Commission, and the Department of Conservation and Recreation or their designees and six members-at-large appointed by the Governor for four-year terms. Members-at-large who have served two successive full terms shall be ineligible for reappointment until four years have elapsed since their last appointment. All terms shall begin July 1, and appointments to fill vacancies occurring shall be for the unexpired term. A

chairman shall be selected from among the members-at-large.

BA. The Board shall (i) review the financial needs of localities for implementation of this article; (ii) determine successful applicants; (iii) determine the equitable allocation of funds among participating localities except for allocations provided for in the current general appropriations act; and (iv) oversee local implementation of approved projects.

C. ~~The Board shall meet once prior to the beginning of each fiscal year to receive applications for grants from localities and to determine the allocation of such grants, and as often throughout the year as necessary.~~

DB. The Department shall provide the Board with staff assistance and shall maintain necessary financial records.

E. ~~Board members shall be compensated at the rate and manner provided by § 2.2-2813.~~

§ 10.1-709. Establishment of fund; unexpended money.

A. A special fund to be known as the *Public Beach Maintenance and Development Fund* shall be established to provide grants to local governments covering up to one-half of the costs of erosion abatement measures designed to conserve, protect, improve, maintain and develop public beaches. No grants to any locality shall exceed thirty percent of the money appropriated to such fund for the biennium unless otherwise provided for in the current general appropriations act. Money appropriated from such fund shall be matched equally by local funds. Federal funds shall not be used by localities to match money given from the fund. Localities may, however, combine state and local funds to match federal funds for purposes of securing federal grants. *Interest earned or moneys received by the fund shall remain in the fund and be credited to it. Any money remaining in the fund at the close of the first fiscal year of a biennium shall not revert to the general fund and shall be reappropriated and allotted.*

B. *Up to \$250,000 per year of the money deposited to the fund including interest accrued may be used for the Board's administrative and operating expenses including but not limited to expenses of the Board and its members, and expenses related to duties outlined in §§ 10.1-701, 10.1-702, 10.1-703, 10.1-706, and 10.1-707. All such expenditures shall be subject to approval by the Board.*

BC. Money ~~which~~ that remains ~~unexpended~~ unobligated by the Board from the fund at the end of the biennium for which it was appropriated shall be retained and shall become a Special Emergency Assistance Fund to be used at the discretion of the Governor for the emergency conservation and development of public beaches damaged or destroyed by an unusually severe storm, hurricane or other natural disaster.

§ 28.2-1100. Virginia Institute of Marine Science continued; duties.

The Virginia Institute of Marine Science shall hereafter be referred to as the Institute. The Institute shall:

1. Conduct studies and investigations of the seafood and commercial fishing and sport fishing industries;

2. Consider ways to conserve, develop and replenish fisheries resources and advise the Marine Resources Commission and other agencies and private groups on these matters;

3. Conduct studies of problems pertaining to the other segments of the maritime economy;

4. Conduct studies of marine pollution in cooperation with the State Water Control Board and the Department of Health and make the data and their recommendations available to the appropriate agencies;

5. Conduct hydrographic and biological studies of the Chesapeake Bay, its tributaries, and all the tidal waters of the Commonwealth and the contiguous waters of the Atlantic Ocean;

6. Engage in research in the marine sciences;

7. Conduct such special studies and investigations concerning these subjects as requested by the Governor; and

8. Engage in research and provide training, technical assistance and advice to the Board ~~on~~ of Conservation and Development of Public Beaches Recreation on erosion along tidal shorelines, the Soil and Water Conservation Board on matters relating to tidal shoreline erosion, and to other agencies upon request.

These studies shall include consideration of the seafood and other marine resources, such as the waters, bottoms, shore lines, tidal wetlands, and beaches, and all matters related to marine waters and the means by which marine resources might be conserved, developed and replenished.

§ 63.2-226. Duties of Department.

The Department shall assume administrative responsibilities for the statewide system ~~in conformance with standards and policies recommended by the Council~~. In this capacity, the Department shall establish an office to:

1. Provide staff support to the Council;

2. Develop a plan for the design and implementation of a statewide human services information and referral program ~~conforming to the standards and policies recommended by the Council and submit the~~

674 plan to the Council for review;

675 32. Coordinate and supervise the implementation and operation of the information and referral
676 program;

677 43. Coordinate funding for the system;

678 54. Select regional providers of information and referral services;

679 65. Supervise coordination of information management among information and referral regions across
680 the Commonwealth;

681 76. Encourage effective relationships between the system and state and local agencies and public and
682 private organizations;

683 87. Develop and implement a statewide publicity effort;

684 98. Provide training, technical assistance, research, and consultation for regional and local
685 information and referral centers, and to localities interested in developing information and referral
686 services;

687 109. Determine a core level of services to be funded from state government resources;

688 110. Coordinate standardization of resource data collection, maintenance and dissemination;

689 121. Stimulate and encourage the availability of statewide information and referral services; and

690 132. Develop and implement a program for monitoring and assessing the performance and success
691 of the information and referral program and present an annual report to the Council evaluating the
692 effectiveness of the system.

