

12106110D

**HOUSE BILL NO. 1295**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Joint Conference Committee  
on March 10, 2012)

(Patron Prior to Substitute—Delegate Byron)

A *BILL to amend and reenact §§ 2.2-1124, 2.2-4303, 2.2-4343, 5.1-40, 15.2-968.1, 15.2-1643, 15.2-2223.1, 22.1-18.1, 22.1-92, 22.1-129, 22.1-275.1, 37.2-504, 37.2-508, 42.1-36.1, and 51.5-89 of the Code of Virginia, and to repeal § 2 of the first enactment of Chapter 814 of the Acts of Assembly of 2010, relating to the elimination of various mandates on local and regional entities relating to procurement procedures, education, and land use.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1124, 2.2-4303, 2.2-4343, 5.1-40, 15.2-968.1, 15.2-1643, 15.2-2223.1, 22.1-18.1, 22.1-92, 22.1-129, 22.1-275.1, 37.2-504, 37.2-508, 42.1-36.1, and 51.5-89 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-1124. Disposition of surplus materials.

A. "Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, but shall not include property as defined in § 2.2-1147 that is determined to be surplus. Surplus materials shall not include finished products that a mental health or mental retardation facility sells for the benefit of its patients or residents, provided that (i) most of the supplies, equipment, or products have been donated to the facility; (ii) the patients or residents of the facility have substantially altered the supplies, equipment, or products in the course of occupational or other therapy; and (iii) the substantial alterations have resulted in a finished product.

B. The Department shall establish procedures for the disposition of surplus materials from departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or agencies of the Commonwealth;

2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge;

3. Permit public sales or auctions, including online public auctions, provided that the procedures provide for sale to all political subdivisions and any volunteer rescue squad or volunteer fire department established pursuant to § 15.2-955 any surplus materials prior to such public sale or auction;

4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service departments for the purpose of resale at cost to TANF recipients;

5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as children's homes;

6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified in this section;

7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to be derived therefrom or (b) the surplus material is not suitable for sale;

8. Permit any dog especially trained for police work to be sold at an appropriate price to the handler who last was in control of the dog, which sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);

9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency of the Commonwealth for distribution to needy individuals by and through local social services boards;

10. Encourage the recycling of paper products, beverage containers, electronics, and used motor oil;

11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

12. Permit donations of surplus computers and related equipment to public schools in the Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income families. For the purposes of this subdivision, "at-risk youths" means school-age children approved eligible to receive free or reduced price meals in the federally funded lunch program;

13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public television stations located in the state and other nonprofit organizations approved for the distribution of federal surplus materials;

14. Permit a public institution of higher education to dispose of its surplus materials at the location

HOUSE  
SUBSTITUTE

HB1295H2

60 where the surplus materials are held and to retain any proceeds from such disposal, provided that the  
61 institution meets the conditions prescribed in subsection B of § 23-38.88 and § 23-38.112 (regardless of  
62 whether or not the institution has been granted any authority under Subchapter 3 (§ 23-38.91 et seq.) of  
63 Chapter 4.10 of Title 23); and

64 15. Require, to the extent practicable, the recycling and disposal of computers and other information  
65 technology assets. Additionally, for computers or information technology assets that may contain  
66 confidential state data or personal identifying information of citizens of the Commonwealth, the  
67 Department shall ensure all policies for the transfer or other disposition of computers or information  
68 technology assets are consistent with data and information security policies developed by the Virginia  
69 Information Technologies Agency.

70 C. The Department shall dispose of surplus materials pursuant to the procedures established in  
71 subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose  
72 of its surplus materials consistent with the procedures so established. No surplus materials shall be  
73 disposed of without prior consent of the head of the department, division, institution, or agency of the  
74 Commonwealth in possession of such surplus materials or the Governor.

75 D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may  
76 donate surplus materials only under the following circumstances:

77 1. Emergencies declared in accordance with § 44-146.18:2 or 44-146.28;

78 2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains  
79 a description of the surplus materials, the method by which the surplus materials shall be distributed,  
80 and the anticipated recipients, and (b) such information shall be provided by the Department to the  
81 Department of Planning and Budget in sufficient time for inclusion in the budget bill;

82 3. When the market value of the surplus materials, which shall be donated for a public purpose, is  
83 less than \$500; however, the total market value of all surplus materials so donated by any department,  
84 division, institution, or agency shall not exceed 25 percent of the revenue generated by such  
85 department's, division's, institution's, or agency's sale of surplus materials in the fiscal year, except these  
86 limits shall not apply in the case of surplus computer equipment and related items donated to Virginia  
87 public schools; or

88 4. During a local emergency, upon written request of the head of a local government or a political  
89 subdivision in the Commonwealth to the head of a department, division, institution, or agency.

90 E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of  
91 the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming  
92 fiscal year pursuant to subdivision B 6.

93 F. The Department may make available to any local public body of the Commonwealth the services  
94 or facilities authorized by this section; however, the furnishing of any such services shall not limit or  
95 impair any services normally rendered any department, division, institution or agency of the  
96 Commonwealth. All public bodies shall be authorized to use the services of the Department's Surplus  
97 Property Program under the guidelines established pursuant to this section and the surplus property  
98 policies and procedures of the Department. Proceeds from the sale of the surplus property shall be  
99 returned to the local body minus a service fee. The service fee charged by the Department shall be  
100 consistent with the fee charged by the Department to state public bodies.

101 § 2.2-4303. Methods of procurement.

102 A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for  
103 the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or  
104 competitive negotiation as provided in this section, unless otherwise authorized by law.

105 B. Professional services shall be procured by competitive negotiation.

106 C. Upon a determination made in advance by the public body and set forth in writing that  
107 competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods,  
108 services, or insurance may be procured by competitive negotiation. The writing shall document the basis  
109 for this determination.

110 Upon a written determination made in advance by (i) the Governor or his designee in the case of a  
111 procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local  
112 governing body in the case of a procurement by a political subdivision of the Commonwealth, that  
113 competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured  
114 through a licensed agent or broker selected in the manner provided for the procurement of things other  
115 than professional services in subdivision 3 b of the definition of "competitive negotiation" in § 2.2-4301.  
116 The basis for this determination shall be documented in writing.

117 D. Construction may be procured only by competitive sealed bidding, except that competitive  
118 negotiation may be used in the following instances upon a determination made in advance by the public  
119 body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally  
120 advantageous to the public, which writing shall document the basis for this determination:

121 1. By the Commonwealth, its departments, agencies and institutions on a fixed price design-build

122 basis or construction management basis under § 2.2-4306;

123 2. By any public body for the construction of highways and any draining, dredging, excavation,  
124 grading or similar work upon real property;

125 3. By any governing body of a locality with a population in excess of 100,000, provided that the  
126 locality has the personnel, procedures, and expertise to enter into a contract for construction on a fixed  
127 price or not-to-exceed price design-build or construction management basis and shall otherwise be in  
128 compliance with the provisions of this section, § 2.2-4308, and other applicable law governing  
129 design-build or construction management contracts for public bodies other than the Commonwealth. The  
130 procedures of the local governing body shall be consistent with the two-step competitive negotiation  
131 process established in § 2.2-4301; or

132 4. As otherwise provided in § 2.2-4308.

