

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 633

An Act to amend and reenact §§ 2.2-720, 3.1-14, 3.1-73.5, 3.1-249.29, 4.1-115, 5.1-30.9, 10.1-1018, 10.1-1021, 10.1-1322, 15.2-5912, 17.1-100, 22.1-209.1:3, 23-1.01, 23-9.2:3.1, 23-38.84, 30-34.15, 30-84, 59.1-369, 62.1-222, and 63.2-1529 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 10.1-1018.1 and 30-19.8:1; and to repeal §§ 23-101 and 23-102 of the Code of Virginia and the second enactment clause of Chapter 996 of the Acts of Assembly of 1996, relating to certain reporting requirements of agencies and collegial bodies.

[H 2321]

Approved March 23, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-720, 3.1-14, 3.1-73.5, 3.1-249.29, 4.1-115, 5.1-30.9, 10.1-1018, 10.1-1021, 10.1-1322, 15.2-5912, 17.1-100, 22.1-209.1:3, 23-1.01, 23-9.2:3.1, 23-38.84, 30-34.15, 30-84, 59.1-369, 62.1-222, and 63.2-1529 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-1018.1 and 30-19.8:1 as follows:

§ 2.2-720. (Expires July 1, 2006) Alzheimer's Disease and Related Disorders Commission.

A. The Alzheimer's Disease and Related Disorders Commission (Commission) is established as an advisory commission in the executive branch of state government. The purpose of the entity is to assist people with Alzheimer's disease and related disorders and their caregivers.

B. The Commission shall consist of 15 nonlegislative citizen members. Members shall be appointed as follows: three members to be appointed by the Speaker of the House of Delegates; two members to be appointed by the Senate Committee on Privileges and Elections; and 10 members to be appointed by the Governor, of whom seven shall be from among the boards, staffs, and volunteers of the Virginia chapters of the Alzheimer's Disease and Related Disorders Association and three shall be from the public at large.

Initial appointments of nonlegislative citizen members shall be staggered as follows:

1. Two gubernatorial appointees shall be appointed for a term of one year each;

2. One member appointed by the Speaker of the House of Delegates and two gubernatorial appointees shall be appointed for a term of two years each;

3. Two members, one appointed by the Speaker of the House of Delegates and one appointed by the Senate Committee on Privileges and Elections, and three gubernatorial appointees shall be appointed for a term of three years each; and

4. Two members, one appointed by the Speaker of the House of Delegates and one appointed by the Senate Committee on Privileges and Elections, and three gubernatorial appointees shall be appointed for a term of four years each.

Thereafter, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and ~~vice-chairman~~ *vice chairman* from among its membership. A majority of the voting members shall constitute a quorum. The Commission shall meet at least four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the voting members so request.

C. Members shall receive such compensation for the discharge of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department for the Aging.

D. The Commission shall have the following powers and duties:

1. Examine the needs of persons with Alzheimer's disease and related disorders, as well as the needs of their caregivers, and ways that state government can most effectively and efficiently assist in meeting those needs;

2. Advise the Governor and General Assembly on policy, funding, regulatory and other issues related to persons suffering from Alzheimer's disease and related disorders and their caregivers;

3. Develop the Commonwealth's plan for meeting the needs of patients with Alzheimer's disease and related disorders and their caregivers, and advocate for such plan;

4. Submit a report, *including an executive summary*, by October 1 of each year to the Governor and General Assembly regarding the activities and recommendations of the Commission; and

5. Establish priorities for programs among state agencies related to Alzheimer's disease and related disorders and criteria to evaluate these programs.

E. The Department for the Aging shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

F. The Commission may apply for and expend such grants, gifts or bequests from any source as may become available in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in connections therewith.

G. ~~The Chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.~~

H. This section shall expire on July 1, 2006.

§ 3.1-14. Powers and duties in general; rules and regulations of Board of Agriculture and Consumer Services; records to be held in confidence.