693 § 63.2-227. Regional providers; duties.

694 There shall be established a regional system of providers of information and referral services. The
695 Council shall define the boundaries of the regions, and the Department shall select the regional providers
696 according to standards and policies established by the Council.

697 The regional providers shall:

698 1. Collect, maintain and disseminate resource data;

699 2. Provide citizen access to information about resources throughout the Commonwealth;

700 3. Assist in planning functions by providing selected data to the Department on a regular basis;

701 4. Provide data to public and private agencies other than the Department on a contractual basis;

702 5. Cooperate with the state administering agency;

703 6. Seek funds from available sources;

704 7. Maintain effective relationships between the system and state and local agencies and public and
705 private organizations; and

706 8. When feasible and appropriate and within the limits of available funds, establish satellite offices or
707 develop cooperative agreements with local information and referral groups and resource and referral
708 groups that can assist the regional providers in performing their duties and responsibilities.

709 § 63.2-608. Virginia Initiative for Employment Not Welfare (VIEW).

710 A. The Department shall establish and administer the Virginia Initiative for Employment Not Welfare
711 (VIEW) to reduce long-term dependence on welfare, to emphasize personal responsibility and to enhance
712 opportunities for personal initiative and self-sufficiency by promoting the value of work. The
713 Department shall endeavor to develop placements for VIEW participants that will enable participants to
714 develop job skills that are likely to result in independent employment and that take into consideration
715 the proficiency, experience, skills and prior training of a participant.

716 VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance
717 recipients and shall include a written agreement of personal responsibility requiring parents to participate
718 in work activities while receiving TANF, earned-income disregards to reduce disincentives to work, and
719 a limit on TANF financial assistance.

720 VIEW shall require all able-bodied recipients of TANF who do not meet an exemption and who are
721 not employed within ninety days of receipt of TANF benefits to participate in a work activity. VIEW
722 shall require eligible TANF recipients to participate in unsubsidized, partially subsidized or fully
723 subsidized employment and enter into an agreement of personal responsibility. If recipients cannot be
724 placed in an unsubsidized or subsidized job, they shall be required to participate in a six-month
725 community work experience placement. Upon completion of the initial six-month work requirement,
726 participants may receive education and training in conjunction with continued work experience to make
727 them more employable.

728 B. To the maximum extent permitted by federal law, and notwithstanding other provisions of
729 Virginia law, the Department and local departments may, through applicable procurement laws and
730 regulations, engage the services of public and private organizations to operate VIEW and to provide
731 services incident to such operation.

732 C. All VIEW participants shall be under the direction and supervision of a case manager.

733 D. The Department shall ensure that participants are assigned to one of the following employment
734 categories in priority order not less than ninety days after TANF eligibility determination:

735 1. Unsubsidized private-sector employment;

2. Subsidized employment, as follows:

a. The Department shall conduct a program in accordance with this section and any applicable federal waivers that shall be known as the Full Employment Program (FEP). FEP replaces TANF and food stamp benefits with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for both TANF and food stamp benefits shall participate in FEP unless exempted by this chapter. FEP shall assign participants to and subsidize wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the workforce.

b. The Department shall administer a wage fund that shall be used exclusively to meet the necessary expenditures of FEP. Funds to operate FEP, drawn from funds appropriated for expenditure by or apportioned to Virginia for operation of the TANF and food stamp programs, shall be deposited in this pool. All payments by the Department to participating employers for FEP participants shall be made from the pool.

c. Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. For each participant hour worked, the Department shall reimburse the employer the amount of the federal or state minimum wage and costs up to the available amount of the participant's combined value of TANF and food stamps. At no point shall a participant's spendable income received from wages and tax credits be less than the value of TANF and food stamps received prior to the work placement.

d. Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers shall ensure that jobs made available to FEP participants are in conformity with § 3304 (a) (5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

e. FEP employers shall:

(i) Endeavor to make FEP placements positive learning and training experiences;

(ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;

(iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;

(iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the same basis that they are provided to other employees performing the same type of work and having similar employment experience and tenure;

(v) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than those in which other employees perform the same type of work;

(vi) Provide workers' compensation coverage for participants;

(vii) Encourage volunteer mentors from among their other employees to assist participants in becoming oriented to work and the workplace; and

(viii) Sign an agreement with the local department outlining the employer requirements to participate in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in the event the employer violates FEP rules.

f. As a condition of FEP participation, employers shall be prohibited from discriminating against any person, including program participants, on the basis of race, color, sex, national origin, religion, age, or disability;

3. Part-time or temporary employment; or

4. Community work experience, as follows:

a. The Department and local departments shall work with other state, regional and local agencies and governments in developing job placements that serve a useful public purpose as provided in § 482 (f) of the Social Security Act, as amended. Placements shall be selected to provide skills and serve a public function. VIEW participants shall not displace regular workers.

b. The number of hours per week for participants shall be determined by combining the total dollar amount of TANF and food stamps and dividing by the minimum wage with a maximum of a work week of thirty-two hours, of which up to eight hours of employment-related education and training may substitute for work experience employment.