133 E. Upon a determination in writing that there is only one source practicably available for that which  
134 is to be procured, a contract may be negotiated and awarded to that source without competitive sealed  
135 bidding or competitive negotiation. The writing shall document the basis for this determination. The  
136 public body shall issue a written notice stating that only one source was determined to be practicably  
137 available, and identifying that which is being procured, the contractor selected, and the date on which  
138 the contract was or will be awarded. This notice shall be posted on the Department of General Services'  
139 central electronic procurement website or other appropriate websites, and in addition, public bodies may  
140 publish in a newspaper of general circulation on the day the public body awards or announces its  
141 decision to award the contract, whichever occurs first. Posting on the Department of General Services'  
142 central electronic procurement website shall be required of any state public body. Local public bodies  
143 are encouraged to utilize the Department of General Services' central electronic procurement website to  
144 provide the public with centralized visibility and access to the Commonwealth's procurement  
145 opportunities.

146 F. In case of emergency, a contract may be awarded without competitive sealed bidding or  
147 competitive negotiation; however, such procurement shall be made with such competition as is  
148 practicable under the circumstances. A written determination of the basis for the emergency and for the  
149 selection of the particular contractor shall be included in the contract file. The public body shall issue a  
150 written notice stating that the contract is being awarded on an emergency basis, and identifying that  
151 which is being procured, the contractor selected, and the date on which the contract was or will be  
152 awarded. This notice shall be posted on the Department of General Services' central electronic  
153 procurement website or other appropriate websites, and in addition, public bodies may publish in a  
154 newspaper of general circulation on the day the public body awards or announces its decision to award  
155 the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of  
156 General Services' central electronic procurement website shall be required of any state public body.  
157 Local public bodies are encouraged to utilize the Department of General Services' central electronic  
158 procurement website to provide the public with centralized visibility and access to the Commonwealth's  
159 procurement opportunities.

160 G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive  
161 sealed bids or competitive negotiation for single or term contracts for goods and services other than  
162 professional services if the aggregate or the sum of all phases is not expected to exceed \$100,000;  
163 however, such small purchase procedures shall provide for competition wherever practicable. *For local*  
164 *public bodies, such purchase procedures may allow for single or term contracts for professional services*  
165 *without requiring competitive negotiation, provided the aggregate or the sum of all phases is not*  
166 *expected to exceed \$60,000.*

167 ~~Purchases~~ *For state public bodies, purchases* under this subsection that are expected to exceed  
168 \$30,000 shall require the ~~(i)~~ written informal solicitation of a minimum of four bidders or offerors. ~~and~~  
169 ~~(ii) posting of~~ *All public bodies proceeding with purchases under this subsection shall post* a public  
170 notice on the Department of General Services' central electronic procurement website or other  
171 appropriate websites. Posting on the Department of General Services' central electronic procurement  
172 website shall be required of any state public body. Local public bodies are encouraged to utilize the  
173 Department of General Services' central electronic procurement website to provide the public with  
174 centralized visibility and access to the Commonwealth's procurement opportunities.

175 H. A *state* public body may establish purchase procedures, if adopted in writing, not requiring  
176 competitive negotiation for single or term contracts for professional services if the aggregate or the sum  
177 of all phases is not expected to exceed \$50,000; however such small purchase procedures shall provide  
178 for competition wherever practicable.

179 I. Upon a determination made in advance by a public body and set forth in writing that the purchase  
180 of goods, products or commodities from a public auction sale is in the best interests of the public, such  
181 items may be purchased at the auction, including online public auctions. Purchase of information  
182 technology and telecommunications goods and nonprofessional services from a public auction sale shall

183 be permitted by any authority, department, agency, or institution of the Commonwealth if approved by  
184 the Chief Information Officer of the Commonwealth. The writing shall document the basis for this  
185 determination. However, bulk purchases of commodities used in road and highway construction and  
186 maintenance, and aggregates shall not be made by online public auctions.

187 *J.I.* The purchase of goods or nonprofessional services, but not construction or professional services,  
188 may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway  
189 construction and maintenance, and aggregates shall not be made by reverse auctioning.

190 § 2.2-4343. Exemption from operation of chapter for certain transactions.

191 A. The provisions of this chapter shall not apply to:

192 1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10  
193 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by  
194 the Board of Commissioners and approved by the Department of General Services, procedures to ensure  
195 fairness and competitiveness in the procurement of goods and services and in the administration of its  
196 capital outlay program. This exemption shall be applicable only so long as such policies and procedures  
197 meeting the requirements remain in effect.

198 2. The Virginia Retirement System for selection of services related to the management, purchase or  
199 sale of authorized investments, actuarial services, and disability determination services. Selection of these  
200 services shall be governed by the standard set forth in § 51.1-124.30.

201 3. The State Treasurer in the selection of investment management services related to the external  
202 management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to  
203 competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by  
204 the Department of General Services.

205 4. The Department of Social Services or local departments of social services for the acquisition of  
206 motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

207 5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University  
208 of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to  
209 the management and investment of their endowment funds, endowment income, gifts, all other  
210 nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant  
211 to § 23-44.1, 23-50.10:01, 23-76.1, or 23-122.1. However, selection of these services shall be governed  
212 by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) as required by  
213 §§ 23-44.1, 23-50.10:01, 23-76.1, and 23-122.1.

214 6. The Board of the Virginia College Savings Plan for the selection of services related to the  
215 operation and administration of the Plan, including, but not limited to, contracts or agreements for the  
216 management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting  
217 services. However, such selection shall be governed by the standard set forth in § 23-38.80.

218 7. Public institutions of higher education for the purchase of items for resale at retail bookstores and  
219 similar retail outlets operated by such institutions. However, such purchase procedures shall provide for  
220 competition where practicable.

221 8. The purchase of goods and services by agencies of the legislative branch that may be specifically  
222 exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the  
223 Senate. Nor shall the contract review provisions of § 2.2-2011 apply to such procurements. The  
224 exemption shall be in writing and kept on file with the agency's disbursement records.

225 9. Any town with a population of less than 3,500, except as stipulated in the provisions of  
226 §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and  
227 2.2-4367 through 2.2-4377.

228 10. Any county, city or town whose governing body has adopted, by ordinance or resolution,  
229 alternative policies and procedures which are (i) based on competitive principles and (ii) generally  
230 applicable to procurement of goods and services by such governing body and its agencies, except as  
231 stipulated in subdivision 12.

232 This exemption shall be applicable only so long as such policies and procedures, or other policies  
233 and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town.  
234 Such policies and standards may provide for incentive contracting that offers a contractor whose bid is  
235 accepted the opportunity to share in any cost savings realized by the locality when project costs are  
236 reduced by such contractor, without affecting project quality, during construction of the project. The fee,  
237 if any, charged by the project engineer or architect for determining such cost savings shall be paid as a  
238 separate cost and shall not be calculated as part of any cost savings.

239 11. Any school division whose school board has adopted, by policy or regulation, alternative policies  
240 and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement  
241 of goods and services by the school board, except as stipulated in subdivision 12.

242 This exemption shall be applicable only so long as such policies and procedures, or other policies or  
243 procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This  
244 provision shall not exempt any school division from any centralized purchasing ordinance duly adopted

245 by a local governing body.

246 12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of  
247 subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330,  
248 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply to all counties, cities  
249 and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

250 The method for procurement of professional services set forth in subdivision 3 a of § 2.2-4301 in the  
251 definition of competitive negotiation shall also apply to all counties, cities and school divisions, and to  
252 all towns having a population greater than 3,500, where the cost of the professional service is expected  
253 to exceed \$50,000 ~~\$60,000~~ in the aggregate or for the sum of all phases of a contract or project. ~~For~~  
254 ~~procurements where the cost of the professional service is not expected to exceed \$50,000 in the~~  
255 ~~aggregate or for the sum of all phases of a contract or project, subsection H of § 2.2-4303 shall apply.~~ A  
256 school board that makes purchases through its public school foundation or purchases educational  
257 technology through its educational technology foundation, either as may be established pursuant to  
258 § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases,  
259 the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

260 13. A public body that is also a utility operator may purchase services through or participate in  
261 contracts awarded by one or more utility operators that are not public bodies for utility marking services  
262 as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of  
263 services under this subdivision may deviate from the procurement procedures set forth in this chapter  
264 upon a determination made in advance by the public body and set forth in writing that competitive  
265 sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is  
266 awarded based on competitive principles.

267 14. Procurement of any construction or planning and design services for construction by a Virginia  
268 nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design  
269 or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit  
270 corporation or organization is obligated to conform to procurement procedures that are established by  
271 federal statutes or regulations, whether those federal procedures are in conformance with the provisions  
272 of this chapter.

273 15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and  
274 Interpreting the Executive Mansion.

275 16. The Eastern Virginia Medical School in the selection of services related to the management and  
276 investment of its endowment and other institutional funds. The selection of these services shall, however,  
277 be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.).

278 17. The Department of Corrections in the selection of pre-release and post-incarceration services.

279 18. The Board of the Chippokes Plantation Farm Foundation in entering into agreements with  
280 persons for the construction, operation, and maintenance of projects consistent with the Chippokes  
281 Plantation State Park Master Plan approved by the Director of the Department of Conservation and  
282 Recreation pursuant to the requirements of § 10.1-200.1 and designed to further an appreciation for rural  
283 living and the contributions of the agricultural, forestry, and natural resource based industries of the  
284 Commonwealth, provided such projects are supported solely by private or nonstate funding.

285 19. The University of Virginia Medical Center to the extent provided by subdivision B 3 of  
286 § 23-77.4.

287 20. The purchase of goods and services by a local governing body or any authority, board,  
288 department, instrumentality, institution, agency or other unit of state government when such purchases  
289 are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or  
290 by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

291 21. The contract by community services boards or behavioral health authorities with an administrator  
292 or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

293 22. (Contingent expiration date, see note.) Procurement of any construction or planning and design  
294 services and contracts with or assigned to George Mason University by the corporation or other legal  
295 entity created by the board of visitors of George Mason University for the establishment and operation  
296 of the branch campus of George Mason University in the Republic of Korea, pursuant to § 23-91.29:1.

297 B. Where a procurement transaction involves the expenditure of federal assistance or contract funds,  
298 the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or  
299 regulations not in conformance with the provisions of this chapter, a public body may comply with such  
300 federal requirements, notwithstanding the provisions of this chapter, only upon the written determination  
301 of the Governor, in the case of state agencies, or the governing body, in the case of political  
302 subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the  
303 public interest. Such determination shall state the specific provision of this chapter in conflict with the  
304 conditions of the grant or contract.

305 § 5.1-40. Lease of land acquired; approval by Department.

306 Any ~~city, town or county~~ *political subdivision or privately owned, licensed public use airport*  
307 acquiring land under the provisions of this article may individually, or jointly where so operated, lease  
308 the same, or any part thereof, to any individual or corporation desiring to use the same for the purpose  
309 of operating an airport or landing field, or for the purpose of landing or starting airplanes therefrom or  
310 for other aviation purposes, and on such terms and subject to such conditions and regulations as may be  
311 provided; and any ~~city, town or county~~ *political subdivision or privately owned, licensed public use*  
312 *airport* may enter into a contract in the form of a lease providing for the use of such land, or any part  
313 thereof, by the government of the United States for the use by the government of such land for aviation,  
314 mail delivery or other aviation purposes upon nominal or other rental or without consideration; provided  
315 that such lease to an individual or a corporation or to the government of the United States shall not be  
316 of any force, effect or validity until the same shall be approved by the Department the political  
317 *subdivision or privately owned, licensed, public use airport certifies that the lease meets the terms and*  
318 *provisions of any and all state and federal grants.*

319 § 15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals.

320 A. The governing body of any county, city, or town may provide by ordinance for the establishment  
321 of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle  
322 for failure to comply with traffic light signals in such locality in accordance with the provisions of this  
323 section. Each such locality may install and operate traffic light signal photo-monitoring systems at no  
324 more than one intersection for every 10,000 residents within each county, city, or town at any one time,  
325 provided, however, that within planning District 8, each such locality may install and operate traffic  
326 light signal photo-monitoring systems at no more than 10 intersections, or at no more than one  
327 intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any  
328 one time.

329 B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section  
330 if such vehicle is found, as evidenced by information obtained from a traffic light signal violation  
331 monitoring system, to have failed to comply with a traffic light signal within such locality.

332 C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light  
333 signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed  
334 by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this  
335 section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or  
336 other recorded images produced by a traffic light signal violation monitoring system, shall be prima  
337 facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other  
338 recorded images evidencing such a violation shall be available for inspection in any proceeding to  
339 adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

340 D. In the prosecution for a violation of any local ordinance adopted as provided in this section,  
341 prima facie evidence that the vehicle described in the summons issued pursuant to this section was  
342 operated in violation of such ordinance, together with proof that the defendant was at the time of such  
343 violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption  
344 that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such  
345 presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by  
346 regular mail with the clerk of the general district court that he was not the operator of the vehicle at the  
347 time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the  
348 vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy  
349 of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of  
350 the alleged violation of this section, is presented, prior to the return date established on the summons  
351 issued pursuant to this section, to the court adjudicating the alleged violation.

352 E. For purposes of this section, "owner" means the registered owner of such vehicle on record with  
353 the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring  
354 system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically  
355 produces two or more photographs, two or more microphotographs, video, or other recorded images of  
356 each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For  
357 each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the  
358 intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered  
359 that intersection.

360 F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator  
361 and shall not be made part of the operating record of the person upon whom such liability is imposed,  
362 nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No  
363 monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

364 G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2.  
365 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed  
366 by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of  
367 a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of

368 Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address  
 369 contained in the records of the lessor or renter. Every such mailing shall include, in addition to the  
 370 summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the  
 371 operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided  
 372 in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit  
 373 is to be sent. If the summoned person fails to appear on the date of return set out in the summons  
 374 mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No  
 375 proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to  
 376 appear on the return date of the summons. Any summons executed for a violation of this section shall  
 377 provide to the person summoned at least 30 business days from the mailing of the summons to inspect  
 378 information collected by a traffic light signal violation monitoring system in connection with the  
 379 violation.

380 H. Information collected by a traffic light signal violation monitoring system installed and operated  
 381 pursuant to subsection A shall be limited exclusively to that information that is necessary for the  
 382 enforcement of traffic light violations. On behalf of a locality, a private entity that operates a traffic  
 383 light signal violation monitoring system may enter into an agreement with the Department of Motor  
 384 Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner  
 385 information regarding the registered owners of vehicles that fail to comply with a traffic light signal.  
 386 Information provided to the operator of a traffic light signal violation monitoring system shall be  
 387 protected in a database with security comparable to that of the Department of Motor Vehicles' system,  
 388 and used only for enforcement against individuals who violate the provisions of this section.  
 389 Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or  
 390 other personal information collected by a traffic light signal violation monitoring system shall be used  
 391 exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or  
 392 used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be  
 393 necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a  
 394 challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action  
 395 or proceeding relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a  
 396 court of competent jurisdiction. Information collected under this section pertaining to a specific violation  
 397 shall be purged and not retained later than 60 days after the collection of any civil penalties. If a  
 398 locality does not execute a summons for a violation of this section within 10 business days, all  
 399 information collected pertaining to that suspected violation shall be purged within two business days.  
 400 Any locality operating a traffic light signal violation monitoring system shall annually certify compliance  
 401 with this section and make all records pertaining to such system available for inspection and audit by  
 402 the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his  
 403 designee. Any person who discloses personal information in violation of the provisions of this  
 404 subsection shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or  
 405 disclosure of such personal information shall be grounds for termination of the agreement between the  
 406 Department of Motor Vehicles and the private entity.

407 I. A private entity may enter into an agreement with a locality to be compensated for providing the  
 408 traffic light signal violation monitoring system or equipment, and all related support services, to include  
 409 consulting, operations and administration. However, only a law-enforcement officer employed by a  
 410 locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an  
 411 agreement for compensation based on the number of violations or monetary penalties imposed.

412 J. When selecting potential intersections for a traffic light signal violation monitoring system, a  
 413 locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light  
 414 violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty  
 415 experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the  
 416 ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the  
 417 violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall  
 418 submit a list of intersections to the Virginia Department of Transportation for final approval.

419 K. Before the implementation of a traffic light signal violation monitoring system at an intersection,  
 420 the locality shall complete an engineering safety analysis that addresses signal timing and other  
 421 location-specific safety features. The length of the yellow phase shall be established based on the  
 422 recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation  
 423 monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns  
 424 red and the time the first violation is recorded. If recommended by the engineering safety analysis, the  
 425 locality shall make reasonable location-specific safety improvements, including signs and pavement  
 426 markings.

427 L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system  
 428 on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results

429 shall be made available to the public.

430 M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light  
 431 signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light  
 432 signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were  
 433 in place at the time of the commission of the traffic light signal violation.

434 N. Prior to or coincident with the implementation or expansion of a traffic light signal violation  
 435 monitoring system, a locality shall conduct a public awareness program, advising the public that the  
 436 locality is implementing or expanding a traffic light signal violation monitoring system.

437 O. Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a  
 438 traffic light signal photo-monitoring system is owned, leased, or rented by a county, city, or town, then  
 439 the county, city, or town may access and use the recorded images and associated information for  
 440 employee disciplinary purposes.

441 § 15.2-1643. Circuit courts to order court facilities to be repaired.

442 A. When it appears to the circuit court for any county or city, from the report of persons appointed  
 443 to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure,  
 444 out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the  
 445 public, the court shall enter an order, in the name and on behalf of the Commonwealth against the  
 446 supervisors of the county, or the members of the council of the city, as the case may be, to show cause  
 447 why a mandamus should not issue, commanding them to cause the court facilities of such county or city  
 448 to be made secure, or put in good repair, or rendered otherwise safe as the case may be, and to proceed  
 449 as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of  
 450 such order to be served upon each supervisor or member of the council, as the case may be.

451 B. Upon the entry of such order, as provided in subsection A hereof, the chief judge of the circuit  
 452 shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of the  
 453 notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are  
 454 alleged to be necessary to hear and determine whether, after consideration of such matters as set forth in  
 455 subdivisions 1 through 4 of this subsection, the court facilities are in fact insecure or out of repair or  
 456 otherwise pose a danger to the health, welfare and safety of court employees or the public and the  
 457 extent to which repairs, if any, are necessary.

458 Before a mandamus is issued, if the concerned governing body elects, or if the pleadings allege that  
 459 the court facilities are in fact insecure or out of repair, or otherwise pose a danger to the health, welfare  
 460 and safety of court employees or the public, ~~or that a replacement or additional courthouse may be~~  
 461 ~~needed~~, the local governing body shall appoint a five-member panel, three of whom shall be qualified  
 462 by training and experience as either an architect or a professional engineer, not representing the same  
 463 firms, to review the court facilities in question and make recommendations to the local governing body  
 464 and circuit court judge assigned by the Chief Justice concerning the construction or repairs deemed  
 465 necessary.

466 In making their recommendations, the panel shall consider matters such as, but not limited to, the  
 467 following:

- 468 1. Security provisions to safeguard court personnel, participants and the public;
- 469 2. Efficient layout and circulation patterns to maximize public access, promote efficient operations,  
 470 and accommodate the diverse users;
- 471 3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms,  
 472 prison holding areas, and public information areas; and
- 473 4. Comfort, safety and obsolescence of the existing facility or any part thereof.

474 The existing facilities shall be considered in relationship to their location and the extent of their use,  
 475 and their failure to meet any of these general considerations shall not necessarily be deemed a cause for  
 476 determining them inadequate.

477 In making their recommendations, the panel may consult recognized national standard works in the  
 478 field.

479 All costs, fees and expenses of the five-member panel, after approval by the local governing body,  
 480 shall be paid by the county or city that appointed the panel.

481 C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or  
 482 otherwise unsafe, or having been in such condition, that the necessary repairs have been made, the court  
 483 shall vacate the order. If the court finds that the court facilities are insecure or out of repair or otherwise  
 484 unsafe, it shall issue its mandamus as provided in subsection A. ~~No mandamus shall require a county or~~  
 485 ~~city to erect a replacement or additional courthouse unless such replacement or additional courthouse has~~  
 486 ~~been recommended by the panel appointed pursuant to the provisions of subsection B.~~

487 D. Appeals shall be allowed to the Supreme Court of Virginia as appeals from courts of equity are  
 488 allowed.

489 E. *Nothing in this section shall be construed to authorize a circuit court to require that an additional*  
 490 *or replacement courthouse be constructed.*

491 § 15.2-2223.1. Comprehensive plan to include urban development areas.

492 A. For purposes of this section:

493 "Commercial" means property devoted to usual and customary business purposes for the sale of  
494 goods and services and includes, but is not limited to, retail operations, hotels, motels and offices.

495 "Commercial" does not include residential dwelling units, including apartments and condominiums, or  
496 agricultural or forestal production, or manufacturing, processing, assembling, storing, warehousing, or  
497 distributing.

498 "Commission" means the Commission on Local Government.

499 "Developable acreage," solely for the purposes of calculating density within the urban development  
500 area, means land that is not included in (i) existing parks, rights-of-way of arterial and collector streets,  
501 railways, and public utilities and (ii) other existing public lands and facilities.

502 "Population growth" means the difference in population from the next-to-latest to the latest decennial  
503 census year, based on population reported by the United States Bureau of the Census. In computing its  
504 population growth, a locality may exclude the inmate population of any new or expanded correctional  
505 facility that opened within the time period between the two censuses.

506 "Urban development area" means an area designated by a locality that is (i) appropriate for higher  
507 density development due to its proximity to transportation facilities, the availability of a public or  
508 community water and sewer system, or a developed area and (ii) to the extent feasible, to be used for  
509 redevelopment or infill development.

510 B. Every locality that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of this chapter  
511 and that (i) has a population of at least 20,000 and population growth of at least five percent or (ii) has  
512 population growth of 15 percent or more, shall, and any locality may, amend its comprehensive plan to  
513 incorporate one or more urban development areas.

514 1. The comprehensive plan of a locality having a population of less than 130,000 persons shall  
515 provide for urban development areas that are appropriate for development at a density on the  
516 developable acreage of at least four single-family residences, six townhouses, or 12 apartments,  
517 condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per  
518 acre for commercial development, or any proportional combination thereof.

519 2. The comprehensive plan of a locality having a population of 130,000 or more persons shall  
520 provide for urban development areas that are appropriate for development at a density on the  
521 developable acreage of at least eight single-family residences, 12 townhouses, or 24 apartments,  
522 condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.8 per  
523 acre for commercial development, or any proportional combination thereof.

524 3. The urban development areas designated by a locality shall be sufficient to meet projected  
525 residential and commercial growth in the locality for an ensuing period of at least 10 but not more than  
526 20 years, which may include phasing of development within the urban development areas. Where an  
527 urban development area in a county with the urban county executive form of government includes  
528 planned or existing rail transit, the planning horizon may be for an ensuing period of at least 10 but not  
529 more than 40 years. Future residential and commercial growth shall be based on official estimates of  
530 either the Weldon Cooper Center for Public Service of the University of Virginia, the Virginia  
531 Employment Commission, the United States Bureau of the Census, or other official government  
532 projections required for federal transportation planning purposes.

533 4. The boundaries and size of each urban development area shall be reexamined and, if necessary,  
534 revised every five years in conjunction with the review of the comprehensive plan and in accordance  
535 with the most recent available population growth estimates and projections.

536 5. The boundaries of each urban development area shall be identified in the locality's comprehensive  
537 plan and shall be shown on future land use maps contained in such comprehensive plan.

538 6. The comprehensive plan shall incorporate principles of traditional neighborhood design in the  
539 urban development area, which may include but need not be limited to (i) pedestrian-friendly road  
540 design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of  
541 road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including  
542 mixed housing types, with affordable housing to meet the projected family income distributions of future  
543 residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of  
544 subdivision street widths and turning radii at subdivision street intersections.

545 7. The comprehensive plan shall describe any financial and other incentives for development in the  
546 urban development areas.

547 8. A portion of one or more urban development areas shall be designated as a receiving area for any  
548 transfer of development rights program established by the locality.

549 C. No locality that has amended its comprehensive plan in accordance with this section shall limit or  
550 prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning  
551 based solely on the fact that the property is located outside the urban development area.

552 D. Any locality that would be required to amend its plan pursuant to subsection B that determines  
553 that its plan accommodates growth in a manner consistent with subsection B, upon adoption of a  
554 resolution describing such accommodation and describing any financial and other incentives for  
555 development in the areas that accommodate such growth, shall not be required to further amend its plan  
556 pursuant to subsection B. Any locality that has adopted a resolution certifying compliance with  
557 subsection B prior to February 1, 2010, shall not be required to comply with this subsection until review  
558 of the locality's comprehensive plan as provided for in provision 4 of subsection B.

559 E. Localities shall consult with adjacent localities, as well as the relevant planning district  
560 commission and metropolitan planning organization, in establishing the appropriate size and location of  
561 urban development areas to promote orderly and efficient development of their region.

562 F. Any county that amends its comprehensive plan pursuant to subsection B may designate one or  
563 more urban development areas in any incorporated town within such county, if the council of the town  
564 has also amended its comprehensive plan to designate the same areas as urban development areas with  
565 at least the same density designated by the county. However, if a town has established an urban  
566 development area within its corporate boundaries, the county within which the town is located shall not  
567 include the town's projected population and commercial growth when initially determining or  
568 reexamining the size and boundary of any other urban development area within the county.

569 G. To the extent possible, federal, state and local transportation, housing, water and sewer facility,  
570 economic development, and other public infrastructure funding for new and expanded facilities shall be  
571 directed to the urban development area, or in the case of a locality that adopts a resolution pursuant to  
572 subsection D, to the area that accommodates growth in a manner consistent with this section.

573 H. Documents describing all urban development area designations, as well as any resolution adopted  
574 pursuant to subsection D, together with associated written policies, zoning provisions and other  
575 ordinances, and the capital improvement program shall be forwarded, electronically or by other means,  
576 to the Commission within 90 days of the adoption or amendment of comprehensive plans and other  
577 written policies, zoning provisions and other ordinances. The Commission shall annually report to the  
578 Governor and General Assembly the overall compliance with this section including densities achieved  
579 within each urban development area. Before preparing the initial report, the Commission shall develop  
580 an appropriate format in concert with the relevant planning district commission. Other than the  
581 documents, policies, zoning provisions and other ordinances, resolutions, and the capital improvement  
582 program forwarded by the locality, the Commission shall not impose an additional administrative burden  
583 on localities in preparing the annual report required by this subsection.

584 I. Any locality that becomes subject to provision 2 of subsection B shall have until July 1, 2012, to  
585 amend its comprehensive plan in accordance with this section.

586 J. I. Any locality that becomes subject to this section due to population growth shall have two years  
587 following the report of the United States Bureau of the Census made pursuant to P.L. 94-171 to amend  
588 its comprehensive plan in accordance with this section.

589 § 22.1-18.1. Annual report on gifted education required; local advisory committee on gifted  
590 education.

591 Each local school board shall submit the annual report, "Programs for Gifted Education," as required  
592 by Board regulations, to the Department of Education.

593 Each school board shall *may* appoint, in accordance with the regulations of the Board of Education, a  
594 local advisory committee on gifted education. The A local advisory committee on gifted education shall  
595 annually review the local plan for the education of gifted students, including revisions, and determine  
596 the extent to which the plan for the previous year was implemented. The comments and  
597 recommendations of the local advisory committee on gifted education shall be submitted in writing  
598 directly to the school board and the superintendent.

599 A school board shall comply with Board regulations governing gifted education relative to the use of  
600 multiple criteria for the identification of gifted students.

601 With such funds as may be appropriated for this purpose, the Department of Education shall conduct  
602 an annual review of all local gifted education programs, on such date as it may determine, to ensure full  
603 implementation and compliance with federal and state laws and regulations governing gifted education.  
604 The Department may conduct the review as an on-site observation or require certification of compliance  
605 from the division superintendent.

606 § 22.1-92. Estimate of moneys needed for public schools; notice of costs to be distributed.

607 A. It shall be the duty of each division superintendent to prepare, with the approval of the school  
608 board, and submit to the governing body or bodies appropriating funds for the school division, by the  
609 date specified in § 15.2-2503, the estimate of the amount of money deemed to be needed during the next  
610 fiscal year for the support of the public schools of the school division. The estimate shall set up the  
611 amount of money deemed to be needed for each major classification prescribed by the Board of  
612 Education and such other headings or items as may be necessary.

613 Upon preparing the estimate of the amount of money deemed to be needed during the next fiscal

614 year for the support of the public schools of the school division, each division superintendent shall also  
 615 prepare and distribute, within a reasonable time as prescribed by the Board of Education, notification of  
 616 the estimated average per pupil cost for public education in the school division for the coming school  
 617 year to each parent, guardian, or other person having control or charge of a child enrolled in the  
 618 relevant school division, in accordance with the budget estimates provided to the local governing body  
 619 or bodies. Such notification shall also include actual per pupil state and local education expenditures for  
 620 the previous school year. The notice may also include federal funds expended for public education in  
 621 the school division.

622 The notice shall be made available in a form provided by the Department of Education and shall be  
 623 published on the school division's website or in hard copy upon request. To promote uniformity and  
 624 allow for comparisons, the Department of Education shall develop a form for this notice and distribute  
 625 such form to the school divisions for publication.

626 B. Before any school board gives final approval to its budget for submission to the governing body,  
 627 the school board shall hold at least one public hearing to receive the views of citizens within the school  
 628 division. A school board shall cause public notice to be given at least ten days prior to any hearing by  
 629 publication in a newspaper having a general circulation within the school division. The passage of the  
 630 budget by the local government shall be conclusive evidence of compliance with the requirements of  
 631 this section.

632 § 22.1-129. Surplus property; sale, exchange or lease of real and personal property.

633 A. Whenever a school board determines that it has no use for some of its real property, the school  
 634 board may sell such property and may retain all or a portion of the proceeds of such sale upon approval  
 635 of the local governing body and after the school board has held a public hearing on such sale and  
 636 retention of proceeds, or may convey the title to such real property to the county or city or town  
 637 comprising the school division or, if the school division is composed of more than one county or city,  
 638 to the county or city in which the property is located. To convey the title, the school board shall adopt a  
 639 resolution that such real property is surplus and shall record such resolution along with the deed to the  
 640 property with the clerk of the circuit court for the county or city where such property is located. Upon  
 641 the recording of the resolution and the deed, the title shall vest in the appropriate county, city or town.

642 If a school board sells surplus real property, a capital improvement fund shall be established by such  
 643 school board and the proceeds of such sale retained by the school board shall accrue to such capital  
 644 improvement fund. The capital improvement fund shall only be used for new school construction, school  
 645 renovation, and major school maintenance projects.

646 B. A school board shall have the power to exchange real and personal property, to lease real and  
 647 personal property either as lessor or lessee, to grant easements on real property, to convey real property  
 648 in trust to secure loans, to convey real property to adjust the boundaries of the property and to sell  
 649 personal property in such manner and upon such terms as it deems proper. As lessee of real property, a  
 650 school board shall have the power to expend funds for capital repairs and improvements on such  
 651 property, if the lease is for a term equal to or longer than the useful life of such repairs or  
 652 improvements.

653 C. Notwithstanding the provisions of subsections A and B, a school board shall have the power to  
 654 sell career and technical education projects and associated land pursuant to § 22.1-234.

655 Notwithstanding the provisions of subsections A and B, a school board of the City of Virginia Beach  
 656 shall have the power to sell property to the Virginia Department of Transportation or the Commissioner  
 657 of Highways when the Commissioner has determined that (i) such conveyance is necessary and (ii)  
 658 when eminent domain has been authorized for the construction, reconstruction, alteration, maintenance,  
 659 and repair of the public highways of the Commonwealth, and for all other purposes incidental thereto,  
 660 including, but not limited to, the relocation of public utilities as may be required.

661 D. School boards may donate obsolete educational technology hardware and software that is being  
 662 replaced pursuant to subdivision B 4 of § 22.1-199.1. Any such donations shall be offered to other  
 663 school divisions, to students, as provided in Board of Education guidelines, and to preschool programs  
 664 in the Commonwealth. In addition, elected school boards may donate such obsolete educational  
 665 technology hardware and software and other obsolete personal property to a Virginia nonprofit  
 666 organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

667 § 22.1-275.1. School health advisory board.

668 Each school board shall may establish a school health advisory board of no more than twenty  
 669 members which shall consist of broad-based community representation including, but not limited to,  
 670 parents, students, health professionals, educators, and others. ~~The~~ *If established, the* school health  
 671 advisory board shall assist with the development of health policy in the school division and the  
 672 evaluation of the status of school health, health education, the school environment, and health services.

673 ~~The~~ *Any* school health advisory board shall hold meetings at least semi-annually and shall annually  
 674 report on the status and needs of student health in the school division to any relevant school, the school

675 board, the Virginia Department of Health, and the Virginia Department of Education.

676 The local school board may request that the school health advisory board recommend to the local  
677 school board procedures relating to children with acute or chronic illnesses or conditions, including, but  
678 not limited to, appropriate emergency procedures for any life-threatening conditions and designation of  
679 school personnel to implement the appropriate emergency procedures. The procedures relating to  
680 children with acute or chronic illnesses or conditions shall be developed with due consideration of the  
681 size and staffing of the schools within the jurisdiction.

682 § 37.2-504. Community services boards; local government departments; powers and duties.

683 A. Every operating and administrative policy community services board and local government  
684 department with a policy-advisory board shall have the following powers and duties:

685 1. Review and evaluate public and private community mental health, mental retardation, and  
686 substance abuse services and facilities that receive funds from it and advise the governing body of each  
687 city or county that established it as to its findings.

688 2. Pursuant to § 37.2-508, submit to the governing body of each city or county that established it ~~an~~  
689 ~~annual~~ a performance contract for community mental health, mental retardation, and substance abuse  
690 services for its approval prior to submission of the contract to the Department.

691 3. Within amounts appropriated for this purpose, provide services authorized under the performance  
692 contract.

693 4. In accordance with its approved performance contract, enter into contracts with other providers for  
694 the delivery of services or operation of facilities.

695 5. In the case of operating and administrative policy boards, make policies or regulations concerning  
696 the delivery of services and operation of facilities under its direction or supervision, subject to applicable  
697 policies and regulations adopted by the Board.

698 6. In the case of an operating board, appoint an executive director of community mental health,  
699 mental retardation, and substance abuse services, who meets the minimum qualifications established by  
700 the Department, and prescribe his duties. The compensation of the executive director shall be fixed by  
701 the operating board within the amounts made available by appropriation for this purpose. The executive  
702 director shall serve at the pleasure of the operating board and be employed under an annually renewable  
703 contract that contains performance objectives and evaluation criteria. For an operating board, the  
704 Department shall approve the selection of the executive director for adherence to minimum qualifications  
705 established by the Department and the salary range of the executive director. In the case of an  
706 administrative policy board, the board shall participate with local government in the appointment and  
707 annual performance evaluation of an executive director of community mental health, mental retardation,  
708 and substance abuse services, who meets the minimum qualifications established by the Department, and  
709 prescribe his duties. The compensation of the executive director shall be fixed by local government in  
710 consultation with the administrative policy board within the amounts made available by appropriation for  
711 this purpose. In the case of a local government department with a policy-advisory board, the director of  
712 the local government department shall serve as the executive director. The policy-advisory board shall  
713 participate in the selection and the annual performance evaluation of the executive director, who meets  
714 the minimum qualifications established by the Department. The compensation of the executive director  
715 shall be fixed by local government in consultation with the policy-advisory board within the amounts  
716 made available by appropriation for this purpose.

717 7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the  
718 jurisdiction or supervision of the board and establish procedures for the collection of those fees. All fees  
719 collected shall be included in the performance contract submitted to the local governing body or bodies  
720 pursuant to subdivision 2 of this section and § 37.2-508 and shall be used only for community mental  
721 health, mental retardation, and substance abuse purposes. Every board shall institute a reimbursement  
722 system to maximize the collection of fees from persons receiving services under its jurisdiction or  
723 supervision, consistent with the provisions of § 37.2-511, and from responsible third party payors.  
724 Boards shall not attempt to bill or collect fees for time spent participating in commitment hearings for  
725 involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

726 8. Accept or refuse gifts, donations, bequests, or grants of money or property from any source and  
727 utilize them as authorized by the governing body of each city or county that established it.

728 9. Seek and accept funds through federal grants. In accepting federal grants, the board shall not bind  
729 the governing body of any city or county that established it to any expenditures or conditions of  
730 acceptance without the prior approval of the governing body.

731 10. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in  
732 accordance with such regulations as may be established by the governing body of each city or county  
733 that established it.

734 11. Apply for and accept loans as authorized by the governing body of each city or county that  
735 established it.

736 12. Develop joint written agreements, consistent with policies adopted by the Board, with local

737 school divisions; health departments; boards of social services; housing agencies, where they exist;  
738 courts; sheriffs; area agencies on aging; and regional Department of Rehabilitative Services offices. The  
739 agreements shall specify the services to be provided to consumers. All participating agencies shall  
740 develop and implement the agreements and shall review the agreements annually.

741 13. Develop and submit to the Department the necessary information for the preparation of the  
742 Comprehensive State Plan for mental health, mental retardation, and substance abuse services pursuant to  
743 § 37.2-315.

744 14. Take all necessary and appropriate actions to maximize the involvement and participation of  
745 consumers and family members of consumers in policy formulation and services planning, delivery, and  
746 evaluation.

747 15. Institute, singly or in combination with other community services boards or behavioral health  
748 authorities, a dispute resolution mechanism that is approved by the Department and enables consumers  
749 and family members of consumers to resolve concerns, issues, or disagreements about services without  
750 adversely affecting their access to or receipt of appropriate types and amounts of current or future  
751 services from the community services board.

752 16. Notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, release data  
753 and information about individual consumers to the Department so long as the Department implements  
754 procedures to protect the confidentiality of that data and information.

755 17. In the case of administrative policy boards and local government departments with  
756 policy-advisory boards, carry out other duties and responsibilities as assigned by the governing body of  
757 each city or county that established it.

758 18. In the case of operating boards, have authority, notwithstanding any provision of law to the  
759 contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent,  
760 when authorized to do so by the governing body of each city or county that established it.

761 By local agreement between the administrative policy board and the governing body of the city or  
762 county that established it, additional responsibilities may be carried out by the local government,  
763 including personnel or financial management. In the case of an administrative policy board established  
764 by more than one city or county, the cities and counties shall designate which local government shall  
765 assume these responsibilities.

766 B. Every policy-advisory community services board, with staff support provided by the director of  
767 the local government department, shall have the following powers and duties:

768 1. Advise the local government regarding policies or regulations for the delivery of services and  
769 operation of facilities by the local government department, subject to applicable policies and regulations  
770 adopted by the Board.

771 2. Review and evaluate the operations of the local government department and advise the local  
772 governing body of each city or county that established it as to its findings.

773 3. Review the community mental health, mental retardation, and substance abuse services provided  
774 by the local government department and advise the local governing body of each city or county that  
775 established it as to its findings.

776 4. Review and comment on the ~~annual~~ performance contract, performance reports, and  
777 Comprehensive State Plan information developed by the local government department. The board's  
778 comments shall be attached to the performance contract, performance reports, and Comprehensive State  
779 Plan information prior to their submission to the local governing body of each city or county that  
780 established it and to the Department.

781 5. Advise the local government as to the necessary and appropriate actions to maximize the  
782 involvement and participation of consumers and family members of consumers in policy formulation and  
783 services planning, delivery, and evaluation.

784 6. Participate in the selection and the annual performance evaluation of the local government  
785 department director employed by the city or county.

786 7. Carry out other duties and responsibilities as assigned by the governing body of each city or  
787 county that established it.

788 § 37.2-508. Performance contract for mental health, mental retardation, and substance abuse services.

789 A. The Department shall develop and initiate negotiation of the performance contracts through which  
790 it provides funds to community services boards to accomplish the purposes set forth in this chapter. In  
791 the case of operating boards, the Department may, notwithstanding any provision of law to the contrary,  
792 disburse state and federal funds appropriated to it for mental health, mental retardation, or substance  
793 abuse services directly to the operating board, when that operating board is authorized by the governing  
794 body of each city or county that established it to receive such funds. Six months prior to the *end of an*  
795 *existing contract or, if no contract exists, six months prior to the beginning* of each fiscal year, the  
796 Department shall make available to the public the standard performance contract form that it intends to  
797 use as the performance contract for that fiscal year and solicit public comments for a period of 60 days.

798 *Such contracts shall be for a fixed term and shall provide for annual renewal by the Board if the term*  
 799 *exceeds one year.*

800 B. Any community services board may apply for the assistance provided in this chapter by  
 801 submitting ~~annually~~ to the Department its proposed performance contract ~~for the next fiscal year~~ together  
 802 with (i) the approval of its board of directors for operating and administrative policy boards or the  
 803 comments of the local government department's policy-advisory board and (ii) the approval of the  
 804 contract by formal vote of the governing body of each city or county that established it. The community  
 805 services board shall make its proposed performance contract available for public review and solicit  
 806 public comments for a period of 30 days prior to submitting its proposed contract for the approval of its  
 807 board of directors for operating and administrative policy boards or the comments of the local  
 808 government department's policy-advisory board. To avoid disruptions in service continuity and allow  
 809 sufficient time to complete public review and comment about the contract and negotiation and approval  
 810 of the contract, the Department may provide ~~up to six~~ semi-monthly payments of state-controlled funds  
 811 to the community services board. If the governing body of each city or county does not approve the  
 812 proposed performance contract by September 30 of each year, the performance contract shall be deemed  
 813 approved *or renewed*.

814 C. The performance contract shall (i) delineate the responsibilities of the Department and the  
 815 community services board; (ii) specify conditions that must be met for the receipt of state-controlled  
 816 funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) contain  
 817 specific consumer outcome, provider performance, consumer satisfaction, and consumer and family  
 818 member participation and involvement measures; (v) contain mechanisms that have been identified or  
 819 developed jointly by the Department and community services board and that will be employed  
 820 collaboratively by the community services board and the state hospital to manage the utilization of state  
 821 hospital beds; (vi) establish an enforcement mechanism, should a community services board fail to be in  
 822 substantial compliance with its performance contract, including notice and appeal processes and  
 823 provisions for remediation, withholding or reducing funds, methods of repayment of funds, and the  
 824 Department's exercise of the provisions of subsection E; and (vii) include reporting requirements and  
 825 revenue, cost, service, and consumer information displayed in a consistent, comparable format  
 826 determined by the Department.

827 The Department may provide for performance monitoring in order to determine whether the  
 828 community services boards are in substantial compliance with their performance contracts.

829 D. No community services board shall be eligible to receive state-controlled funds for mental health,  
 830 mental retardation, or substance abuse services after September 30 of each year unless (i) its  
 831 performance contract has been approved *or renewed* by the governing body of each city or county that  
 832 established it and by the Department; (ii) it provides service, cost, revenue, and aggregate and individual  
 833 consumer data and information, notwithstanding the provisions of § 37.2-400 or any regulations adopted  
 834 thereunder, to the Department in the format prescribed by the Department; and (iii) it uses standardized  
 835 cost accounting and financial management practices approved by the Department.

836 E. If, after unsuccessful use of a remediation process described in the performance contract, a  
 837 community services board remains in substantial noncompliance with its performance contract with the  
 838 Department, the Department may, after affording the community services board an adequate opportunity  
 839 to use the appeal process described in the performance contract, terminate all or a portion of the  
 840 contract. Using the state-controlled resources associated with that contract, the Department, after  
 841 consulting with the governing body of each city or county that established the board, may negotiate a  
 842 performance contract with another board, a behavioral health authority, or a private nonprofit or  
 843 for-profit organization or organizations to obtain services that were the subject of the terminated  
 844 performance contract.

845 § 42.1-36.1. Power and duty of library boards and certain governing bodies regarding acceptable  
 846 Internet use policies.

847 A. ~~On or before December 1, 1999, and biennially thereafter, (i) every~~ *Every (i)* library board  
 848 established pursuant to § 42.1-35 or (ii) ~~the~~ governing body of any county, city, or town that, pursuant  
 849 to § 42.1-36, has not established a library board pursuant to § 42.1-35, shall ~~file with the Librarian of~~  
 850 *Virginia an acceptable use policy for the Internet. At a minimum, the policy shall contain provisions that*  
 851 ~~(i) are~~ *establish an acceptable use policy for the Internet* designed to (a) prohibit use by library  
 852 employees and patrons of the library's computer equipment and communications services for sending,  
 853 receiving, viewing, or downloading illegal material via the Internet, ~~(ii) seek to~~ (b) prevent access by  
 854 library patrons under the age of 18 to material that is harmful to juveniles, and ~~(iii)~~ (c) establish  
 855 appropriate measures to be taken against persons who violate the policy. For libraries established under  
 856 § 42.1-33, the policy shall also require the selection, installation and activation of, on those computers  
 857 that are accessible to the public and have Internet access, a technology protection measure to filter or  
 858 block Internet access through such computers to child pornography as defined in § 18.2-374.1:1,  
 859 obscenity as defined in § 18.2-372, and, with respect to minors, materials deemed harmful to juveniles

860 as defined in § 18.2-390. Such policy shall provide that a person authorized by the library board shall  
861 disable or otherwise bypass the technology protection measure required by this section at the request of  
862 a patron to enable access for bona fide research or other lawful purposes. *The policy required by this*  
863 *section shall be posted online; however, if the library does not have a website, the policy shall be*  
864 *available to the public upon request.*

865 The library board or the governing body may include such other terms, conditions, and requirements  
866 in the library's policy as it deems appropriate, such as requiring written parental authorization for  
867 Internet use by juveniles or differentiating acceptable uses between elementary, middle, and high school  
868 students.

869 B. The library board or the governing body shall take such steps as it deems appropriate to  
870 implement and enforce the library's policy which may include, but are not limited to, (i) the use of  
871 software programs designed to block access by (a) library employees and patrons to illegal material or  
872 (b) library patrons under the age of 18 to material that is harmful to juveniles or (c) both; (ii) charging  
873 library employees to casually monitor patrons' Internet use; or (iii) installing privacy screens on  
874 computers that access the Internet. For libraries established under § 42.1-33, the library board or  
875 governing body shall direct such libraries to select and install on those computers that are accessible to  
876 the public and have Internet access a technology protection measure as required by the policy  
877 established pursuant to subsection A. No state funding shall be withheld and no other adverse action  
878 taken against a library by the Librarian of Virginia or any other official of state government when the  
879 technology protection measure fails, provided that such library promptly has taken reasonable steps to  
880 rectify and prevent such failures in the future.

881 C. ~~On or before December 1, 2000, and biennially thereafter, the Librarian of Virginia shall submit a~~  
882 ~~report to the Chairmen of the House Committee on Education, the House Committee on Science and~~  
883 ~~Technology, and the Senate Committee on Education and Health which summarizes the acceptable use~~  
884 ~~policies filed with the Librarian pursuant to this section and the status thereof.~~

885 § 51.5-89. Placement of blind persons in vacancies by Department; vending stands in Capitol;  
886 regulations.

887 When any vending stand or other business enterprise operated in a public building becomes vacant or  
888 a vacancy is created through the construction or acquisition of new public buildings or renovation or  
889 expansion of existing public buildings, the existence of such vacancies shall be made known to the  
890 Department. The Department acting on behalf of the blind shall have first priority in assuming the  
891 operation of such vending stand or business enterprise through placement of a properly trained blind  
892 person in such vacancy. This section shall not apply to vending stands or other business enterprises  
893 operated in (i) *local government buildings*, (ii) the State Capitol ~~or~~, or (iii) the legislative office  
894 buildings that shall be subject to the control of the Rules Committee of the House of Delegates and the  
895 Rules Committee of the Senate. *Notwithstanding the provisions of this section, any locality may, by*  
896 *ordinance or resolution, provide for the Department to have first priority in assuming the operation of*  
897 *any vending stand or business enterprise located in a local government building.*

898 **2. That § 2 of the first enactment of Chapter 814 of the Acts of Assembly of 2010 is repealed.**