A. 1. The Commissioner shall see to the proper execution of the laws relating to the subject of his Department, and he shall investigate and promote such subjects relating to the improvement of agriculture, the beneficial use of commercial fertilizer and compost, and for the inducement of immigration and capital, and he shall be especially charged with the supervision of the trade in commercial fertilizers as will best protect the interests of the farmers with the enforcement of the laws which are or may be enacted in this Commonwealth concerning the sale of commercial fertilizers, seed and food products, with authority in the Board of Agriculture and Consumer Services to make rules and regulations governing the same, and to publish them as required by law. He shall ensure that, unless an intent is expressly stated otherwise, the term "horse" or "equine," when used in this title, shall be considered to mean an agricultural or livestock animal.

2. He shall be charged with the inducement of capital and immigration, by the dissemination of information relative to the advantages of soil, climate, healthfulness and markets of this Commonwealth, and to resources and industrial opportunities offered in the Commonwealth as he may deem useful, and also with investigation adapted to promote the improvement of milk and beef cattle and other stock.

3. He, or his duly authorized representative, shall have the authority, as provided in § 59.1-308.2, to inquire into consumer complaints regarding violations of § 46.2-1231 or § 46.2-1233.1 involving businesses engaged in towing vehicles or to refer the complaint directly to the appropriate local enforcement officials.

4. He, or his duly authorized representative, shall establish mechanisms by which to receive complaints and related inquiries from Virginia consumers involving violations or alleged violations of any law designed to protect the integrity of consumer transactions in the Commonwealth. Such mechanisms shall include, but are not limited to, establishing a statewide, toll-free telephone hotline to be administered by the Department; publicizing the existence of such hotline through public service announcements on television and radio and in newspapers and other media deemed necessary, convenient, or appropriate; and enhancing electronic communication with the Department through computer networks such as the Internet, the World Wide Web, America ~~On Line~~ Online, and Virginia ~~On Line~~ Online.

5. He, or his duly authorized representative, shall establish and administer programs ~~which~~ that facilitate resolution of complaints and related inquiries from Virginia consumers involving violations or alleged violations of any law designed to protect the integrity of consumer transactions in the Commonwealth. Such programs shall be developed in cooperation with the Office of the Attorney General and may utilize paid or unpaid personnel, law schools or other institutions of higher education, community dispute resolution centers, or any other private or public entity, including any local offices of consumer affairs established pursuant to § 15.2-963 which volunteer to participate in a program.

~~6. He shall submit an annual written report on or before January 15 to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation, and Natural Resources on his activities pursuant to this subdivision and subdivision 4 of this subsection during the preceding calendar year.~~

6. He shall have such other powers and duties as are prescribed by law.

B. The Commissioner shall hold the following records of the Department in confidence unless otherwise directed by the Governor or Board:

1. Schedules of work for regulatory inspection;

2. Trade secrets and commercial or financial information supplied by individuals or business entities to the Department;

3. Reports of criminal violations made to the Department by persons outside the Department;

4. Records of active investigations until the investigations are closed;

5. Financial records of applicants for assistance from the Virginia Farm Loan Revolving Account except those records which are otherwise a matter of public record;

6. Tax returns required by the agricultural commodity commissions established pursuant to this title

to the extent necessary to protect the privacy of individual taxpayers.

§ 3.1-73.5. Commissioner to manage farmers' market operations.

A. In order to establish, operate and maintain a system of state-owned farmers' market facilities within the Commonwealth, the Commissioner or his designee shall have the authority to carry out the provisions of this article, including the power to:

1. Cooperate with various state agencies and other organizations contributing to the development of the farmers' market system;

2. Develop and implement policy for the management of state-owned farmers' market facilities, including:

a. Guidelines for fees to be charged at the markets;

b. Standards for evaluating market operations;

c. Criteria for the expansion of existing state-owned farmers' market facilities and the establishment of new markets in the future;

d. Changes in management of markets; and

e. Guidelines for the award of contracts for market management;

3. Employ such personnel as necessary to operate the system of markets in accordance with the Virginia Personnel Act (§ 2.2-2900 et seq.);

4. Receive and dispense funds;

5. Develop and manage a program budget for the farmers' market system;

6. Provide marketing and promotional services for the farmers' market system;

7. Develop detailed technical plans for, acquire or build, and manage the farmers' market system;

8. Conduct such studies as are necessary to ensure the success of the farmers' market system;

9. Make contracts and agreements and execute other instruments necessary for the operation of the farmers' market system;

10. Enter into agreements with and accept grants from any governmental agency in furtherance of this article;

11. Enter into joint ventures with cities, towns, counties or combinations thereof in developing wholesale, shipping point, and retail farmers' markets; and

12. Rent or purchase land and facilities as deemed necessary to establish markets or to enhance farmers market development.