E. Notwithstanding the provisions of subsections A and D, if a local department determines that a VIEW participant is in need of job skills and would benefit from immediate job skills training, it may, with the participant's consent, exempt the participant from job search requirements and place the participant in a career and technical education program targeted to skills required for particular employment opportunities in the locality if the participant meets two or more of the criteria specified in this subsection. Eligible participants include those with problems related to obtaining and retaining employment, such as participants (i) with less than a high school education, (ii) whose reading or math skills are at or below the eighth grade level, (iii) who have not retained a job for a period of at least six months during the prior two years, or (iv) who are in a treatment program for a substance abuse

problem or are receiving services through a family violence treatment program. The career and technical education program shall be for a minimum of thirty hours per week. Prior to placing the VIEW participant in the career and technical program, the local department shall have a memorandum of understanding with an employer that such participant will be placed, if qualified and the employer has an opening, in a job with the employer at the conclusion of the program. The VIEW participant shall be required to work an average of eight hours per week during the vocational educational program in part-time or temporary employment or community work experience. The VIEW participant may continue in the career and technical education program for as long as the local department determines he is progressing satisfactorily and to the extent permitted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

~~F. Notwithstanding the provisions of subsections A and D, persons eligible to participate in TANF shall also be eligible to participate in approved projects established through the Economic and Employment Improvement Program for Disadvantaged Persons of Chapter 7 (§ 63.2-700 et seq.) of this title.~~

~~G F.~~ Participants may be reevaluated after a period determined by the local department and reassigned to another work component. In addition, the number of hours worked may be reduced by the local department so that a participant may complete additional training or education to further his employability.

~~H G.~~ Local departments shall be authorized to sanction participants up to the full amount of the TANF grant and food stamps allotment for noncompliance.

~~I H.~~ VIEW participants shall not be assigned to projects that require that they travel unreasonable distances from their homes or remain away from their homes overnight without their consent.

Any injury to a VIEW participant by accident arising out of and in the course of community work experience shall be covered by the participant's existing Medicaid coverage. If a community work experience participant is unable to work due to such an accident, his status shall be reviewed to determine whether he is eligible for an exemption from the limitation on TANF financial assistance.

A community work experience participant who becomes incapacitated for thirty days or more shall be eligible for TANF financial assistance for the duration of the incapacity, if otherwise eligible.

The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent mechanism for community work experience participants.

2. That Article 14 (§§ 2.2-2642 and 2.2-2643) and Article 19 (§§ 2.2-2652, 2.2-2653, and 2.2-2654) of Chapter 26 of Title 2.2 of the Code of Virginia, Chapter 2.1 (§§ 10.1-218 through 10.1-225) of Title 10.1 and Chapter 4.1 (§ 10.1-419) of Title 10.1 of the Code of Virginia, §§ 32.1-162.14, 32.1-328, 63.2-223, 63.2-224, 63.2-225, and 63.2-228 of the Code of Virginia, and Chapter 7 (§§ 63.2-700, 63.2-701, and 63.2-703) of Title 63.2 of the Code of Virginia are repealed.

3. That House Joint Resolution No. 278 of the Acts of Assembly of 1979 is repealed.

4. That all rules and regulations adopted by the Board on the Conservation and Development of Public Beaches that are in effect as of the effective date of this act shall remain in full force and effect until amended or rescinded by the Board of Conservation and Recreation. The Board of Conservation and Recreation shall promulgate as soon as practicable any necessary changes to the regulations to complete the consolidation of the Boards.

5. That of the members currently serving on the Board of Conservation and Recreation, the Virginia State Parks Foundation, and the Board on Conservation and Development of Public Beaches, a minimum of 2 members of each shall be appointed by the Governor to new first-term appointments to the reconstituted Board of Conservation and Recreation.

6. That all assets remaining in the Virginia State Parks Foundation Fund, established pursuant to former § 10.1-221, shall be deposited in the State Park Projects Fund established pursuant to subsection D of § 10.1-202.

7. That the Department of Conservation and Recreation shall submit a report to the Governor and the General Assembly in 2009, no later than November 1, that evaluates the effectiveness of the Virginia Scenic River Board. The Department shall examine the activities of the Board, determine whether the Board should be continued, abolished or modified, and recommend other improvements for the administration of the Virginia Scenic Rivers System. The report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports.