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HOUSE BILL NO. 1568

Offered January 19, 2018

A *BILL to amend and reenact §§ 2.2-204, 2.2-205.1, 2.2-1604, 2.2-1605, 2.2-1606, 2.2-1610, 2.2-1617, 2.2-2238.1, 2.2-2282, 2.2-2284, 2.2-2311.1, 2.2-3705.6, 2.2-4302.1, 2.2-4302.2, 2.2-4310, 2.2-4310.1, 3.2-201, 10.1-1425.7, 11-7.1, 15.2-965.1, 15.2-4904, 23.1-2627, 33.2-1509, 36-139.6, 46.2-749.69:1, 63.2-601, and 63.2-610 of the Code of Virginia; to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:4 and by adding sections numbered 2.2-2240.7 and 2.2-2240.8; and to repeal §§ 2.2-1603 and 2.2-1608 and Article 2 (§§ 2.2-1611 through 2.2-1616) of Chapter 16.1 of Title 2.2 of the Code of Virginia, relating to Virginia Economic Development Partnership Authority; Department of Small Business and Supplier Diversity; Office of Small Business Assistance and Certification; small business development programs.*

Patron—Landes

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-205.1, 2.2-1604, 2.2-1605, 2.2-1606, 2.2-1610, 2.2-1617, 2.2-2238.1, 2.2-2282, 2.2-2284, 2.2-2311.1, 2.2-3705.6, 2.2-4302.1, 2.2-4302.2, 2.2-4310, 2.2-4310.1, 3.2-201, 10.1-1425.7, 11-7.1, 15.2-965.1, 15.2-4904, 23.1-2627, 33.2-1509, 36-139.6, 46.2-749.69:1, 63.2-601, and 63.2-610 of the Code of Virginia and that the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:4 and by adding sections numbered 2.2-2240.7 and 2.2-2240.8 as follows:

§ 2.2-203.2:4. Office of Small Business Assistance and Certification; director.

There is hereby established the Office of Small Business Assistance and Certification (the Office) in the office of the Secretary of Administration, consisting of a director, appointed by the Secretary of Administration, and such additional employees as deemed necessary. It shall be the duty of the Office to administer the provisions of Chapter 16.1 (§ 2.2-1604 et seq.) relating to certification and procurement enhancement for small, women-owned, and minority-owned businesses and administration of the one-stop small business permitting program.

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, Tobacco Region Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-205.1. Economic Crisis Strike Force.

A. There is hereby established the Economic Crisis Strike Force (Strike Force) for the purpose of serving as a working group to respond as needed to economic disasters in Virginia communities by (i) immediately providing a single point of contact for citizens in affected communities to assist with accessing available government and private sector services and resources, (ii) assisting localities in developing short-term and long-term strategies for addressing the economic crisis, and (iii) identifying opportunities for workforce retraining, job creation, and new investment.

B. The Strike Force shall be chaired by the Secretary of Commerce and Trade and be deployed at the direction of the Governor. Membership shall include high level representatives designated by the Secretaries of Education and Health and Human Resources and by the respective heads of the following agencies: the Department of Agriculture and Consumer Services, the Department of Education, the Department of Housing and Community Development, the Department of Labor and Industry, the Department of Medical Assistance Services, the Department Office of Small Business and Supplier Diversity Assistance and Certification, the Virginia Economic Development Partnership Authority, the Department of Social Services, the Virginia Community College System, the Virginia Employment Commission, the Virginia Economic Development Partnership, and the Virginia Tourism Authority. The Strike Force shall also include representatives from such other agencies as may be designated by the

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59 Governor to meet the needs of a particular affected community. In addition, the Governor may designate
60 such citizens as he deems appropriate to advise the Strike Force.

61 C. Staff support for the Strike Force shall be provided by the Office of the Governor and the
62 Secretary of Commerce and Trade. All agencies of the Commonwealth shall assist the Strike Force upon
63 request.

64 D. On or before December 1 of each year, the Strike Force shall report to the Governor and the
65 General Assembly on its activities.

66 E. For the purposes of this section, "economic disaster" means an employment loss of at least five
67 percent during the immediately preceding six-month period, the closure or downsizing of a major
68 regional employer in an economically distressed area, a natural disaster or act of terrorism for which the
69 Governor has declared a state of emergency, or other economic crisis situations, which in the opinion of
70 the Governor adversely affect the welfare of the citizens of the Commonwealth.

71 CHAPTER 16.1.

72 ~~DEPARTMENT OF SMALL BUSINESS AND SUPPLIER DIVERSITY ASSISTANCE AND~~ 73 ~~CERTIFICATION.~~

74 § 2.2-1604. Definitions.

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

76 "Certification" means the process by which (i) a business is determined to be a small, women-owned,
77 or minority-owned business or (ii) an employment services organization, for the purpose of reporting
78 small, women-owned, and minority-owned business and employment services organization participation
79 in state contracts and purchases pursuant to ~~§§ 2.2-1608 and~~ § 2.2-1610.

80 "Department" means the Department of Small Business and Supplier Diversity or any division of the
81 Department to which the Director has delegated or assigned duties and responsibilities.

82 "Director" means the Director of the Office of Small Business Assistance and Certification.

83 "Employment services organization" means an organization that provides community-based
84 employment services to individuals with disabilities that is an approved Commission on Accreditation of
85 Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative
86 Services.

87 "Historically black colleges and university" includes any college or university that was established
88 prior to 1964; whose principal mission was, and is, the education of black Americans; and that is
89 accredited by a nationally recognized accrediting agency or association determined by the Secretary of
90 Education.

91 "Minority individual" means an individual who is a citizen of the United States or a legal resident
92 alien and who satisfies one or more of the following definitions:

93 1. "African American" means a person having origins in any of the original peoples of Africa and
94 who is regarded as such by the community of which this person claims to be a part.

95 2. "Asian American" means a person having origins in any of the original peoples of the Far East,
96 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,
97 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of
98 the Pacific, India, Pakistan, Bangladesh, or Sri Lanka, and who is regarded as such by the community of
99 which this person claims to be a part.

100 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of
101 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and
102 who is regarded as such by the community of which this person claims to be a part.

103 4. "Native American" means a person having origins in any of the original peoples of North America
104 and who is regarded as such by the community of which this person claims to be a part or who is
105 recognized by a tribal organization.

106 "Minority-owned business" means a business that is at least 51 percent owned by one or more
107 minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation,
108 partnership, or limited liability company or other entity, at least 51 percent of the equity ownership
109 interest in the corporation, partnership, or limited liability company or other entity is owned by one or
110 more minority individuals who are U.S. citizens or legal resident aliens, and both the management and
111 daily business operations are controlled by one or more minority individuals, or any historically black
112 college or university, regardless of the percentage ownership by minority individuals or, in the case of a
113 corporation, partnership, or limited liability company or other entity, the equity ownership interest in the
114 corporation, partnership, or limited liability company or other entity.

115 "Office" means the Office of Small Business Assistance and Certification created pursuant to
116 2.2-203.2:4.

117 "Small business" means a business that is at least 51 percent independently owned and controlled by
118 one or more individuals who are U.S. citizens or legal resident aliens and, together with affiliates, has
119 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the
120 previous three years. One or more of the individual owners shall control both the management and daily

business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" does not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

§ 2.2-1605. Powers and duties of Office.

A. The ~~Department~~ *Office* shall have the following powers and duties:

1. Coordinate as consistent with prevailing law the plans, programs, and operations of the state government that affect or may contribute to the establishment, preservation, and strengthening of small, women-owned, and minority-owned businesses;

2. Promote the mobilization of activities and resources of state and local governments, businesses and trade associations, baccalaureate institutions of higher education, foundations, professional organizations, and volunteer and other groups towards the growth of small businesses and businesses owned by women and minorities, and facilitate the coordination of the efforts of these groups with those of state departments and agencies;

3. Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting procurement from small, women-owned, and minority-owned businesses;

4. Consistent with prevailing law and availability of funds, and according to the Director's discretion, provide technical and management assistance to small, women-owned, and minority-owned businesses and defray all or part of the costs of pilot or demonstration projects that are designed to overcome the special problems of small, women-owned, and minority-owned businesses;

5. Advise the ~~Small Business Financing Authority on the management and administration of the Small, Women-owned, and Minority-owned Business Loan Fund created pursuant to § 2.2-2311.1;~~

6. Implement any remediation or enhancement measure for small, women-owned, or minority-owned businesses as may be authorized by the Governor pursuant to subsection C of § 2.2-4310 and develop regulations, consistent with prevailing law, for program implementation. Such regulations shall be developed in consultation with the state agencies with procurement responsibility and promulgated by those agencies in accordance with applicable law; and

7. 6. Receive and coordinate, with the appropriate state agency, the investigation of complaints that a business certified pursuant to this chapter has failed to comply with its subcontracting plan under subsection D of § 2.2-4310. If the ~~Department~~ *Office* determines that a business certified pursuant to this chapter has failed to comply with the subcontracting plan, the business shall provide a written explanation.

B. In addition, the ~~Department~~ *Office* shall serve as the liaison between the Commonwealth's existing businesses and state government in order to promote the development of Virginia's economy. To that end, the ~~Department~~ *Office* shall:

1. Encourage the training or retraining of individuals for specific employment opportunities at new or expanding business facilities in the Commonwealth;

2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their growth and the creation and retention of jobs for Virginians;

3. Establish an industry program that is the principal point of communication between basic employers in the Commonwealth and the state government that will address issues of significance to business;

4. Make available to existing businesses, in conjunction and cooperation with localities, chambers of commerce, and other public and private groups, basic information and pertinent factors of interest and concern to such businesses; *and*

5. Develop statistical reports on job creation and the general economic conditions in the Commonwealth; *and*

6. ~~Administer the Small Business Jobs Grant Fund Program described in Article 2 (§ 2.2-1611 et seq.).~~

C. All agencies of the Commonwealth shall assist the ~~Department~~ *Office* upon request and furnish such information and assistance as the ~~Department~~ *Office* may require in the discharge of its duties.

§ 2.2-1606. Powers of Director.

As deemed necessary or appropriate to better fulfill the duties of the ~~Department~~ *Office*, the Director may:

1. With the participation of other state departments and agencies, develop comprehensive plans and specific program goals for small, women-owned, and minority-owned business programs; establish

regular performance monitoring and reporting systems to assure that goals of state agencies and institutions are being achieved; and evaluate the impact of federal and state support in achieving objectives.

2. Employ the necessary personnel or subcontract, according to his discretion, with localities to supplement the functions of business development organizations.

3. Assure the coordinated review of all proposed state training and technical assistance activities in direct support of small, women-owned, and minority-owned business programs to ensure consistency with program goals and to avoid duplication.

4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this chapter.

5. Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of small, women-owned, and minority-owned business programs or who could contribute to their development for the purpose of proposing, evaluating, or coordinating governmental and private activities in furtherance of the objectives of this chapter.

6. Provide the managerial and organizational framework through which joint undertakings with state departments or agencies or private organizations can be planned and implemented.

7. Recommend appropriate legislative or executive actions.

8. Adopt regulations to implement certification programs for small, women-owned, and minority-owned businesses and employment services organizations, which regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002. Such certification programs shall allow applications for certification to be submitted by electronic means as authorized by § 59.1-496 and the applicant to affix thereto his electronic signature, as defined in § 59.1-480. Such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women-owned, or minority-owned businesses and employment services organizations or that provide a preference for small, women-owned, or minority-owned businesses and employment services organizations based in that state that is not available to Virginia-based businesses. The regulations shall (i) establish minimum requirements for certification of small, women-owned, and minority-owned businesses and employment services organizations; (ii) provide a process for evaluating existing local, state, and private sector certification programs that meet the minimum requirements; and (iii) mandate certification without any additional paperwork of any small, women-owned, or minority-owned business that has obtained (a) certification under any federal certification program or (b) certification under any other certification program that is determined to meet the minimum requirements established in the regulations, and of any employment services organization that has been approved by the Department for Aging and Rehabilitative Services. The regulations shall also require as a prerequisite for approval that any out-of-state business applying for certification in Virginia as a small, women-owned, or minority-owned business have the equivalent certification in the business's state of origin. An out-of-state business located in a state that does not have a small, women-owned, or minority-owned business certification program shall be exempt from the requirements of this provision.

9. Establish an interdepartmental board in accordance with § ~~2.2-1608~~ to supply the Director with information useful in promoting minority business activity.

§ 2.2-1610. Reports and recommendations; collection of data.

The Director shall, from time to time, submit directly or through an assistant to the Governor his recommendations for legislation or other action as he deems desirable to promote the purposes of this chapter.

The Director shall report, on or before November 1 of each year, to the Governor and the General Assembly the identity of the state departments and agencies failing to submit annual progress reports on small, women-owned, and minority-owned business procurement required by § 2.2-4310 and the nature and extent of such lack of compliance. The annual report shall include recommendations on the ways to improve compliance with the provisions of § 2.2-4310 and such other related matters as the Director deems appropriate.

The Director, with the assistance of the Comptroller, shall develop and implement a systematic data collection process that will provide information for a report to the Governor and General Assembly on state expenditures to small, women-owned, and minority-owned businesses during the previous fiscal year.

An institution exercising authority granted under this section shall promptly make available to the Department, upon request, copies of its procurement records, receipts, and transactions in regard to procurement from small, women-owned, and minority-owned businesses in order for the Department to ensure institution compliance with its approved reporting and certification criteria.

§ 2.2-1617. One-stop small business permitting program.

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

"Business Permitting Center" or "Center" means the business registration and permitting center

established by this section and located in and under the administrative control of the ~~Department~~ Office.

"Comprehensive application" means a document incorporating pertinent data from existing applications for permits covered under this section.

"Comprehensive permit" means the single document designed for public display issued by the Business Permitting Center that certifies state agency permit approval and that incorporates the endorsements for individual permits included in the comprehensive permitting program.

"Comprehensive permitting program" or "Program" means the mechanism by which comprehensive permits are issued and renewed, permit and regulatory information is disseminated, and account data is exchanged by state agencies.

"Permit" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, to engage in activity associated with or involving the establishment of a small business in the Commonwealth.

"Permit information packet" means a collection of information about permitting requirements and application procedures custom assembled for each request.

"Regulatory" means all permitting and other governmental or statutory requirements establishing a small business or professional activities associated with establishing a small business.

"Regulatory agency" means any state agency, board, commission, or division that regulates one or more professions, occupations, industries, businesses, or activities.

"Renewal application" means a document used to collect pertinent data for renewal of permits covered under this section.

"Small business" means an independently owned and operated business that, together with affiliates, has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years.

"Veteran" means an individual who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

B. There is created within the ~~Department~~ Office the comprehensive permitting program (the Program). The Program is established to serve as a single access point to aid entrepreneurs in filling out the various permit applications associated with establishing a small business in Virginia. The Program in no way supersedes or supplants any regulatory authority granted to any state agency with permits covered by this section. As part of the Program, the Department shall coordinate with the regulatory agency, and the regulatory agency shall determine, consistent with applicable law, what types of permits are appropriate for inclusion in the Program as well as the rules governing the submission of and payment for those permits. The website of the ~~Department~~ Office shall provide access to information regarding the Program. The ~~Department~~ Office shall have the power and duty to:

1. Create a comprehensive application that will allow an entrepreneur, or an agent thereof, seeking to establish a small business, to create accounts that will allow them to acquire the appropriate permits required in the Commonwealth. The comprehensive application shall:

a. Allow the business owner to choose a business type and to provide common information, such as name, address, and telephone number, on the front page, eliminating the need to repeatedly provide common information on each permit application;

b. Allow the business owner to preview and answer questions related to the operation of the business;

c. Provide business owners with a customized to-do agency checklist, which checklist shall provide the permit applications pertinent to each business type and provide the rules, regulations, and general laws applicable to each business type as well as local licensing information;

d. Allow the business owner to submit permit applications by electronic means as authorized by § 59.1-496 and to affix thereto his electronic signature as defined in § 59.1-480;

e. Allow the business owner to check on the status of applications online and to receive information from the permitting agencies electronically; and

f. Allow a business owner to submit electronic payment of application or permitting fees for applications that have been accepted by the permitting agency.

2. Develop and administer a computerized system program capable of storing, retrieving, and exchanging permit information while protecting the confidentiality of information submitted to the ~~Department~~ Office to the extent allowable by law. Information submitted to the Department shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) as the same would apply were the information submitted directly to the ~~Department~~ Office or to any permitting agency.

3. Issue and renew comprehensive permits in an efficient manner.

4. Identify the types of permits appropriate for inclusion in the Program. The ~~Department~~ Office shall coordinate with the regulatory agency, and the regulatory agency shall determine, consistent with applicable law, what types of permits are appropriate for inclusion in the Program.

5. Incorporate permits into the Program.

6. Do all acts necessary or convenient to carry out the purposes of this chapter.

C. The Business Permitting Center shall compile information regarding the regulatory programs associated with each of the permits obtainable under the Program. This information shall include, at a minimum, a listing of the statutes and administrative rules requiring the permits and pertaining to the regulatory programs that are directly related to the permit. The Center shall provide information governed by this section to any person requesting it. Materials used by the Center to describe the services provided by the Center shall indicate that this information is available upon request.

D. Each state agency shall cooperate and provide reasonable assistance to the Department in the implementation of this section.

E. The State Corporation Commission and the *former* Department of Small Business and Supplier Diversity or its successor agency shall:

1. By December 1, 2014, implement a hyperlink from the State Corporation Commission's eFile system to the Center that will facilitate the collection by the Center of a user's information to populate any forms that will be required to be completed at a future date, to the end that the user will not be required unnecessarily to reenter data or information into the forms when the user is accessing the Center; and

2. By June 30, 2018, fully integrate processes and forms into the Center and shall process all forms within 48 business hours from the time the applicant submits the form electronically.

The State Corporation Commission and the Center shall report on progress and any barriers to completion of the provisions of subdivision 1 biannually, on each December 1 and June 1, to the Governor, the Secretary of Commerce and Trade, the Secretary of Technology, and the chairs of the Senate Committees on Finance, General Laws and Technology, and Commerce and Labor and of the House Committees on Appropriations and Commerce and Labor.

F. Any person requiring permits that have been incorporated into the Program may submit a comprehensive application to the Department requesting the issuance of the permits. The comprehensive application form shall contain in consolidated form information necessary for the issuance of the permits.

G. The applicant, if not a veteran, shall include with the application the handling fee established by the ~~Department Office~~. An applicant who is a veteran shall be exempt from payment of the handling fee prescribed by this subsection. The amount of the handling fee assessed against the applicant shall be set by the Department at a level necessary to cover the costs of administering the comprehensive permitting program.

H. The authority for approving the issuance and renewal of any requested permit that requires investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally authorized to issue the permit shall remain with that agency. The Center may issue those permits for which proper fee payment and a completed application form have been received and for which no approval action is required by the regulatory agency.

I. Upon receipt of the application, and proper fee payment for any permit for which issuance is subject to regulatory agency action under subsection H, the ~~Department Office~~ shall immediately notify the State Corporation Commission or the regulatory agency with authority to approve the permit issuance or renewal requested by the applicant. The State Corporation Commission or the regulatory agency shall advise the Department within a reasonable time after receiving the notice of one of the following:

1. That the State Corporation Commission or the regulatory agency approves the issuance of the requested permit and will advise the applicant of any specific conditions required for issuing the permit;

2. That the State Corporation Commission or the regulatory agency denies the issuance of the permit and gives the applicant reasons for the denial;

3. That the application is pending; or

4. That the application is incomplete and further information from or action by the applicant is necessary.

J. The Department shall issue a comprehensive permit endorsed for all the approved permits to the applicant and advise the applicant of the status of other requested permits. The applicant shall be responsible for contesting any decision regarding conditions imposed or permits denied through the normal process established by statute or by the State Corporation Commission or the regulatory agency with the authority for approving the issuance of the permit.

K. Regulatory agencies shall be provided information from the comprehensive application for their permitting and regulatory functions.

L. The ~~Department Office~~ shall be responsible for directing the applicant to make all payments for applicable fees established by the regulatory agency directly to the proper agency.

M. There is hereby created in the state treasury a special nonreverting fund to be known as the Comprehensive Permitting Fund, hereafter referred to as "the Fund." The Fund shall be established on

the books of the Comptroller. The Fund shall consist of all moneys collected from the handling fee established by the ~~Department Office~~ pursuant to subsection G and such other funds as may be appropriated by the General Assembly. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to administer the Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

N. Unless otherwise directed by the regulatory agency, the ~~Department Office~~ shall not issue or renew a comprehensive permit to any person under any of the following circumstances:

1. The person does not have a valid tax registration, if required;
2. The person is a corporation, limited liability company, business trust, limited partnership, or registered limited liability partnership that (i) is delinquent in the payment of fees or penalties collected by the State Corporation Commission pursuant to the business entity statutes it administers, (ii) does not exist, or (iii) is not authorized to transact business in the Commonwealth pursuant to one of the business entity statutes administered by the State Corporation Commission; or
3. The person has not submitted the sum of all fees and deposits required for the requested individual permit endorsements, any outstanding comprehensive permit delinquency fee, or other fees and penalties to be collected through the comprehensive permitting program.

O. The ~~Department Office~~ may adopt regulations in accordance with § 2.2-1606 as may be necessary to carry out the purposes of this section.

§ 2.2-2238.1. Special economic development services in rural communities; strategic plan.

A. In order to assist the rural communities of the Commonwealth, the Authority may develop a program for reviewing existing economic development programs of rural communities, upon request. The program shall include (i) a review and evaluation of existing industrial sites and infrastructure, including existing streets, water and sewer systems, electricity, natural gas and communications facilities that will provide high-speed or broadband Internet access to rural and underserved areas of the Commonwealth; (ii) an assessment of the existing workforce and the provision of information on state and federal programs such as tax incentives that may be available to local or prospective employers to assist in hiring and training in areas of high unemployment; (iii) assistance in identifying community resources and the type of industries that may benefit from locating in a community with such resources; and (iv) marketing assistance to help rural communities improve their visibility to expanding industries looking for new facilities.

B. The Authority, the Center for Rural Virginia, the Virginia Department of Housing and Community Development, the Virginia Resources Authority, the ~~Department Office~~ of Small Business and Supplier Diversity Assistance and Certification, the Virginia Tobacco Region Revitalization Commission, the Virginia Employment Commission, the Virginia Tourism Corporation, the Virginia Community College System, institutions of higher education within rural regions of the Commonwealth, and the Department of Agriculture and Consumer Services shall jointly develop and implement a rural economic development strategic plan that at a minimum addresses: (i) education, including pre-kindergarten, primary, secondary and post-graduate resources, and comprehensive workforce development programs, as they may pertain to the Workforce Innovation and Opportunity Act; (ii) infrastructure, including capital for water and sewer upgrading, waste management, law enforcement, housing, primary and secondary roads, and telecommunications; (iii) traditional industrial development and industry retention programs, including assistance in financing and in workforce training; (iv) recreational and cultural enhancement and related quality of life measures, including parks, civic centers, and theaters; (v) agribusiness incentives to promote the use of new technologies, and the exploration of new market opportunities; and (vi) a revolving loan fund or loan guarantee program to help start or expand entrepreneurial activities, especially small business activities in rural communities.

§ 2.2-2240.7. Small Business Jobs Grant Fund Program; composition; general qualifications.

A. As used in this section:

"Base year" means the calendar year immediately preceding the 24-month period in which a small business creates new full-time positions making it eligible for grants under this section.

"Capital investment" means an investment in real property, personal property, or both, at a manufacturing or basic nonmanufacturing facility within the Commonwealth that is or may be capitalized by the company and that establishes or increases the productivity of the manufacturing facility, results in the utilization of a more advanced technology than is in use immediately prior to such investment, or both.

"Fund" means the Small Business Jobs Grant Fund established in subsection E.

"New full-time position" means employment of a resident of the Commonwealth for an indefinite duration in the Commonwealth at a small business requiring (i) a minimum of 35 hours of an

employee's time per week for the entire normal year of the small business's operation, which "normal year" shall consist of at least 48 weeks, or (ii) a minimum of 1,680 hours per year. Seasonal, temporary, or contract positions or positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as a new full-time position.

"Program" means the Small Business Jobs Grant Fund Program established in subsection B.

"Small business" means an independently owned and operated business that has been organized pursuant to Virginia law or maintains a principal place of business in Virginia and has 50 or fewer employees in its base year and average annual gross receipts of \$3 million or less averaged over the previous 24-month period.

B. There is hereby created the Small Business Jobs Grant Fund Program to support private sector job creation by encouraging the expansion of existing Virginia businesses and the start-up of new business operations in Virginia. The Authority shall develop the Program to assist Virginia small businesses with job creation.

C. To be eligible for assistance under the Program, a company shall:

1. Create or sustain employment for the Commonwealth in a basic sector industry or function, which would include businesses or functions that directly or indirectly derive more than 35 percent of their revenues from out-of-state sources, as determined by the Authority;

2. Pay a minimum entry-level wage rate per hour of at least 1.35 times the federal minimum wage. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance;

3. Submit copies of employer quarterly payroll reports provided by the company to the Virginia Employment Commission to verify the employment status of each position that has been included in a grant awarded under a component program; and

4. Meet such additional criteria as may be set forth by the Authority.

D. In addition to the requirements of subsection C regarding company eligibility, to be eligible for assistance under the Program a company shall (i) create a minimum of five net new full-time positions and (ii) make a new capital investment of at least \$50,000.

The Secretary of Commerce and Trade may waive these requirements but shall promptly provide written notice of any such waiver to the Chairmen of the Senate Committee on Finance and House Committee on Appropriations, which notice shall include a justification for any waiver of these requirements.

E. There is hereby created in the state treasury a permanent nonreverting fund to be known as the Small Business Jobs Grant Fund. The Fund shall consist of (i) transfers from the Virginia Jobs Investment Program funded in the general appropriation act currently in effect and (ii) any other moneys designated for deposit into the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be managed and administered within the Authority.

F. Moneys in the Fund shall be used solely for the purpose of providing grants to small businesses that create at least five new full-time positions within any 24-month period. A small business meeting the conditions of this section shall be eligible to receive a grant from the Fund ranging from \$500 to \$2,000 per each new full-time position that has been created based on criteria established by the Authority pursuant to subsection G.

In awarding grants, priority shall be given to small businesses creating new full-time positions in areas with an annual average unemployment rate of more than 125 percent of the statewide average unemployment rate.

G. Grant payments under this section shall be conditional upon the small business substantially retaining (i) the number of full-time positions in its base year plus (ii) the number of new full-time positions for which grants are to be paid. In no case shall the retention period, as determined by the Authority, be less than 12 months for any new full-time position for which a grant is to be paid.

No grant shall be awarded or paid for any new full-time position created prior to July 1, 2010. No grant shall be awarded or paid for any new full-time position created solely as a result of a merger, acquisition, or similar business combination or a change in business form unless such new full-time position is moved into the Commonwealth from outside of the Commonwealth.

H. The Authority shall establish criteria for determining the amount of the grant to be awarded for each eligible new full-time position created by a small business that will be based on the level of education, training, and experience required for the job. Such criteria shall also (i) prohibit a small business from receiving more than one grant under this section for the same position and (ii) require the employee to be employed in the new full-time position for at least 90 days prior to the award of the grant.

I. The Authority shall determine the qualifications, terms, and conditions for the use of the Fund and

the accounts thereof. In connection with applications for claims made against the Fund, the Authority may require the production of any document, instrument, certificate, or legal opinion or any other information it deems necessary or convenient. All claims made against the Fund shall be approved by the Authority.

§ 2.2-2240.8. Creation, administration, and management of the Small Business Investment Grant Fund.

A. As used in this section:

"Eligible investor" means an individual subject to the tax imposed by § 58.1-320 or a special purpose entity established for the purpose of making investments for an individual. "Eligible investor" does not include an individual who engages in the business of making debt or equity investments in private businesses, or any person that would be allocated a portion of the grant under this section as a partner, shareholder, member, or owner of an entity that engages in such business.

"Financing Authority" means the Virginia Small Business Financing Authority established in Article 7 (§ 2.2-2279 et seq.) of Chapter 22 of Title 2.2.

"Fund" means the Small Business Investment Grant Fund.

"Pass-through entity" means the same as that term is defined in § 58.1-390.1.

"Qualified investment" means a cash investment in a qualified business in the form of equity or subordinated debt.

"Small business" means a corporation, pass-through entity, or other entity that (i) has annual gross revenues of no more than \$5 million in its most recent fiscal year; (ii) has its principal office or facility in the Commonwealth; (iii) is engaged in business primarily in or does substantially all of its production in the Commonwealth; (iv) has not obtained during its existence more than \$5 million in aggregate gross cash proceeds from the issuance of its equity or debt investments, not including commercial loans from national or state-chartered banking or savings and loan institutions; (v) has no more than 50 employees who are employed within the Commonwealth; and (vi) has been designated as such by the Financing Authority pursuant to the provisions of this section.

"Subordinated debt" means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance, (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person, and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Small Business Investment Grant Fund, to be administered by the Authority. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants pursuant to this section, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the Chief Executive Officer. Grants from the Fund shall only be made to applications pursuant to this section.

C. An eligible investor that makes a qualified investment in a small business on or after July 1, 2016, but prior to January 1, 2019, that has been certified by the Authority pursuant to subsection D shall be eligible for a grant in an amount equal to the lesser of 50 percent of the qualified investment or \$50,000. An eligible investor may apply for a grant for each qualified investment that is made to one or more small businesses not to exceed a total grant allocation from the Fund of \$250,000 per eligible investor.

D. A small business shall apply with the Financing Authority to receive qualified investments eligible for the grant pursuant to this section and shall provide to the Financing Authority such information as the Authority deems necessary to demonstrate that it meets the qualifications set forth in subsection A.

E. Any eligible investor applying for a grant pursuant to this section shall submit an application to the Financing Authority. The Financing Authority shall determine the amount of the grant allowable to the eligible investor for the year.

F. Unless the eligible investor transfers the equity received in connection with a qualified investment as a result of (i) the liquidation of the small business issuing such equity; (ii) the merger, consolidation, or other acquisition of such business with or by a party not affiliated with such business; or (iii) the death of the eligible investor, any eligible investor that fails to hold such equity for at least two years shall forfeit the grant and shall pay the Financing Authority interest on the total allowed grant at the rate of one percent per month, compounded monthly, from the date the grant was awarded to the taxpayer. The Financing Authority shall deposit any amounts received under this subsection into the general fund of the Commonwealth.

G. Grants shall be issued in the order that each completed eligible application is received by the Financing Authority. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.

H. An eligible investor shall not be awarded a grant pursuant to this section for any investment in a small business for which the eligible investor has been allowed a tax credit pursuant to § 58.1-339.4.

I. The Financing Authority shall establish policies and procedures relating to (i) the certification of small businesses, (ii) the application for grants, and (iii) the recapture of grant awards claimed with interest in the event that the qualified investment is not held for the requisite period set forth in subsection F. Such policies and procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

§ 2.2-2282. Board of directors; membership; terms, compensation and expenses; chairman, vice-chairman, secretary and treasurer; quorum; staff.

A. The Board shall consist of the State Treasurer or his designee, the ~~Director of the Department of Small Business and Supplier Diversity~~ Chief Executive Officer of the Virginia Economic Development Partnership Authority, and nine members who are not employees of the Commonwealth or of any political subdivision thereof who shall be appointed by the Governor and who shall have such small business experience as he deems necessary or desirable. The appointment of members of the Board by the Governor shall be subject to confirmation by the General Assembly. All members of the Board shall be residents of the Commonwealth and shall have full voting privileges. Appointments shall be for terms of four years, except that appointments to fill vacancies shall be made for the unexpired terms. No member appointed by the Governor shall serve more than two complete terms in succession. The members of the Board shall receive no salaries but shall be paid travel and other expenses incurred to attend meetings or while otherwise engaged in the discharge of their duties, all as may be deemed appropriate by the Board.

B. The Governor shall appoint one member as chairman for a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. Five members of the Board shall constitute a quorum for the transaction of all business of the Authority. The Board shall elect one member from the group of nine members appointed by the Governor as vice-chairman who shall exercise the powers of the chairman in the absence of the chairman. The Board shall elect a secretary and a treasurer, or a secretary-treasurer, who need not be members of the Board and who shall continue to hold such office until their respective successors are elected. ~~Director of the Department of Small Business and Supplier Diversity of the Commonwealth~~ The Virginia Economic Development Partnership Authority shall serve as staff to the Authority.

§ 2.2-2284. Executive Director; appointment; duties.

The ~~Director of the Department of Small Business and Supplier Diversity~~ Chief Executive Officer of the Virginia Economic Development Partnership Authority shall appoint the Executive Director of the Authority. The Executive Director shall administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control and the direction of the Board and the ~~Director of the Department of Small Business and Supplier Diversity~~ Chief Executive Officer of the Virginia Economic Development Partnership Authority. Except as otherwise stated in this article, the Executive Director shall approve all accounts for allowable expenses for the Authority or of any employee or consultant or other person providing services to the Board, and for expenses incidental to the operation of the Authority subject to approval of the ~~Director of the Department of Small Business and Supplier Diversity~~ Chief Executive Officer of the Virginia Economic Development Partnership Authority. The Executive Director shall maintain and be custodian of all books, documents and papers of or filed with the Authority, including but not limited to the minute book or journal of the Authority, and of its official seal. The Executive Director may cause copies to be made of all minutes and other records and documents of the Authority and may in the place and stead of the Secretary of the Authority give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Executive Director also shall perform such other duties as prescribed by the Board in carrying out the purposes of this article.

§ 2.2-2311.1. Creation, administration, and management of the Small, Women-owned, and Minority-owned Business Loan Fund.

A. For the purposes of this section:

"Eligible small business" means any person engaged in a for-profit business enterprise in the Commonwealth and such enterprise has (i) \$10 million or less in annual gross income under generally accepted accounting principles for up to each of its last three fiscal years or lesser time period if it has been in existence less than three years, (ii) fewer than 250 employees, or (iii) a net worth of \$1 million or less, or such business enterprise meets such other satisfactory requirements as the Board shall determine from time to time upon a finding that such business enterprise is in need of assistance.

"Fund" means the Small, Women-owned, and Minority-owned Business Loan Fund.

"Minority-owned business" means a for-profit small business concern that is majority-owned by one or more individuals of an ethnic or racial minority. In the case of a corporation, a majority of the stock shall be owned by one or more such individuals and the management and daily business operations shall be controlled by one or more of the individuals of an ethnic or racial minority who own it.

"Women-owned business" means a for-profit small business concern that is majority-owned by one or more women. In the case of a corporation, a majority of the stock shall be owned by one or more women and the management and daily business operations shall be controlled by one or more of the women who own it.

B. There is created a permanent revolving loan fund to be known as the Small, Women-owned, and Minority-owned Business Loan Fund. The Fund shall be comprised of (i) moneys appropriated to the Fund by the General Assembly, (ii) moneys collected by the Authority as a result of loan repayments, (iii) all income from the investment of moneys held by the Fund, and (iv) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to provide direct loans to eligible small, women-owned, and minority-owned businesses. The Fund shall be managed and administered by the Authority with guidance from the Director of the ~~Department Office~~ of Small Business and Supplier Diversity Assistance and Certification.

C. The Authority, or its designated agents, shall determine the qualifications, terms, and conditions for the use of the Fund and the accounts thereof.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

674 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or
675 proprietary information by any person in connection with a procurement transaction or by any person
676 who has submitted to a public body an application for prequalification to bid on public construction
677 projects in accordance with subsection B of § 2.2-4317.

678 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity,
679 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed
680 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private
681 Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information
682 was made public prior to or after the execution of an interim or a comprehensive agreement,
683 § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public
684 entity would be adversely affected and (ii) the basis for the determination required in clause (i) is
685 documented in writing by the responsible public entity; and

686 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or
687 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995
688 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002
689 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity
690 as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private
691 entity, including balance sheets and financial statements, that are not generally available to the public
692 through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity
693 where if such information was made public prior to the execution of an interim agreement or a
694 comprehensive agreement, the financial interest or bargaining position of the public or private entity
695 would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be
696 excluded from the provisions of this chapter, the private entity shall make a written request to the
697 responsible public entity:

698 (1) Invoking such exclusion upon submission of the data or other materials for which protection from
699 disclosure is sought;

700 (2) Identifying with specificity the data or other materials for which protection is sought; and

701 (3) Stating the reasons why protection is necessary.

702 The responsible public entity shall determine whether the requested exclusion from disclosure is
703 necessary to protect the trade secrets or financial information of the private entity. To protect other
704 information submitted by the private entity from disclosure, the responsible public entity shall determine
705 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement
706 would adversely affect the financial interest or bargaining position of the public or private entity. The
707 responsible public entity shall make a written determination of the nature and scope of the protection to be
708 afforded by the responsible public entity under this subdivision. Once a written determination is made
709 by the responsible public entity, the information afforded protection under this subdivision shall continue
710 to be protected from disclosure when in the possession of any affected jurisdiction or affected local
711 jurisdiction.

712 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to
713 authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b)
714 information concerning the terms and conditions of any interim or comprehensive agreement, service
715 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity
716 and the private entity; (c) information concerning the terms and conditions of any financing arrangement
717 that involves the use of any public funds; or (d) information concerning the performance of any private
718 entity developing or operating a qualifying transportation facility or a qualifying project.

719 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"
720 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation
721 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined
722 in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education
723 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

724 12. Confidential proprietary information or trade secrets, not publicly available, provided by a private
725 person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a
726 fund administered in connection with financial assistance rendered or to be rendered by the Virginia
727 Resources Authority where, if such information were made public, the financial interest of the private
728 person or entity would be adversely affected.

729 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential
730 proprietary information that is not generally available to the public through regulatory disclosure or
731 otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21
732 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of
733 confidentiality from the franchising authority, to the extent the information relates to the bidder's,
734 applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies
735 or implementation of improvements, where such new services, technologies, or improvements have not

been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the ~~Department~~ *Office* of Small Business and ~~Supplier Diversity Assistance and Certification~~ as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ ~~2.2-1603~~ *2.2-1604* et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this

chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade

secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant or loan application, or accompanying a grant or loan application, submitted to the Virginia Research Investment Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

§ 2.2-4302.1. Process for competitive sealed bidding.

The process for competitive sealed bidding shall include the following:

920 1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications
921 and contractual terms and conditions applicable to the procurement. Unless the public body has provided
922 for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite
923 qualifications of potential contractors. No Invitation to Bid for construction services shall condition a
924 successful bidder's eligibility on having a specified experience modification factor. When it is
925 impractical to prepare initially a purchase description to support an award based on prices, an Invitation
926 to Bid may be issued requesting the submission of unpriced offers to be followed by an Invitation to
927 Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first
928 solicitation;

929 2. Public notice of the Invitation to Bid at least 10 days prior to the date set for receipt of bids by
930 posting on the Department of General Services' central electronic procurement website or other
931 appropriate websites. In addition, public bodies may publish in a newspaper of general circulation.
932 Posting on the Department of General Services' central electronic procurement website shall be required
933 of any state public body. Local public bodies are encouraged to utilize the Department of General
934 Services' central electronic procurement website to provide the public with centralized visibility and
935 access to the Commonwealth's procurement opportunities. In addition, bids may be solicited directly
936 from potential contractors. Any additional solicitations shall include certified businesses selected from a
937 list made available by the ~~Department Office~~ of Small Business and ~~Supplier Diversity Assistance and~~
938 *Certification*;

939 3. Public opening and announcement of all bids received;

940 4. Evaluation of bids based upon the requirements set forth in the Invitation to Bid, which may
941 include special qualifications of potential contractors, life-cycle costing, value analysis, and any other
942 criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular
943 purpose, which are helpful in determining acceptability; and

944 5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple
945 awards are so provided in the Invitation to Bid, awards may be made to more than one bidder.

946 For the purposes of subdivision 1, "experience modification factor" means a value assigned to an
947 employer as determined by a rate service organization in accordance with its uniform experience rating
948 plan required to be filed pursuant to subsection D of § 38.2-1913.

949 **§ 2.2-4302.2. Process for competitive negotiation.**

950 A. The process for competitive negotiation shall include the following:

951 1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be
952 procured, specifying the factors that will be used in evaluating the proposal, indicating whether a
953 numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by
954 reference the other applicable contractual terms and conditions, including any unique capabilities,
955 specifications or qualifications that will be required. In the event that a numerical scoring system will be
956 used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be
957 included in the Request for Proposal or posted at the location designated for public posting of
958 procurement notices prior to the due date and time for receiving proposals. No Request for Proposal for
959 construction authorized by this chapter shall condition a successful offeror's eligibility on having a
960 specified experience modification factor;

961 2. Public notice of the Request for Proposal at least 10 days prior to the date set for receipt of
962 proposals by posting on the Department of General Services' central electronic procurement website or
963 other appropriate websites. Additionally, public bodies shall publish in a newspaper of general
964 circulation in the area in which the contract is to be performed so as to provide reasonable notice to the
965 maximum number of offerors that can be reasonably anticipated to submit proposals in response to the
966 particular request. Posting on the Department of General Services' central electronic procurement website
967 shall be required of any state public body. Local public bodies are encouraged to utilize the Department
968 of General Services' central electronic procurement website to provide the public with centralized
969 visibility and access to the Commonwealth's procurement opportunities. In addition, proposals may be
970 solicited directly from potential contractors. Any additional solicitations shall include certified businesses
971 selected from a list made available by the ~~Department Office~~ of Small Business and ~~Supplier Diversity~~
972 *Assistance and Certification*; and

973 3. For goods, nonprofessional services, and insurance, selection shall be made of two or more
974 offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of
975 the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal.
976 In the case of a proposal for information technology, as defined in § 2.2-2006, a public body shall not
977 require an offeror to state in a proposal any exception to any liability provisions contained in the
978 Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. The
979 offeror shall state any exception to any liability provisions contained in the Request for Proposal in
980 writing at the beginning of negotiations, and such exceptions shall be considered during negotiation.
981 Price shall be considered, but need not be the sole or primary determining factor. After negotiations

have been conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best proposal and provides the best value, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror; or

4. For professional services, the public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the public body in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. In accordance with § 2.2-4342, proprietary information from competing offerors shall not be disclosed to the public or to competitors. For architectural or engineering services, the public body shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to § 2.2-1132, until after the qualified offerors are ranked for negotiations. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the public body, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, a public body may award contracts to more than one offeror.

Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

B. Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long-term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, where the completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to entering into any such contract, the public body shall (i) state the anticipated intended total scope of the project and (ii) determine in writing that the nature of the work is such that the best interests of the public body require awarding the contract.

For the purposes of subdivision A 1, "experience modification factor" means a value assigned to an employer as determined by a rate service organization in accordance with its uniform experience rating plan required to be filed pursuant to subsection D of § 38.2-1913.

§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business and employment services organization.

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the ~~Department Office~~ of Small Business and Supplier Diversity Assistance and Certification, which list shall include all companies and organizations certified by the Department.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned

business procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services organization procurement to the ~~Department Office~~ of Small Business and ~~Supplier Diversity Assistance and Certification~~ in a form specified by the ~~Department Office~~ of Small Business and ~~Supplier Diversity Assistance and Certification~~. Contracts and subcontracts awarded to employment services organizations shall be credited toward the small business, women-owned, and minority-owned business contracting and subcontracting goals of state agencies and contractors. The ~~Department Office~~ of Small Business and ~~Supplier Diversity Assistance and Certification~~ shall make information on service disabled veteran-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business or employment services organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law. Any enhancement or remedial measure authorized by the Governor pursuant to this subsection for state public bodies may allow for small businesses certified by the ~~Department Office~~ of Small Business and ~~Supplier Diversity Assistance and Certification~~ or a subcategory of small businesses established as a part of the enhancement program to have a price preference over noncertified businesses competing for the same contract award on designated procurements, provided that the bid of the certified small business or the business in such subcategory of small businesses established as a part of an enhancement program does not exceed the low bid by more than five percent.

D. In awarding a contract for services to a small, women-owned, or minority-owned business that is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled veteran-owned business where the award is being made pursuant to an enhancement or remedial program as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the following:

"If the contractor intends to subcontract work as part of its performance under this contract, the contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned businesses."

E. In the solicitation or awarding of contracts, no state agency, department or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

F. As used in this section:

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States

military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Service disabled veteran business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Small business" means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

§ 2.2-4310.1. Awards as a result of any authorized enhancement or remedial measure; requirements.

A. Any enhancement or remedial measure authorized by the Governor pursuant to subsection C of § 2.2-4310 for state public bodies shall include a provision that the procurement shall be conducted in accordance with such enhancement or remedial measure for businesses certified by the ~~Department Office of Small Business and Supplier Diversity Assistance and Certification~~. If such enhancement or remedial measure provides for an award priority for such businesses, then the contract shall be awarded in accordance with such priority if such priority business participated in the solicitation and requirements are met. If an award is not made based on the foregoing, then the contract shall be awarded in accordance with the next award priority and so on until a contract is awarded based on the established award priority.

B. If an award is not made pursuant to subsection A, the procurement award may be made without regard to such enhancement or remedial measure.

§ 3.2-201. Powers and duties of Office of Farmland Preservation.

A. The Office of Farmland Preservation shall have the following powers and duties:

1. To develop, in cooperation with the ~~Department Office of Small Business and Supplier Diversity Assistance and Certification~~, the Virginia Farm Bureau Federation, the American Farmland Trust, the Virginia Land Conservation Foundation, the Virginia Outdoors Foundation, the Virginia Association of Counties, and the Virginia Cooperative Extension: (i) model policies and practices that may be used as a guide to establish local purchase of development rights programs; (ii) criteria for the certification of local purchase of development rights programs as eligible to receive grants, loans or other funds from public sources; and (iii) methods and sources of revenue for allocating funds to localities to purchase agricultural conservation easements;

2. To create programs to educate the public about the importance of farmland preservation to the quality of life in the Commonwealth;

3. To provide technical, professional, and other assistance to farmers on matters related to farmland preservation;

4. To provide technical, professional, and other assistance to local governments interested in developing additional farmland preservation policies and programs. Such policies and programs shall include (i) use value assessment and taxation pursuant to §§ 58.1-3230 and 58.1-3231; (ii) transfer of development rights pursuant to Article 7.1 (§ 15.2-2316.1 et seq.) of Chapter 22 of Title 15.2; (iii) agricultural and forestal districts pursuant to Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2; and (iv) establishment of local lease of development rights; and

5. To administer the Virginia Farm Link program established pursuant to § 3.2-202.

B. State grants shall be distributed to local purchase of development rights programs under policies, procedures, and guidelines developed by the Office of Farmland Preservation. In general, for each \$1 in grant moneys awarded by the Office, the applicable local purchase of development rights program of the county or city shall be required to provide a \$1 match. However, as part of these policies, procedures, and guidelines developed by the Office, the Office shall include incentives that recognize and encourage counties and cities participating in use value taxation pursuant to Article 4 (§ 58.1-3229 et seq.) of

Chapter 32 of Title 58.1.

C. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Farmland Preservation Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of all moneys appropriated to it by the General Assembly and such moneys as may be made available from any other source, public or private. All moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 10.1-1425.7. Duty of the Office of Small Business Assistance and Certification.

The ~~Department Office~~ of Small Business and Supplier Diversity Assistance and Certification shall assist the Department by encouraging and promoting the establishment of appropriate recycling industries in the Commonwealth.

§ 11-7.1. Certain entities' authority to extend performance agreements.

A. The ~~Department Office~~ of Small Business and Supplier Diversity Assistance and Certification, the Virginia Economic Development Partnership Authority, the Virginia Tourism Authority, the Tobacco Region Revitalization Commission, a nonprofit, nonstock corporation created pursuant to § 2.2-2240.1, any county, city, or town, or local or regional industrial or economic development authorities created in accordance with law have the authority, upon the agreement of the parties, to extend the performance period for any performance agreement.

B. For the purposes of this section, "performance agreement" means any agreement, contract, or memorandum of understanding that imposes an obligation for minimum private investment or the creation of new jobs in exchange for grants or other funds, or loans of money from an entity specified in subsection A.

C. Nothing in this section shall be construed or interpreted to authorize or allow for any payment or appropriation of funds except as provided in the general appropriation act.

§ 15.2-965.1. Participation of small, women-owned, and minority-owned businesses.

A. Any locality may enact an ordinance providing that whenever there exists (i) a rational basis for small business enhancement, or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the chief executive of the local governing entity shall be authorized and encouraged to require implementation of appropriate enhancement and remedial measures consistent with prevailing law.

B. A small, women-owned, or minority-owned business that is certified by the ~~Department Office~~ of Small Business and Supplier Diversity Assistance and Certification pursuant to § 2.2-1606 shall not be required by any locality to obtain any additional certification to participate in any program designed to enhance the participation of such businesses as vendors or to remedy any documented disparity.

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, however, the town council may at its option return to a seven member board by removing the last three members appointed, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2

million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members, Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one at-large, with terms staggered as agreed upon by the board of supervisors, Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority, the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs, and one at-large member, with terms staggered as agreed upon by the city council, the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the ~~Department Office~~ of Small Business and ~~Supplier Diversity Assistance and Certification~~.

§ 23.1-2627. Virginia Coal Research and Development Advisory Board.

1289 The Virginia Coal Research and Development Advisory Board (the Advisory Board) shall serve in an
1290 advisory capacity to the executive director of the Center. Representatives to the Advisory Board shall be
1291 appointed by the board. The board shall appoint such other individuals as it deems necessary to the
1292 work of the Advisory Board.

1293 Members shall include representatives from the Department of Conservation and Recreation, the
1294 ~~Department Office~~ of Small Business and ~~Supplier Diversity Assistance and Certification~~, the
1295 Department of Mines, Minerals and Energy, the Department of Labor and Industry, the Virginia Port
1296 Authority, and each public institution of higher education, excluding the University.

1297 **§ 33.2-1509. Funds for access roads to economic development sites and airports; construction,**
1298 **maintenance, etc., of such roads.**

1299 A. Notwithstanding any other provision of law, there shall be appropriated to the Board funds
1300 derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes, or any
1301 other state revenue allocated for highway purposes, which shall be used by the Board for the purposes
1302 specified in this section, after deducting the costs of administration before any of such funds are
1303 distributed and allocated for any road or street purposes.

1304 Such funds shall be expended by the Board for constructing, reconstructing, maintaining, or
1305 improving access roads within localities to economic development sites on which manufacturing,
1306 processing, research and development facilities, distribution centers, regional service centers, corporate
1307 headquarters, or other establishments that also meet basic employer criteria as determined by the
1308 Virginia Economic Development Partnership in consultation with the ~~Virginia Department Office~~ of
1309 Small Business and ~~Supplier Diversity Assistance and Certification~~ will be built under firm contract or
1310 are already constructed and to licensed, public-use airports; in the event there is no such establishment
1311 or airport already constructed or for which the construction is under firm contract, a locality may
1312 guarantee to the Board by bond or other acceptable device that such will occur and, should no
1313 establishment or airport acceptable to the Board be constructed or under firm contract within the time
1314 limits of the bond, such bond shall be forfeited. The time limits of the bond shall be based on regular
1315 review and consideration by the Board. Towns that receive highway maintenance payments under
1316 § 33.2-319 shall be considered separately from the counties in which they are located when receiving
1317 allocations of funds for access roads.

1318 B. In deciding whether or not to construct or improve any such access road, and in determining the
1319 nature of the road to be constructed, the Board shall base its considerations on the cost thereof in
1320 relation to the volume and nature of the traffic to be generated as a result of developing the airport or
1321 the economic development site. Within any economic development site or airport, the total volume of
1322 traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such
1323 access road shall be constructed or improved on a privately owned economic development site.

1324 C. Any access road constructed or improved under this section shall constitute a part of the
1325 secondary state highway system or the road system of the locality in which it is located and shall
1326 thereafter be constructed, reconstructed, maintained, and improved as other roads or highways in such
1327 system.

1328 **§ 36-139.6. Additional powers and duties of Director; oversight of planning district**
1329 **commissions.**

1330 The Director of the Department of Housing and Community Development shall have the following
1331 powers and duties relating to oversight of planning district commissions:

1332 1. To recommend to the Governor the level of state general appropriation funding for each planning
1333 district commission, taking into consideration the minimum funding level necessary for operation, the
1334 population of each district, and other factors considered appropriate;

1335 2. To distribute state general appropriation funding to planning district commissions consistent with
1336 the provisions of this chapter and Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2;

1337 3. To administer the Regional Cooperation Incentive Fund in accordance with § 15.2-4217;

1338 4. To provide technical assistance to planning district commissions regarding regional approaches to
1339 area-wide problems. Assistance may be initiated by the Department, individual local governments, or
1340 planning district commissions;

1341 5. To require the submission of annual programmatic and financial information by each planning
1342 district commission in a format prescribed by the Director;

1343 6. To prepare a biennial report to the Governor and the General Assembly which identifies the
1344 activities and other information deemed appropriate by the Director concerning planning district
1345 commissions, including findings as to planning district commissions which are not complying with
1346 Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2. Copies of the biennial report shall also be sent to the
1347 Commission on Local Government, ~~Department Office~~ of Small Business and ~~Supplier Diversity~~
1348 ~~Assistance and Certification~~, Department of Conservation and Recreation, Department of Environmental
1349 Quality, Department of Planning and Budget, Department of Transportation, Virginia Economic
1350 Development Partnership, and others upon request; and

7. To establish the Virginia Planning District Commission Council made up of the chairman or designated representative from each planning district commission to advise Department staff on programs, rules and regulations for the planning district commissions. Technical committees of planning district commission staff, state and local agency staff, and private sector individuals as needed, may be created.

§ 46.2-749.69:1. Special license plates bearing the names, numbers, and color schemes used by professional stock car drivers; fees.

A. On receipt of an application and payment of the fee prescribed by this section, the Commissioner shall issue special license plates to supporters of the Virginia Motor Sports Initiative.

B. The Commissioner may enter into agreements for the purchase of distinctive license plates bearing the name of a specific professional stock car driver and the race car number and color scheme used by that driver, or for distinctive general motor sports-themed license plates, for issuance as provided in this section. The design of such license plates shall be as mutually agreed by the Commissioner and the supplier of such license plates. The purchase price of such plates shall be as agreed between the Commissioner and the supplier or other entity, but shall in no case exceed a total, one-time cost of \$15 for each set of license plates. In the event that a race car number, color scheme, or both, change for a driver with a currently issued series, a new series for that driver may be issued subject to the requirements of this section.

The provisions of subdivision B 1 of § 46.2-725 shall not apply to license plates issued under this section.

C. The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to the special nonreverting fund known as the Virginia Motor Sports Initiative Fund established within the Department of Accounts and paid annually in equal amounts to the Virginia Economic Development Partnership Authority and the Virginia Department Office of Small Business and Supplier Diversity Assistance and Certification and used to support their programs related to the Virginia Motor Sports Initiative.

In calculating the amount to be paid into such fund each year, however, there shall be deducted an amount equal to the amount paid in that year by the Department for the purchase of license plates for which the additional \$25 fees have been collected for that year.

§ 63.2-601. Virginia Temporary Assistance for Needy Families Program; goals.

The goals of the Temporary Assistance for Needy Families Program are to:

1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;

2. Provide families living in poverty with the opportunities and work skills necessary for self-sufficiency;

3. Allow families living in poverty to contribute materially to their own self-sufficiency;

4. Set out the responsibilities of and expectations for recipients of public assistance and the government; and

5. Provide families living in poverty with the opportunity to obtain work experience through the Virginia Initiative for Employment Not Welfare (VIEW).

None of the provisions of this chapter shall be construed or interpreted to create any rights, causes of action, administrative claims or exemptions to the provisions of the Program, except as specifically provided in §§ 63.2-609, 63.2-613, and 63.2-618.

The Department Office of Small Business and Supplier Diversity Assistance and Certification and the Virginia Employment Commission shall assist the Department in the administration of the Program.

§ 63.2-610. Participation in VIEW; coordinated services.

A. In administering VIEW, the Department shall ensure that local departments provide delivery and coordination of all services through intensive case management. VIEW participants shall be referred to a case manager. The case manager shall fully explain VIEW to the participant and shall provide the participant with written materials explaining VIEW.

B. The Department shall assist local departments in improving the delivery of services, including intensive case management, through the utilization of public, private and nonprofit organizations, to the extent permissible under federal law.

C. The Department shall be responsible for the coordination of the intensive case management. Job finding and job matching leading to independent employment shall be facilitated by the Virginia Employment Commission and the Department Office of Small Business and Supplier Diversity Assistance and Certification.

D. The Secretary of Health and Human Resources, assisted by the Secretary of Commerce and Trade, shall prepare and maintain an annual plan for coordinating and integrating all appropriate services in order to promote successful outcomes. The plan shall encourage the use of local and regional service

1412 providers and permit a variety of methods of providing services. Emphasis shall be placed on
1413 coordinating and integrating career counseling, job development, job training and skills, job placement,
1414 and academic and technical education. Public and private institutions of higher education and other
1415 agencies which offer similar or related services shall be invited to participate as fully as possible in
1416 developing, implementing and updating the annual coordination plan.

1417 E. The Secretary of Health and Human Resources shall:

1418 1. Increase public awareness of the federal earned income credit and encourage families who may be
1419 eligible to apply for this tax credit;

1420 2. Pursue aggressive child-support initiatives as established by the General Assembly;

1421 3. Work with community providers to develop adoption, education, family planning, marriage,
1422 parenting, and training options for Program participants;

1423 4. Increase public awareness of the tax advantages of relocating one's residence in order to secure
1424 employment;

1425 5. Provide leadership for the development of community work experience opportunities in VIEW;

1426 6. Develop strategies to educate, assist and stimulate employers to hire participants and to provide
1427 community work experience opportunities, in consultation with representatives of employers and relevant
1428 public and private agencies on the state and local level; and

1429 7. Provide technical assistance to local departments to assist them in working with employers in the
1430 community to develop job and community work experience opportunities for participants.

1431 **2. That §§ 2.2-1603 and 2.2-1608 and Article 2 (§§ 2.2-1611 through 2.2-1616) of Chapter 16.1 of**
1432 **Title 2.2 of the Code of Virginia are repealed.**

1433 **3. That any regulations adopted by the Department of Small Business and Supplier Diversity that**
1434 **are in effect as of July 1, 2018, shall remain in full force and effect until altered, amended, or**
1435 **rescinded by the Office of Small Business Assistance and Certification or the Virginia Economic**
1436 **Development Partnership.**