B. If a market in the network is operated pursuant to a contract between the Commissioner and the market operator, such contract shall require that the operator annually submit to the Commissioner a plan for, and a report on, the operation of the market. The plan shall describe the operator's goals for the coming year as to the acreage to be served by the market, the types of crops to be sold at the market, and the number of brokers, buyers and producers to utilize the market. The report shall describe the extent to which the goals for the previous year were met. The Commissioner shall ~~annually~~ submit a *an annual report on or before February 1* summarizing the market operators' reports and plans to the Chairmen of the House Committee on Agriculture, *Chesapeake, and Natural Resources*, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Appropriations, and the Senate Committee on Finance.

C. The Commissioner shall report annually to the Board of Agriculture and Consumer Services regarding the receipt and expenditure of funds as well as the policies, programs and activities of the market operators in the state-owned farmers' market facilities.

§ 3.1-249.29. Powers and duties of the Board.

The Board shall have the power and duty to carry out the provisions of this chapter and is authorized to:

1. Appoint such advisory committees as necessary to implement this chapter;

2. Contract for research projects and establish priorities;

3. ~~Publish an annual statistical report and biennial progress report for the Governor and General Assembly;~~

4. Consult with the Department of Environmental Quality regarding compliance with the applicable waste management regulations for the safe and proper disposal of pesticide concentrates, used pesticide containers, and unused pesticides;

5. Consult with the Virginia Department of Labor and Industry regarding compliance with the applicable standards and regulations needed to ensure safe working conditions for pest control and agricultural workers;

6. Consult with the Department of Game and Inland Fisheries regarding standards for the protection of wildlife and fish and to further promote cooperation with respect to programs established by the Department of Game and Inland Fisheries for the protection of endangered or threatened species;

7. Inform the citizens of Virginia as to the desirability and availability of nonchemical and less toxic alternatives to chemical pesticides and the benefits of the safe and proper use of pest control products while promoting the use of integrated pest management techniques and encouraging the development of nonchemical and less toxic alternatives to chemical pesticides;

8. Require that pesticides used in Virginia are adequately tested and are safe for use under local

conditions;

9 8. Require that individuals who sell, store or apply pesticides commercially are adequately trained and observe appropriate safety practices;

10 9. Cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this Commonwealth or political subdivision, or with an agency of another state, in order to promote the purposes of this chapter; and

11 10. Consult with the Department of Health regarding compliance with public health standards.

§ 4.1-115. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this title. Additionally, the Board shall submit an annual report to the Governor and General Assembly on or before ~~October 1~~ *of December 15* each year, which shall contain:

1. A statement of the nature and amount of the business transacted by each government store during the year;

2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and such other financial statements and matters as may be necessary to show the result of the operations of the Board for the year;

3. A statement showing the taxes collected under this title during the year;

4. General information and remarks about the working of the alcoholic beverage control laws within the Commonwealth; and

5. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

§ 5.1-30.9. Report to the General Assembly and Governor.

The Board, in conjunction with the Authority, shall report annually *on or before December 1* to the General Assembly and the Governor on all loans made from the Fund.

§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies; compensation and expenses.

A. The Foundation shall be governed and administered by a Board of Trustees. The Board shall consist of 18 members that include 17 citizen members and one ex officio voting member as follows: four citizen members, who may be members of the House of Delegates, to be appointed by the Speaker of the House of Delegates and, if such members are members of the House of Delegates, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two citizen members, who may be members of the Senate, to be appointed by the Senate Committee on Privileges and Elections; 11 nonlegislative citizen members, one from each congressional district, to be appointed by the Governor; and the Secretary of Natural Resources, or his designee, to serve ex officio with voting privileges. Nonlegislative citizen members shall be appointed for four-year terms, except that initial appointments shall be made for terms of one to four years in a manner whereby no more than six members shall have terms that expire in the same year. Legislative members and the ex officio member shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. However, no Senate member shall serve more than two consecutive four-year terms, no House member shall serve more than four consecutive two-year terms and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Nonlegislative citizen members shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and conservation, construction and real estate development, natural habitat protection, environmental resource inventory and identification, forestry management, farming, farmland preservation, fish and wildlife management, historic preservation, and outdoor recreation. At least one of the nonlegislative citizen members shall be a farmer. Members of the Board shall post bond in the penalty of \$5,000 with the State Comptroller prior to entering upon the functions of office.

