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## HOUSE BILL NO. 1300

Offered January 21, 2022

A BILL to amend and reenact §§ 2.2-435.12, 2.2-602, 2.2-1201, 2.2-2497, 2.2-2499.5, 2.2-2499.7, 2.2-2499.8, 4.1-604, 4.1-1503, 22.1-208.02, 22.1-365, 44-146.18, and 56-585.1:11 of the Code of Virginia, relating to renaming Director of Diversity, Equity, and Inclusion to Director of Diversity, Opportunity, and Inclusion.

Patrons—Freitas, Avoli, Ballard, Brewer, Cordoza, Davis, Durant, Fowler, Greenhalgh, Head, Hodges, LaRock, McNamara, Runion, Scott, P.A., Tata, Taylor, Walker, Ware, Williams and Wright

Referred to Committee on General Laws

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

1. That §§ 2.2-435.12, 2.2-602, 2.2-1201, 2.2-2497, 2.2-2499.5, 2.2-2499.7, 2.2-2499.8, 4.1-604, 4.1-1503, 22.1-208.02, 22.1-365, 44-146.18, and 56-585.1:11 of the Code of Virginia are amended and reenacted as follows:

**§ 2.2-435.12. Director of Diversity, Opportunity, and Inclusion; duties.**

The position of Director of Diversity, ~~Equity Opportunity~~, and Inclusion (the Director) is created. The Director shall be appointed by the Governor. The Director shall (i) develop a sustainable framework to promote inclusive practices across state government; (ii) implement a measurable, strategic plan to address systemic inequities in state government practices increase opportunities for all Virginians; and (iii) facilitate methods to turn feedback and suggestions from state employees, external stakeholders, and community leaders into concrete equity policy actionable opportunities; (iv) promote ideas, policies, and practices in coordination with the Secretary of Commerce and Trade to expand entrepreneurship and economic opportunities for disadvantaged Virginians, including Virginians living with disabilities; (v) facilitate bringing Virginians of different faiths together in service to their communities and the Commonwealth; (vi) promote free speech and civil discourse in civic life, including viewpoint diversity in higher education in coordination with the Secretary of Education; (vii) promote ideas, policies, and practices to eliminate disparities in prenatal care and to be an ambassador for unborn children; (viii) coordinate with the Secretary of Education to ensure the history of the United States is taught in Virginia honestly, objectively, and completely and to respond to the rights of parents in educational and curricular decision making; and (ix) perform any other responsibilities as assigned by the Governor.

**§ 2.2-602. Duties of agencies and their appointing authorities; establishment of personnel standards; diversity, opportunity, and inclusion strategic plans.**

A. The heads of state agencies shall be the appointing authorities of the respective agencies, and shall establish and maintain within their agencies methods of administration relating to the establishment and maintenance of personnel standards on a merit basis that are approved by the Governor for the proper and efficient enforcement of the Virginia Personnel Act (§ 2.2-2900 et seq.). But the Governor shall exercise no authority with respect to the selection or tenure of office of any individual employed in accordance with such methods, except when the Governor is the appointing authority.

Appointing authorities may assign to the personnel officers or to other officers and employees of their agencies such personnel duties as they see fit.

Agencies shall establish and maintain rosters of their employees that shall set forth, as to each employee, the class title, pay, and status and such other data as they may deem desirable to produce significant facts pertaining to personnel administration.

Agencies shall establish and maintain such promotion and employment lists, rated according to merit and fitness, as they deem desirable. Agencies may make use of the employment list kept by the Department of Human Resource Management in lieu of keeping employment lists for their agencies.

Agencies shall supply the Governor with any information he deems necessary for the performance of his duties in connection with the administration of Virginia Personnel Act (§ 2.2-2900 et seq.).

B. The heads of state agencies shall establish and maintain a comprehensive diversity, equity opportunity, and inclusion strategic plan in coordination with the Governor's Director of Diversity, Equity Opportunity, and Inclusion.

The plan shall integrate the diversity, equity opportunity, and inclusion goals into the agency's mission, operations, programs, and infrastructure to enhance equitable opportunities for the populations served by the agency and to foster an increasingly diverse, equitable, and inclusive workplace environment.

The plan shall include best practices that (i) proactively address potential barriers to equal employment opportunities pursuant to federal and state equal employment opportunity laws; (ii) foster

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58 pay equity pursuant to federal and state equal pay laws; (iii) promote diversity and *equity opportunity* in  
59 hiring, promotion, retention, succession planning, and agency leadership opportunities; and (iv) promote  
60 employee engagement and inclusivity in the workplace.

61 Each agency shall establish an infrastructure to effectively support ongoing progress and  
62 accountability in achieving diversity, *equity opportunity*, and inclusion goals in coordination with the  
63 Governor's Director of Diversity, *Equity Opportunity*, and Inclusion.

64 Each agency shall submit an annual report to the Governor assessing the impact of the strategic plan  
65 on the populations served by the agency and on the agency's workforce and budget.

66 **§ 2.2-1201. Duties of Department; Director.**

67 A. The Department shall have the following duties:

68 1. Make recommendations to the Governor regarding the establishment and maintenance of a  
69 classification plan for the service of the Commonwealth, and recommend necessary amendments thereto.

70 2. Make recommendations to the Governor regarding the establishment and administration of a  
71 compensation plan for all employees, and recommend necessary amendments thereto.

72 3. Design and maintain a personnel information system that shall support the operational needs of the  
73 Department and of state agencies, and that shall provide for the management information needs of the  
74 Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a roster of  
75 all employees in the service of the Commonwealth, in which there shall be set forth as to each  
76 employee, the employing agency, the class title, pay, status and such other data as may be deemed  
77 desirable to produce significant facts pertaining to personnel administration.

78 4. Establish and direct a program of employee-management relations designed to improve  
79 communications between employees and agencies of the Commonwealth.

80 5. Establish and administer a system of performance evaluation for all employees in the service of  
81 the Commonwealth, based on the quality of service rendered, related where practicable to specific  
82 standards of performance. In no event shall workers' compensation leave affect the total number of hours  
83 credited during a performance cycle for purposes of calculating incentive increases in salary based on  
84 such performance evaluations.

85 6. Establish and administer a system of recruitment designed to attract high quality employees to the  
86 service of the Commonwealth. In administering this system, applicants shall be rated on the basis of  
87 relative merit and classified in accordance with their suitability for the various classes of positions in the  
88 service of the Commonwealth, and a record thereof shall be maintained in the open register.

89 7. Design and utilize an application form which shall include, but not be limited to, information on  
90 prior volunteer work performed by the applicant.

91 8. Establish and administer a comprehensive and integrated program of employee training and  
92 management development.

93 9. In coordination with the Governor or his designee, develop an online training module addressing  
94 diversity and cultural competency that shall be available for use by all employees and agencies of the  
95 Commonwealth. Such training module shall include (i) information related to race, ethnicity, disabilities,  
96 gender, religion, and other protected classes under state law; (ii) strategies to create an inclusive and  
97 equitable culture; (iii) strategies to ensure *equity opportunity* and inclusion in state employee recruitment  
98 and hiring; and (iv) strategies to ensure that state employees provide equitable, competent, and  
99 welcoming services to all persons.

100 10. Establish and administer a program of evaluation of the effectiveness of performance of the  
101 personnel activities of the agencies of the Commonwealth.

102 11. Establish and administer a program to ensure equal employment opportunity to applicants for  
103 state employment and to state employees in all incidents of employment.

104 12. Establish and administer regulations relating to disciplinary actions; however, no disciplinary  
105 action shall include the suspension without pay for more than 10 days of any state employee who is  
106 under investigation without a hearing conducted either by a level of supervision above the employee's  
107 immediate supervisor or by his agency head.

108 13. Adopt and implement a centralized program to provide awards to employees who propose  
109 procedures or ideas that are adopted and that will result in eliminating or reducing state expenditures or  
110 improving operations, provided such proposals are placed in effect. The centralized program shall be  
111 designed to (i) protect the identity of the individual making the proposal while it is being evaluated for  
112 implementation by a state agency, (ii) publicize the acceptance of proposals and financial awards to state  
113 employees, and (iii) include a reevaluation process that individuals making proposals may access if their  
114 proposals are rejected by the evaluating agency. The reevaluation process must include individuals from  
115 the private sector. State employees who make a suggestion or proposal under this section shall receive  
116 initial confirmation of receipt within 30 days. A determination of the feasibility of the suggestion or  
117 proposal shall occur within 60 days of initial receipt.

118 14. Develop state personnel policies and, after approval by the Governor, disseminate and interpret  
119 state personnel policies and procedures to all agencies. Such personnel policies shall permit an

employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the Internet. At a minimum, the Department's acceptable use policy shall contain provisions that (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to ensure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department shall have no authority with respect to the state grievance procedures.

14a. Develop state personnel policies, with the approval of the Governor, that permit any full-time state employee who is also a member of the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard to carry forward from year to year the total of his accrued annual leave time without regard to the regulation or policy of his agency regarding the maximum number of hours allowed to be carried forward at the end of a calendar year. Any amount over the usual amount allowed to be carried forward shall be reserved for use only as leave taken pursuant to active military service as provided by § 2.2-2903.1. Such leave and its use shall be in addition to leave provided under § 44-93. Any leave carried forward for the purposes described remaining upon termination of employment with the Commonwealth or any department, institution or agency thereof that has not been used in accordance with § 2.2-2903.1 shall not be paid or credited in any way to the employee.

14b. Develop state personnel policies that provide break time for nursing mothers to express breast milk. Such policies shall require an agency to provide (i) a reasonable break time for an employee to express breast milk for her nursing child after the child's birth each time such employee has need to express the breast milk and (ii) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public and that may be used by an employee to express breast milk. Such break time shall, if possible, run concurrently with any break time already provided to the employee. An agency shall not be required to compensate an employee receiving reasonable break time for any work time spent for such purpose. For purposes of this subdivision, "reasonable," with regard to break time provided for nursing mothers to express breast milk, means a break time that complies with the guidance for employers in assessing the frequency and timing of breaks to express breast milk set forth in the U.S. Department of Labor's Request for Information RIN 1235-ZA00, 75 Federal Register 80073 (December 21, 2010).

15. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year and the net gains and losses in personnel for each agency for a three-year period.

16. Submit a report to the members of the General Assembly on or before September 30 of each year showing (i) the total number of full-time and part-time employees, (ii) contract temporary employees, (iii) hourly temporary employees, and (iv) the number of employees who voluntarily and involuntarily terminated their employment with each department, agency or institution in the previous fiscal year.

17. Administer the workers' compensation insurance plan for state employees in accordance with § 2.2-2821.

18. Work jointly with the Department of General Services and the Virginia Information Technologies Agency to develop expedited processes for the procurement of staff augmentation to supplement salaried and wage employees of state agencies. Such processes shall be consistent with the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Department may perform contract administration duties and responsibilities for any resulting statewide augmentation contracts.

19. In coordination with the Secretary of Health and Human Resources or his designee, develop an online training module addressing safety and disaster awareness, which shall be incorporated into existing mandatory training.

B. The Director may convene such ad hoc working groups as the Director deems appropriate to address issues regarding the state workforce.

**§ 2.2-2497. Membership; terms; compensation and expenses.**

A. The Board shall consist of 18 nonlegislative citizen members appointed by the Governor who

181 represent or have experience with the faith community; local government; the U.S. Citizenship and  
182 Immigration Service; law-enforcement agencies; health, mental health, housing and workforce  
183 development organizations; organizations serving youth and the elderly; organizations providing legal  
184 services for immigrants; and educational institutions and institutions of higher education. In addition, the  
185 Director of Diversity, ~~Equity Opportunity~~, and Inclusion for the Commonwealth and the Chairmen of the  
186 Virginia-Asian Advisory Board, the Latino Advisory Board, the Virginia African American Advisory  
187 Board, and the Council on Women, or their designees, shall serve ex officio with nonvoting privileges.  
188 Nonlegislative citizen members of the Board shall be residents of the Commonwealth.

189 Ex officio members shall serve terms consistent with their terms of office.

190 B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term  
191 of four years. Appointments to fill vacancies shall be for the unexpired terms. No nonlegislative citizen  
192 member shall serve more than two consecutive four-year terms; however, the remainder of any term to  
193 which a member is appointed to fill a vacancy shall not constitute a term in determining the member's  
194 eligibility for reappointment.

195 C. The Board shall elect from its membership a chairman and vice-chairman. A majority of the  
196 members of the Board shall constitute a quorum. Meetings of the Board shall be limited to four per year  
197 and shall be held upon the call of the chairman or whenever the majority of the members so request.

198 D. Members of the Board shall receive no compensation for their services but shall be reimbursed  
199 for all reasonable and necessary expenses incurred in the performance of their duties as provided in  
200 §§ 2.2-2813 and 2.2-2825.

201 **§ 2.2-2499.5. Cannabis Equity Reinvestment Board; purpose; membership; quorum; meetings.**

202 A. The Cannabis Equity Reinvestment Board (the Board) is established as a policy board in the  
203 executive branch of state government. The purpose of the Board is to directly address the impact of  
204 economic disinvestment, violence, and historical overuse of criminal justice responses to community and  
205 individual needs by providing resources to support local design and control of community-based  
206 responses to such impacts.

207 B. The Board shall have a total membership of 20 members that shall consist of 13 nonlegislative  
208 citizen members and seven ex officio members. Nonlegislative citizen members shall be appointed as  
209 follows: three to be appointed by the Senate Committee on Rules, one of whom shall be a person who  
210 has been previously incarcerated or convicted of a marijuana-related crime, one of whom shall be an  
211 expert in the field of public health with experience in trauma-informed care, if possible, and one of  
212 whom shall be an expert in education with a focus on access to opportunities for youth in underserved  
213 communities; five to be appointed by the Speaker of the House of Delegates, one of whom shall be an  
214 expert on Virginia's foster care system, one of whom shall be an expert in workforce development, one  
215 of whom shall be a representative from one of Virginia's historically black colleges and universities, one  
216 of whom shall be a veteran, and one of whom shall be an entrepreneur with expertise in emerging  
217 industries or access to capital for small businesses; and five to be appointed by the Governor, subject to  
218 confirmation by the General Assembly, one of whom shall be a representative from the Virginia  
219 Indigent Defense Commission and four of whom shall be community-based providers or community  
220 development organization representatives who provide services to address the social determinants of  
221 health and promote community investment in communities adversely and disproportionately impacted by  
222 marijuana prohibitions, including services such as workforce development, youth mentoring and  
223 educational services, job training and placement services, and reentry services. Nonlegislative citizen  
224 members shall be citizens of the Commonwealth and reflect the racial, ethnic, gender, and geographic  
225 diversity of the Commonwealth.

226 The Secretaries of Education, Health and Human Resources, and Public Safety and Homeland  
227 Security, the Director of Diversity, ~~Equity Opportunity~~, and Inclusion, the Chief Workforce Development  
228 Advisor, and the Attorney General or their designees shall serve ex officio with voting privileges. The  
229 Chief Executive Officer of the Virginia Cannabis Control Authority or his designee shall serve ex officio  
230 without voting privileges.

231 Ex officio members of the Board shall serve terms coincident with their terms of office. After the  
232 initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.  
233 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.  
234 Vacancies shall be filled in the same manner as the original appointments. All members may be  
235 reappointed.

236 The Board shall be chaired by the Director of Diversity, ~~Equity Opportunity~~, and Inclusion or his  
237 designee. The Board shall select a vice-chairman from among its membership. A majority of the  
238 members shall constitute a quorum. The Board shall meet at least two times each year and shall meet at  
239 the call of the chairman or whenever the majority of the members so request.

240 **§ 2.2-2499.7. Powers and duties of the Board.**

241 The Cannabis Equity Reinvestment Board shall have the following powers and duties:

242 1. Support persons, families, and communities historically and disproportionately targeted and

affected by drug enforcement;

2. Develop and implement scholarship programs and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities.

3. Develop and implement a program to award grants to support workforce development programs, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.

4. Administer the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8.

5. Collaborate with the Board of Directors of the Virginia Cannabis Control Authority and the Office of Diversity, *Equity Opportunity*, and Inclusion as necessary to implement programs and provide recommendations in line with the purpose of this article.

6. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

7. Perform such other activities and functions as the Governor and General Assembly may direct.

#### **§ 2.2-2499.8. Cannabis Equity Reinvestment Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf 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:

1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;

2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;

3. Awarding grants to support workforce development, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.

4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and

5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.

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 Diversity, *Equity Opportunity*, and Inclusion.

#### **§ 4.1-604. Powers and duties of the Board.**

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;

2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana and marijuana products as provided by law;

4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;

7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;

8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, *Equity Opportunity*, and

304 Inclusion on matters related to diversity, ~~equity~~ *opportunity*, and inclusion standards in the marijuana  
305 industry;

306 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop  
307 requirements for the creation and submission of diversity, equity, and inclusion plans by persons who  
308 wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805,  
309 which may include a requirement that the licensee participate in social equity apprenticeship plan, and  
310 an approval process and requirements for implementation of such plans; (ii) be responsible for  
311 conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned  
312 businesses and veteran-owned businesses interested in participating in the marijuana industry and  
313 recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with  
314 business planning for potential marijuana establishment licensees; (iv) spread awareness of business  
315 opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana  
316 prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to  
317 potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas  
318 disproportionately impacted by marijuana prohibition and enforcement as necessary;

319 10. Establish a position for an individual with professional experience in a health related field who  
320 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with  
321 the Office of the Secretary of Health and Human Resources and relevant health and human services  
322 agencies and organizations, and perform other duties as needed.

323 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the  
324 Director of Diversity, ~~Equity Opportunity~~, and Inclusion to promote and encourage participation in the  
325 marijuana industry by people from communities that have been disproportionately impacted by marijuana  
326 prohibition and enforcement and to positively impact those communities;

327 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

328 13. Adopt, use, and alter at will a common seal;

329 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the  
330 sale of products of, or services rendered by the Authority at rates to be determined by the Authority for  
331 the purpose of providing for the payment of the expenses of the Authority;

332 15. Make and enter into all contracts and agreements necessary or incidental to the performance of  
333 its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including  
334 agreements with any person or federal agency;

335 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial  
336 experts, investment bankers, superintendents, managers, and such other employees and special agents as  
337 may be necessary and fix their compensation to be payable from funds made available to the Authority.  
338 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5  
339 (§ 2.2-500 et seq.) of Title 2.2;

340 17. Receive and accept from any federal or private agency, foundation, corporation, association, or  
341 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive  
342 and accept from the Commonwealth or any state and any municipality, county, or other political  
343 subdivision thereof or from any other source aid or contributions of either money, property, or other  
344 things of value, to be held, used, and applied only for the purposes for which such grants and  
345 contributions may be made. All federal moneys accepted under this section shall be accepted and  
346 expended by the Authority upon such terms and conditions as are prescribed by the United States and as  
347 are consistent with state law, and all state moneys accepted under this section shall be expended by the  
348 Authority upon such terms and conditions as are prescribed by the Commonwealth;

349 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its  
350 business shall be transacted and the manner in which the powers of the Authority shall be exercised and  
351 its duties performed. The Board may delegate or assign any duty or task to be performed by the  
352 Authority to any officer or employee of the Authority. The Board shall remain responsible for the  
353 performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where  
354 appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated.  
355 Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such  
356 delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance  
357 of the duties and tasks;

358 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the  
359 Authority's purposes or necessary or convenient to exercise its powers;

360 20. Develop policies and procedures generally applicable to the procurement of goods, services, and  
361 construction, based upon competitive principles;

362 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of  
363 Title 2.2;

364 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
365 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the

Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;

23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants;

24. Appoint every agent and employee required for its operations, require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;

25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

26. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

#### **§ 4.1-1503. Annual reports.**

On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety and Homeland Security, the Officer of Diversity, ~~Equity Opportunity~~, and Inclusion, the Governor, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on such other matters regarding the Fund as the Authority may deem appropriate, including the amount of funding committed to projects from the Fund, or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.

#### **§ 22.1-208.02. Culturally Relevant and Inclusive Education Practices Advisory Committee.**

A. The Department of Education, in consultation with the Commonwealth's Director of Diversity, ~~Equity Opportunity~~, and Inclusion, shall establish and appoint such members as deemed appropriate to the Culturally Relevant and Inclusive Education Practices Advisory Committee (the Advisory

Committee) for the purpose of strengthening culturally relevant education practices and supporting anti-bias education and response in the Commonwealth. The Advisory Committee shall include but not be limited to a geographically, ethnically, and religiously diverse representation of teachers, curriculum specialists, principals, superintendents, advocates, higher education institutions, parents, legislators, and community-based organizations. The Advisory Committee shall report its recommendations to the Board of Education, the Governor, and the Chairpersons of the House Committee on Education and the Senate Committee on Education and Health no later than July 1, 2021. The Committee shall issue interim reports as it deems necessary.

B. The Advisory Committee shall provide standards recommendations to the Virginia Department of Education, and they shall be considered by the Board of Education, during the 2021-2022 review of the history and social science Standards of Learning. Such recommendations shall include:

1. The historical underpinnings of the Holocaust and other historical genocides in the context of how increased lower levels of hate, ridicule, and dehumanization led to larger acts of violence and state-sponsored discrimination and violence;

2. Slavery, anti-Semitism, Islamophobia, and other forms of historical dehumanizing injustice and discrimination;

3. The ignored and untold history of the indigenous people of Virginia and North America; and

4. The untold histories of other groups historically underrepresented in American and world history.

C. The Advisory Committee shall provide recommendations for the issuance of Board of Education guidelines for local school division staff, including teachers and school counselors, to offer age-appropriate anti-bias education to students. The recommendations for such guidelines shall include:

1. Recognition that anti-bias and anti-discrimination education is the work and responsibility of all staff within the local school division;

2. An emphasis on diversity and building a community of empathy, respect, understanding, and connection;

3. Examination of how lower levels of hate, ridicule, and dehumanization lead to larger acts of violence, discrimination and violence;

4. Acknowledgment of inequity on the individual level, such as biased speech and harassment, and injustice at the institutional or systemic level, such as discrimination, and the harmful impact of inequity and injustice on the community, historically and today;

5. School-based and classroom-based responses, which are student centered and proven effective, to various forms of racism, bigotry, and discrimination through empathy, respect, understanding, and connection; and

6. Updates to the Department of Education's teacher's manual, as required by action taken by the 2009 Session of the General Assembly, that emphasizes the causes and ramifications of the Holocaust and genocide.

D. The Advisory Committee shall provide recommendations on meaningful professional development with school personnel related to culturally relevant and inclusive education practices. In addition to the Board of Education, the Governor, and the Chairpersons of the House Committee on Education and the Senate Committee on Education and Health, these recommendations shall also be provided to the Advisory Board on Teacher Education and Licensure and the State Council for Higher Education in Virginia. This shall include but not be limited to considerations for:

1. The policies and regulations governing teacher preparation programs; and

2. The policies and regulations governing teacher licensure and professional development requirements for licensure renewal.

#### **§ 22.1-365. Membership; terms; quorum; meetings.**

A. The Board shall have a total membership of 16 members that shall consist of 10 nonlegislative citizen members and six ex officio members. Nonlegislative citizen members to be appointed by the Governor shall represent or have STEM experience with the public and private sector, industry partners, environmental organizations, and both formal and informal STEM educational organizations. The Director of the Science Museum of Virginia, the Superintendent of Public Instruction, and the Director of the State Council of Higher Education for Virginia, or their designees, shall serve ex officio with full voting privileges. The Secretary of Education; the Director of Diversity, *Equity Opportunity*, and Inclusion for the Commonwealth; and the Chief Workforce Development Officer for the Commonwealth, or their designees, shall serve ex officio without voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

B. Ex officio members of the Board shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. No nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute



a term in determining the member's eligibility for reappointment.

C. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

**§ 44-146.18. Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.**

A. The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management (the Department). Wherever the words "State Department of Emergency Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

B. The Department shall in the administration of emergency services and disaster preparedness programs:

1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to, and recover from all disasters including acts of terrorism;

2. Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry, and other public and private entities deemed vital to preparedness, public safety, and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;

3. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness, response, and recovery programs;

4. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations, and personnel as appropriate;

5. Coordinate and administer disaster mitigation, preparedness, response, and recovery plans and programs with the proponent federal, state, and local government agencies and related groups;

6. Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management and continuity of operations (COOP) programs, plans, and systems;

7. Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;

8. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;

9. Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;

10. Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;

11. Consult with the State Council of Higher Education in the development and revision of a model institutional crisis and emergency management plan for the purpose of assisting public and private two-year and four-year institutions of higher education in establishing, operating, and maintaining emergency services and disaster preparedness activities and, as needed, in developing an institutional crisis and emergency management plan pursuant to § 23.1-804;

12. Develop standards, provide guidance, and encourage the maintenance of local and state agency emergency operations plans, which shall include the requirement for a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies;

13. Prepare, maintain, coordinate, or implement emergency resource management plans and programs with federal, state, and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter;

14. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation,

550 preparation, response, and recovery;

551 15. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as  
552 authorized by the Governor;

553 16. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency  
554 services intelligence pertaining to all probable hazards affecting the Commonwealth;

555 17. Coordinate intelligence activities relating to terrorism with the Department of State Police;

556 18. Develop an emergency response plan to address the needs of individuals with household pets and  
557 service animals in the event of a disaster and assist and coordinate with local agencies in developing an  
558 emergency response plan for household pets and service animals; and

559 19. Establish and maintain an Emergency Management Equity Working Group (the Working Group)  
560 to ensure that emergency management programs and plans provide support to at-risk individuals and  
561 populations disproportionately impacted by disasters. The Working Group shall include experts from (i)  
562 the Governor's Office of Diversity, ~~Equity~~ *Opportunity*, and Inclusion and other state agencies; (ii) the  
563 public at large; and (iii) the private sector who have expertise related to at-risk and vulnerable  
564 populations and the threats faced by such populations during a disaster.

565 The Department of Emergency Management shall ensure that all such plans, assessments, and  
566 programs required by this subsection include specific preparedness for, and response to, disasters  
567 resulting from electromagnetic pulses and geomagnetic disturbances.

568 C. The Department of Emergency Management shall during a period of impending emergency or  
569 declared emergency be responsible for:

570 1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual  
571 disaster;

572 2. Providing facilities from which state agencies and supporting organizations may conduct  
573 emergency operations;

574 3. Providing an adequate communications and warning system capable of notifying all political  
575 subdivisions in the Commonwealth of an impending disaster within a reasonable time;

576 4. Establishing and maintaining liaison with affected political subdivisions;

577 5. Determining requirements for disaster relief and recovery assistance;

578 6. Coordinating disaster response actions of federal, state and volunteer relief agencies; and

579 7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure  
580 orderly and timely response to and recovery from disaster effects.

581 D. The Department of Emergency Management shall be provided the necessary facilities and  
582 equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of  
583 the various federal, state, and other agencies during a state of emergency declaration by the Governor or  
584 following a major disaster declaration by the President.

585 E. The Department of Emergency Management is authorized to enter into all contracts and  
586 agreements necessary or incidental to performance of any of its duties stated in this section or otherwise  
587 assigned to it by law, including contracts with the United States, other states, agencies and government  
588 subdivisions of the Commonwealth, and other appropriate public and private entities.

589 F. The Department of Emergency Management shall encourage private industries whose goods and  
590 services are deemed vital to the public good to provide annually updated preparedness assessments to  
591 the local coordinator of emergency management on or before April 1 of each year, to facilitate overall  
592 Commonwealth preparedness. For the purposes of this section, "private industry" means companies,  
593 private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency  
594 Management to be essential to the public safety and well-being of the citizens of the Commonwealth.

595 G. The Department of Emergency Management shall establish a Coordinator of Search and Rescue.  
596 Powers and duties of the Coordinator shall include:

597 1. Coordinating the search and rescue function of the Department of Emergency Management;

598 2. Coordinating with local, state, and federal agencies involved in search and rescue;

599 3. Coordinating the activities of search and rescue organizations involved in search and rescue;

600 4. Maintaining a register of search and rescue certifications, training, and responses;

601 5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council and its  
602 respective member agencies regarding search and rescue efforts;

603 6. Providing on-scene search and rescue coordination when requested by an authorized person;

604 7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers,  
605 volunteer search and rescue responders, and others who might have a duty to respond to a search and  
606 rescue emergency;

607 8. Gathering and maintaining statistics on search and rescue in the Commonwealth;

608 9. Compiling, maintaining, and making available an inventory of search and rescue resources  
609 available in the Commonwealth; and

610 10. Periodically reviewing search and rescue cases and developing best professional practices.

611 Nothing in this chapter shall be construed as authorizing the Department of Emergency Management

to take direct operational responsibilities from local, state, or federal law enforcement in the course of search and rescue or missing person cases.

**§ 56-585.1:11. Development of offshore wind capacity.**

A. As used in this section:

"Advanced clean energy buyer" means a commercial or industrial customer of a Phase II Utility, irrespective of generation supplier, (i) with an aggregate load over 100 megawatts; (ii) with an aggregate amount of at least 200 megawatts of solar or wind energy supply under contract with a term of 10 years or more from facilities located within the Commonwealth by January 1, 2024; and (iii) that directly procures from the utility the electric supply and environmental attributes of the offshore wind facility associated with the lesser of 50 megawatts of nameplate capacity or 15 percent of the commercial or industrial customer's annual peak demand for a contract period of 15 years.

"Aggregate load" means the combined electrical load associated with selected accounts of an advanced clean energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" means the legal right, directly or indirectly, to direct or cause the direction of the management, actions, or policies of an affiliated entity, whether through the ability to exercise voting power, by contract, or otherwise. "Control" does not include control of an entity through a franchise or similar contractual agreement.

"Qualifying large general service customer" means a customer of a Phase II Utility, irrespective of general supplier, (i) whose peak demand during the most recent calendar year exceeded five megawatts and (ii) that contracts with the utility to directly procure electric supply and environmental attributes associated with the offshore wind facility in amounts commensurate with the customer's electric usage for a contract period of 15 years or more.

B. In order to meet the Commonwealth's clean energy goals, prior to December 31, 2034, the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, is in the public interest and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's share of the facility.

C. 1. Pursuant to subsection B, construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest. In acting upon any request for cost recovery by a Phase II Utility for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be presumed to be reasonably and prudently incurred if the Commission determines that (i) the utility has complied with the competitive solicitation and procurement requirements pursuant to subsection E; (ii) the project's projected total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019; and (iii) the utility has commenced construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January 1, 2028. The Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably and imprudently incurred. In its review, the Commission shall give due consideration to (a) the Commonwealth's renewable portfolio standards and carbon reduction requirements, (b) the promotion of new renewable generation resources, and (c) the economic development benefits of the project for the Commonwealth, including capital investments and job creation.

2. Notwithstanding the provisions of § 56-585.1, the Commission shall not grant an enhanced rate of return to a Phase II Utility for the construction of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline pursuant to this section.

3. Any such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, regardless of the generation supplier of any such customer, other than (i) PIPP eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers. No electric cooperative customer of the utility shall be assigned, nor shall the utility collect from any such cooperative, any of the costs of such facilities, including electrical transmission or

distribution facilities associated therewith for interconnection. The Commission may promulgate such rules, regulations, or other directives necessary to administer the eligibility for these exemptions.

4. The Commission shall permit a portion of the nameplate capacity of any such facility, in the aggregate, to be allocated to (i) advanced clean energy buyers or (ii) qualifying large general service customers, provided that no more than 10 percent of the offshore wind facility's capacity is allocated to qualifying large general service customers. A Phase II Utility shall petition the Commission for approval of a special contract with any advanced clean energy buyer, or any special rate applicable to qualifying large general service customers, pursuant to § 56-235.2, no later than 15 months prior to the projected commercial operation date of the facility, and all customer enrollments associated with such special contracts or rates shall be completed prior to commercial operation of the facility. Any such special contract or rate may include provisions for levelized rates of service over the duration of the customer's contracted agreement with the utility, and the Commission shall determine that such special contract or rate is designed to hold nonparticipating customers harmless over its term in connection with any petition for approval by the utility. The utility may petition for approval of such special contracts or rates in connection with any petition for approval of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of the facility, and the Commission shall rule upon any such petitions in its final order in such proceeding within nine months from the date of filing.

D. In constructing any such facility contemplated in subsection B, the utility shall develop and submit a plan to the Commission for review that includes the following considerations: (i) options for utilizing local workers; (ii) the economic development benefits of the project for the Commonwealth, including capital investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development Officer, the Chief Diversity, *Equity Opportunity*, and Inclusion Officer, and the Virginia Economic Development Partnership on opportunities to advance the Commonwealth's workforce and economic development goals, including furtherance of apprenticeship and other workforce training programs; (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and workers from historically economically disadvantaged communities; and (v) procurement of equipment from Virginia-based or United States-based manufacturers using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

E. Any project constructed or purchased pursuant to subsection B shall (i) be subject to competitive procurement or solicitation for a substantial majority of the services and equipment, exclusive of interconnection costs, associated with the facility's construction; (ii) involve at least one experienced developer; and (iii) demonstrate the economic development benefits within the Commonwealth, including capital investments and job creation. A utility may give appropriate consideration to suppliers and developers that have demonstrated successful experience in offshore wind.

F. Any project shall include an environmental and fisheries mitigation plan submitted to the Commission for the construction and operation of such offshore wind facilities, provided that such plan includes an explicit description of the best management practices the bidder will employ that considers the latest science at the time the proposal is made to mitigate adverse impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses. The plan shall include a summary of pre-construction assessment activities, consistent with federal requirements, to determine the spatial and temporal presence and abundance of marine mammals, sea turtles, birds, and bats in the offshore wind lease area.