B. The Secretary of Natural Resources shall serve as the chairman of the Board of Trustees. The chairman shall serve until his successor is appointed. The members appointed as provided in subsection A shall elect a ~~vice-chairman~~ *vice chairman* annually from among the members of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The board shall meet at the call of the chairman or whenever a majority of the members so request.

C. Trustees of the Foundation shall receive no compensation for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties on behalf of the Foundation as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of

the members shall be provided by the Department of Conservation and Recreation.

D. The chairman of the Board and any other person designated by the Board to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other appropriate issues from a task force consisting of the following agency heads or their designees: the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services, the State Forester, the Director of the Department of Historic Resources, the Director of the Department of Game and Inland Fisheries and the Executive Director of the Virginia Outdoors Foundation. The Board may request any other agency head to serve on or appoint a designee to serve on the task force.

F. ~~The chairman of the Board shall submit to the Governor and the General Assembly a biennial executive summary of the interim activity and work of the Board no later than the first day of each even-numbered year regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.~~

§ 10.1-1018.1. Reporting.

The chairman of the Board shall submit to the Governor and the General Assembly, including the Chairmen of the House Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Finance, and the Senate Committee on Agriculture, Conservation and Natural Resources, and to the Director of the Department of Planning and Budget an executive summary and report of the interim activity and work of the Board on or before December 15 of each even-numbered year. The document shall report on the status of the Foundation and its Fund including, but not limited to, (i) implementation of its strategic plan; (ii) land conservation targeting tools developed for the Foundation; (iii) descriptions of projects that received funding; (iv) a description of the geographic distribution of land protected as provided in § 10.1-1021.1; (v) expenditures from, interest earned by, and financial obligations of the Fund; and (vi) progress made toward recognized state and regional land conservation goals. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 10.1-1021. Powers of the Foundation.

In order to carry out its purposes, the Foundation shall have the following powers and duties:

1. To prepare a comprehensive plan that recognizes and seeks to implement all of the purposes for which the Foundation is created. In preparing this plan, the Foundation shall:

a. Develop a strategic plan for the expenditure of unrestricted moneys received by the Fund. In developing a strategic plan for expending unrestricted moneys from the Fund, the Board of Trustees shall establish criteria for the expenditure of such moneys. The plan shall take into account the purposes for which restricted funds have been expended or earmarked. Such criteria may include:

- (i) (1) The ecological, outdoor recreational, historic, agricultural and forestal value of the property;
- (ii) (2) An assessment of market values;
- (iii) (3) Consistency with local comprehensive plans;
- (iv) (4) Geographical balance of properties and interests in properties to be purchased;
- (v) (5) Availability of public and private matching funds to assist in the purchase;
- (vi) (6) Imminent danger of loss of natural, outdoor, recreational or historic attributes of a significant portion of the land;
- (vii) (7) Economic value to the locality and region attributable to the purchase; and
- (viii) (8) Advisory opinions from local governments, state agencies or others;

b. Develop an inventory of those properties in which the Commonwealth holds a legal interest for the purpose set forth in subsection A of § 10.1-1020;

c. Develop a needs assessment for future expenditures from the Fund. In developing the needs assessment, the Board of Trustees shall consider among others the properties identified in the following: (i) Virginia Outdoors Plan, (ii) Virginia Natural Heritage Plan, (iii) Virginia Institute of Marine Science Inventory, (iv) Virginia Joint Venture Board of the North American Waterfowl Management Plan, and (v) Virginia Board of Historic Resources Inventory. In addition, the Board shall consider any information submitted by the Department of Agriculture and Consumer Services on farmland preservation priorities and any information submitted by the Department of Forestry on forest land initiatives and inventories; and

d. Maintain the inventory and needs assessment on an annual basis.

2. To expend directly or allocate the funds received by the Foundation to the appropriate state agencies for the purpose of acquiring those properties or property interests selected by the Board of Trustees. In the case of restricted funds the Board's powers shall be limited by the provisions of § 10.1-1022.

3. To submit a report biennially on the status of the Fund to the Governor and the General Assembly

including, but not limited to, (i) implementation of its strategic plan, (ii) projects under consideration for acquisition with Fund moneys, and (iii) expenditures from the Fund, including a description of the extent to which such expenditures have achieved a fair geographic distribution of land protected as provided in § 10.1-1021.1.

4. To enter into contracts and agreements, as approved by the Attorney General, to accomplish the purposes of the Foundation.

§ 4. To receive and expend gifts, grants and donations from whatever source to further the purposes set forth in subsection B of § 10.1-1020.

6 5. To sell, exchange or otherwise dispose of or invest as it deems proper the moneys, securities, or other real or personal property or any interest therein given or bequeathed to it, unless such action is restricted by the terms of a gift or bequest. However, the provisions of § 10.1-1704 shall apply to any diversion from open-space use of any land given or bequeathed to the Foundation.

7 6. To conduct fund-raising events as deemed appropriate by the Board of Trustees.

8 7. To do any and all lawful acts necessary or appropriate to carry out the purposes for which the Foundation and Fund are established.

§ 10.1-1322. Permits.

A. Pursuant to regulations adopted by the Board, permits may be issued, amended, revoked or terminated and reissued by the Department and may be enforced under the provisions of this chapter in the same manner as regulations and orders. Failure to comply with any condition of a permit shall be considered a violation of this chapter and investigations and enforcement actions may be pursued in the same manner as is done with regulations and orders of the Board under the provisions of this chapter.

B. The Board by regulation may prescribe and provide for the payment and collection of annual permit program fees for air pollution sources. Annual permit program fees shall not be collected until (i) the federal Environmental Protection Agency approves the Board's operating permit program established pursuant to Title V of the federal Clean Air Act or (ii) the Governor determines that such fees are needed earlier to maintain primacy over the program. The annual fees shall be based on the actual emissions (as calculated or estimated) of each regulated pollutant, as defined in § 502 of the federal Clean Air Act, in tons per year, not to exceed 4,000 tons per year of each pollutant for each source. The annual permit program fees shall not exceed a base year amount of \$25 per ton using 1990 as the base year, and shall be adjusted annually by the Consumer Price Index as described in § 502 of the federal Clean Air Act. Permit program fees for air pollution sources who receive state operating permits in lieu of Title V operating permits shall be paid in the first year and thereafter shall be paid biennially. The fees shall approximate the direct and indirect costs of administering and enforcing the permit program, and of administering the small business stationary source technical and environmental compliance assistance program as required by the federal Clean Air Act. The Board shall also collect permit application fee amounts not to exceed \$30,000 from applicants for a permit for a new major stationary source. The permit application fee amount paid shall be credited towards the amount of annual fees owed pursuant to this section during the first two years of the source's operation. The fees shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

C. When adopting regulations for permit program fees for air pollution sources, the Board shall take into account the permit fees charged in neighboring states and the importance of not placing existing or prospective industry in the Commonwealth at a competitive disadvantage.

D. On or before January 1, 1993, and December 1 of every even-numbered year thereafter, the Department shall make an evaluation of the implementation of the permit fee program and provide this evaluation in writing to the Senate Committee on Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources, and the House Committee on Finance. This evaluation shall include a report on the total fees collected, the amount of general funds allocated to the Department, the Department's use of the fees and the general funds, the number of permit applications received, the number of permits issued, the progress in eliminating permit backlogs, and the timeliness of permit processing.

E. To the extent allowed by federal law and regulations, priority for utilization of permit fees shall be given to cover the costs of processing permit applications in order to more efficiently issue permits.

F. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund appropriation to the Department.

G. The permit fees shall apply to permit programs in existence on July 1, 1992, any additional permit programs that may be required by the federal government and administered by the Board, or any new permit program required by the Code of Virginia.

H. The permit program fee regulations promulgated pursuant to this section shall not become effective until July 1, 1993.

I. [Expired.]

§ 15.2-5912. Additional duties.

In addition to the duties set forth elsewhere in this chapter, the Authority shall:

1. Keep records as are consistent with sound business practices and accounting records using

generally accepted accounting practices;

2. Cause an audit by an independent certified public accountant to be made of accounts and transactions at the conclusion of each fiscal year;

3. Be subject to audit and examination at any reasonable time of its accounts and transactions by the Auditor of Public Accounts; and

4. Submit a detailed ~~annual~~ report of ~~its~~ *any* activities and *change in* financial standing to the Governor and to the General Assembly.

§ 17.1-100. Judicial performance evaluation program.

The Supreme Court, by rule, shall establish and maintain a judicial performance evaluation program that will provide a self-improvement mechanism for judges and a source of information for the reelection process. By September 1 of each year, the Supreme Court, or its designee, shall transmit a report of the evaluation in the final year of the term of each justice and judge whose term expires during the next session of the General Assembly to the Chairmen of the House and Senate Committees for Courts of Justice. ~~This~~ *The reporting requirement of this section shall become effective on January 1, 2004 when funds are appropriated for this program and the first justice or judge is evaluated.*

§ 22.1-209.1:3. Advancement Via Individual Determination (AVID) Programs.

A. With such funds as may be appropriated by the General Assembly for this purpose, local school boards may establish Advancement Via Individual Determination Programs in their respective school divisions to prepare at-risk students enrolled in the secondary grades in the public schools of the school division for post-secondary education eligibility.

B. Any school board adopting the Advancement Via Individual Determination Program shall establish policies and guidelines to ensure compliance with the provisions of this section. Programs established pursuant to subsection A ~~of this section~~ shall include the following components:

1. A procedure for identifying at-risk students enrolled in the secondary grades in the public schools of the school division who demonstrate academic potential, a desire to attend college, and the willingness to pursue a rigorous academic program of study or the advanced studies program leading to eligibility for college admission;

2. A procedure for obtaining participation in or support for the program by the parent, guardian or other person having charge or control of a child engaged in the program;

3. An agreement executed with a two-year or four-year institution of higher education located within or in the proximity of the school division to provide relevant support services including, but not limited to, access to advanced course work, student mentorships and tutorials, and cultural and enrichment experiences;

4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students;

5. An emphasis on college preparation and college awareness, access to advanced level college preparatory courses at the high school level, building self-esteem and the promotion of personal and social responsibility, the availability of support services for students enrolled in the AVID Program, and the development and fostering of a positive attitude toward learning and the advantages of higher education;

6. A low pupil-teacher ratio to promote a high level of interaction between the students and the teacher;

7. A current program of staff development and training in the organizational structure, instructional methods, strategies, and process used in and unique to the AVID Program for all teachers and administrators assigned to the program;

8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children;

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in preparing students participating in the program for college, increasing academic achievement, and lessening the need for remediation of such students who attend college.

C. Upon completion of the initial school year of the Advancement Via Individual Determination Program and at least annually thereafter, each school board implementing such program shall require submission of interim evaluation reports of the program. *If funded by an appropriation pursuant to subsection A*, each school board having an Advancement Via Individual Determination Program ~~pursuant to subsection A of this section~~ shall report the status, effectiveness, and results of such program no later than November 30 of the year following the completion of the initial school year ~~and annually thereafter~~ to the Board of Education, which shall transmit such reports to the Governor and the General Assembly.

§ 23-1.01. Annual reports required of boards of visitors.

The ~~boards~~ *board* of visitors of each institution of higher education shall submit ~~an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain, at a minimum,~~ the annual financial statements for the year ending the preceding June 30 and the accounts and status of any ongoing capital projects *to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133.*

§ 23-9.2:3.1. Authority to establish incentives for voluntary early retirement; eligibility; contents of

plans.

A. The board of visitors or other governing body of any public institution of higher education may establish a compensation plan designed to provide incentives for voluntary early retirement of teaching and research staff employed in nonclassified, faculty positions. Participation in such compensation plan shall be voluntary for eligible employees and no employee shall be penalized in any way for not participating.

B. In order to qualify for participation in such compensation plan, an eligible faculty employee shall (i) be at least ~~sixty~~ 60 years of age; (ii) have completed at least ~~ten~~ 10 years of full-time service at the institution offering the plan; (iii) have been awarded tenure or have a contractual right to continued employment; (iv) agree to withdraw from active membership in the Virginia Retirement System; and (v) comply with any additional criteria established by the governing body of the institution.

C. Any compensation plan established pursuant to this section shall include the institutional needs and objectives to be served, the kind of incentives to be offered, the sources of available funding for implementation, and any additional qualifications required of eligible faculty employees established by the governing body of the institution. Any such compensation plan shall explicitly reserve to the governing body of the institution the authority to modify, amend or repeal the plan. However, no such amendment, modification or repeal shall be effective as to any individual who retires under the plan prior to the effective date of the amendment, modification or repeal.

D. The cash payments offered under any such compensation plan shall not exceed 150 percent of the employee's base annual salary reflected in the Personnel Management Information System at the time of election to participate. Any such payment shall be allocated over at least two years. Such compensation may include payment of insurance benefits by the institution until the participant reaches the age of ~~sixty-five~~ 65. The total cost in any fiscal year for any compensation plan established under this section shall not exceed one percent of the institution's corresponding fiscal year state general fund appropriation for faculty salaries and associated benefits.

E. The Governor may establish, with the assistance of the State Council of Higher Education, uniform criteria for such compensation plans. Prior to the adoption, modification, amendment or repeal of any such compensation plan, the Governor's approval shall be obtained by the governing body of the institution. *The Governor shall provide a copy of each approved plan to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.* All compensation plans shall be reviewed for legal sufficiency by the Office of the Attorney General prior to adoption, modification, amendment or repeal.

F. The Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to the establishment of such compensation plans or any implementing regulations or criteria.

G. ~~Each public institution of higher education establishing such compensation plan shall report to the Governor on the implementation of the plan by October 31 of each year. A report on approved plans shall be provided by the Governor to the Chairmen of the House Appropriations and Senate Finance Committees by December 15 of each year.~~

§ 23-38.84. Annual report.

The Board shall submit an annual statement *on or before December 15* of the receipts, disbursements, and current investments of the Plan for the preceding year to the Governor, the Senate Committee on Finance, and the House Committees on Appropriations and Finance. The report shall set forth a complete operating and financial statement covering the operation of the Plan during the year and shall include a statement of projected receipts, disbursements, investments, and costs for the further operation of the Plan.

§ 30-19.8:1. Due dates for legislative reports.

A. *Legislative commissions, councils, and other legislative bodies required to report annually to the General Assembly and Governor shall submit their annual reports on or before June 30 of each year, unless otherwise specified. Annual reports submitted pursuant to this section shall cover the preceding legislative interim period and may include actions taken by the General Assembly during the regular session of the current calendar year.*

B. *Joint subcommittees, joint committees, and other legislative entities required or requested by law or resolution to conduct a study shall submit their reports no later than June 30 of the reporting year, unless otherwise specified. The reports may include actions taken by the General Assembly during the regular session of the current calendar year.*

§ 30-34.15. Submission of reports and executive summaries to the legislative branch.

A. Any report required or requested by law or resolution to be submitted to the General Assembly shall be submitted to the Division of Legislative Automated Systems as provided in the procedures for the processing of legislative documents. Such submission shall satisfy the requirement for communication to the General Assembly.

B. Any report required or requested by law or resolution to be submitted to any committee, subcommittee, commission, agency, or other body within the legislative branch or to the chairman or agency head of such entity shall also be submitted to the Division of Legislative Automated Systems as provided in the procedures for the processing of legislative documents and reports.

C. The reports submitted to the Division of Legislative Automated Systems shall include a ~~separate~~ *an* executive summary. The Division shall post the executive summary and the report on the website of the General Assembly and develop a notification process to inform interested persons of such postings. *Any requirement for a separate executive summary may be satisfied by the submission of a report with an executive summary.*

D. *The Director of the Division of Legislative Automated Systems and the publishing authority may enter into agreements to provide equivalent access to the report or the information contained in the report and such access shall satisfy the submission requirement of this section.*

E. Nothing in this section shall be construed to require the release of information otherwise held confidential by law.

§ 30-84. Funding for Commission's oversight activities.

The Commission's reasonable and necessary expenses related to its duties under this chapter shall be paid by the Retirement System and shall be borne by each trust fund in the System in the same ratio as the assets of each trust fund, as of the preceding June 30, bear to the total trust funds of the System on that date. On or before September 30 of each year, the Commission shall submit to the Board of Trustees of the Virginia Retirement System an itemized estimate for the next fiscal year of the amounts necessary to pay the Commission's expenses related to its duties under this chapter. ~~A copy of the Commission's estimated expenses shall at that time be provided and shall include the estimate as part of the agency's budget submission to the House Appropriations Committee on Appropriations and the Senate Finance Committee on Finance.~~

§ 59.1-369. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under the provisions of this chapter including all persons conducting, participating in, or attending any race meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require the production of an annual balance sheet and operating statement of any person licensed or granted a permit pursuant to the provisions of this chapter and may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of an unlimited license to schedule not less than 150 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days based on what the Commission deems to be in the best interest of the Virginia horse industry. Such regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission which owns a horse racetrack in the Commonwealth. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

5. The Commission shall promulgate regulations and conditions regulating and controlling a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of Title 15 of the United States Code, and in which an

individual may establish an account with an entity, approved by the Commission, to place pari-mutuel wagers in person or electronically. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to any such entity or entities pursuant to § 59.1-375 to operate pari-mutuel wagering in the Commonwealth, (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10 of this section, and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school, or any public college or university. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

Notwithstanding the provisions of § 59.1-392, the allocation of revenue from a method of pari-mutuel wagering in which an individual may establish an account with an entity approved by the Commission to place pari-mutuel wagers in person or electronically shall include a licensee fee to the Commission, and shall be subject to a contractual agreement, approved by the Commission, between such entity and an unlimited licensee and representatives of the recognized majority horsemen groups concerning the distribution of the remaining portion of the retainage. Nothing in this subdivision shall be construed to limit the Commission's authority as set forth elsewhere in this section.

6. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

7. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

8. The Commission may enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better ensure the proper conduct of horse racing.

9. The Commission shall report annually *on or before March 1* to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission.

10. The Commission may order such audits, in addition to those required by § 59.1-394, as it deems necessary and desirable.

11. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this chapter immediately report the complaint to the Attorney General of the Commonwealth and the State Police for appropriate action.

12. The Commission shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds for such withholdings.

13. The Commission, its representatives and employees may, within the enclosure, stable, or other facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document or record indicative of a violation of any provision of this chapter or Commission regulations may be seized as evidence of such violation. All permit holders consent to the searches and seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and effect until modified by the Commission in accordance with law.

14. The Commission shall require the existence of a contract between the licensee and the recognized majority horseman's group providing for purses and prizes. Such contract shall be subject to the approval of the Commission, which shall have the power to approve or disapprove any of its items, including but not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first \$75 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of five percent in the horsemen's purse account, (ii) for any amount in excess of \$75 million but less than \$150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of \$150 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within five days from the date on which the

licensee receives wagers.

15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an applicant prior to the applicant securing the approval through the local referendum required by § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

§ 62.1-222. Annual reports; audit.

The Authority shall, following the close of each fiscal year, submit an annual report *on or before December 1* of its activities for the preceding year to the Governor *and General Assembly*. ~~The Clerk of each House of the General Assembly may receive a copy of the report by making a request for it to the chairman of the Authority.~~ Each report shall set forth a complete operating and financial statement for the Authority during the fiscal year it covers. An independent certified public accountant or the Auditor of Public Accounts shall perform an audit of the books and accounts of the Authority at least once in each fiscal year.

§ 63.2-1529. Evaluation of the child-protective services differential response system.

The Department shall evaluate and report on the impact and effectiveness of the implementation of the child-protective services differential response system in meeting the purposes set forth in this chapter. The evaluation shall include, but is not limited to, the following information: changes in the number of investigations, the number of families receiving services, the number of families rejecting services, the effectiveness of the initial assessment in determining the appropriate level of intervention, the impact on out-of-home placements, the availability of needed services, community cooperation, successes and problems encountered, the overall operation of the child-protective services differential response system and recommendations for improvement. The Department shall submit annual reports *on or before December 15* to the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services.

2. That §§ 23-101 and 23-102 of the Code of Virginia and the second enactment clause of Chapter 996 of the Acts of Assembly of 1996 are repealed.