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HOUSE BILL NO. 1023

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 35.3, consisting of sections numbered 2.1-563.36 through 2.1-536.47, relating to the Virginia Information Providers Network Act.

Patron—Harris

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 35.3, consisting of sections numbered 2.1-563.36 through 2.1-536.47, as follows:

CHAPTER 35.3.

VIRGINIA INFORMATION PROVIDERS NETWORK ACT.

§ 2.1-563.36. Definitions.

As used in this chapter, the words and terms shall have the following meanings, unless the context clearly indicates otherwise:

"Authority" means the Virginia Information Providers Network, Inc., a political subdivision of the Commonwealth created by this chapter.

"File" means a group of data consisting of a collection of related records which concern one or more functions of a state agency, board, bureau, commission or authority, and which is treated as a single unit in an electronic data processing system.

"Gateway" means any centralized electronic information system by which public information shall be provided via dial-in modem or continuous link to the public through subscription or through public libraries.

"Public Information" means any information created, acquired, and stored in electronic or magnetic form by the agencies, institutions, boards, bureaus, commissions, councils and other authorities of the Commonwealth, which is included within the information deemed to be public pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).

"Record" means a group of related fields of data used to electronically store data about a subject, such as an employee, customer, vendor or other individual, or a transaction.

"User association" means an association.

§ 2.1-563.37. Declaration of purpose; Authority established.

The General Assembly has determined that there exists in the Commonwealth a need to provide for the centralized marketing, provision, sale and leasing or executing of license agreements for access on line or in volume on such terms and conditions as may be determined to be in the best interest of the Commonwealth. Therefore, a political subdivision of the Commonwealth to be known as the "Virginia Information Providers Network, Inc." (the Authority) is hereby created. The Authority's exercise of powers conferred by this chapter shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

§ 2.1-563.38. Board of directors.

The Authority shall be governed by a board of directors consisting of eleven members, two of whom shall be the Secretary of Administration and the Director of the Council of Information Management, who shall serve during their terms in offices. The remaining nine members shall be appointed by the Governor as follows: three members who are chief executive officers of agencies of the executive branch; two members from a list submitted by the Virginia Bar Association; three members from user associations of a statewide character, except that no two shall represent the same user association; and one member from a list submitted by the State Librarian. Three of such directors appointed by the Governor shall be appointed for terms of one year, three for terms of two years, and three for terms of three years, from the effective date of their appointment. Thereafter, board members shall be appointed for terms of three years. All board members appointed by the Governor shall be confirmed by each house of the General Assembly. Vacancies in board membership shall be filled by appointment for the unexpired portion of the term. Board members shall be subject to removal from office for cause. The board shall annually elect one of its members as chairman, one as vice chairman, and another as secretary. The board may also elect other subordinate officers, who may or may not be members of the board, as it deems proper. The chairman or, in his absence, the vice chairman shall preside at all meetings of the board. In the absence of both the chairman and vice chairman, the board shall appoint

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60 a chairman pro tempore, who shall preside at such meetings. Six directors shall constitute a quorum for
61 the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a
62 quorum to exercise all the rights and perform all the duties of the Authority. Board members shall be
63 entitled to reimbursement for their reasonable travel, meal and lodging expenses incurred in attending
64 board meetings or while otherwise engaged in discharging their duties. Such expenses shall be paid out
65 of the treasury of the Authority upon vouchers signed by the board chairman or by such other person as
66 the board designates for this purpose. The board shall employ a network manager of the Authority, who
67 shall serve at the pleasure of the board, to direct the day-to-day operations and activities of the
68 Authority and carry out the powers and duties conferred upon him as may be delegated to him by the
69 board. The network manager and employees of the Authority shall be compensated in the manner
70 provided by the board.

71 § 2.1-563.39. Powers and duties of the Authority.

72 The Authority may exercise all powers necessary or convenient for carrying out its statutory
73 purposes, including, without limitation, the power to:

74 1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

75 2. Adopt, use, and alter at will a common seal;

76 3. Foster the development of a coordinated, comprehensive system for providing ready access to
77 electronic public state government information for individuals, businesses, and other entities;

78 4. Make and execute contracts, lease agreements and all other instruments necessary or convenient
79 to exercise the powers of the Authority or to further the public purpose for which the authority is
80 created;

81 5. Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or personal
82 property of every kind and character, or any interest therein, in furtherance of the public purpose of the
83 Authority;

84 6. Apply for and accept any gifts or grants or loan guarantees or loans of funds or property or
85 financial and other aid in any form from the federal government or any agency or instrumentality
86 thereof, or from the state or any agency or instrumentality thereof, or from any other source for any or
87 all of the purposes specified in this chapter and to comply, subject to the provisions of this chapter, with
88 the terms and conditions thereof;

89 7. Contract with state agencies or any local government for the use by the Authority of any property,
90 facilities, or services of the state or any such state agency or local government or for the use by any
91 state agency or local government of any facilities or services of the Authority; and such state agencies
92 and local governments are authorized to enter into such contracts;

93 8. Fix and collect fees and charges for data, media, and incidental services furnished by it to any
94 private individual or entity;

95 9. Deposit or invest funds held by it in any state depository or in any investment which is authorized
96 for the investment of proceeds of state general obligation bonds; and use for its corporate purposes or
97 redeposit or investment interest earned on such funds;

98 10. Exercise any power granted by the laws of the Commonwealth to public or private corporations
99 not in conflict with the public purpose of the Authority; and

100 11. Make rules and regulations for its own government.

101 § 2.1-563.40. Network manager; duties.

102 The network manager shall (i) direct and supervise the day-to-day operations and expansion of such
103 gateway and network, including the initial phase of operations necessary to make such gateway
104 operational; (ii) attend meetings of the Authority; (iii) keep a record of all gateway, network and related
105 operations of the Authority, which shall be the property of the Authority; (iv) maintain and be custodian
106 of all financial and operational records, documents, and papers filed with the Authority; and (v) update
107 and revise annually the business plan of the Authority, in consultation with and under the direction of
108 the Authority's board of directors.

109 § 2.1-563.41. Access to records of state agencies, institutions, boards, bureaus, commissions,
110 councils.

111 All state agencies, institutions, boards, bureaus, commissions, councils and other authorities may
112 make available to the Authority access to public records or data which are available in electronic
113 format upon terms mutually agreed to by the Authority and any such agency, institution, board, bureau,
114 commission, council or other authority. The Authority shall reimburse the agency, institution, board,
115 bureau, commission, council for costs incurred to provide such access to the Authority.

116 § 2.1-563.42. Access to and sale of files of public information; receipt of data in electric format from
117 the public; application of statutory restrictions on confidentiality to Authority.

118 The Authority may provide electronic access to members of the public on behalf of the executive
119 branch of state government to public information of agencies via a dial-in gateway or electronic
120 network. The Authority shall explore ways and means of expanding the amount and kind of public
121 information provided, increasing the utility of the public information provided and the form in which

provided, expanding the base of users who access such public information and, where appropriate, implement changes.

The Authority shall have exclusive authority to sell or execute license agreements on behalf of the executive branch of state government an entire file of public information in any electronic medium or format. However, nothing contained in this section shall preclude any agency, institution, board, bureau, commission, council, or other authorities from selling individual records maintained in electronic format or otherwise to the public or other government agencies or entities or from selling or otherwise disseminating any data which the Authority declines to sell

The Authority may be authorized by the judicial and legislative branches to sell on their behalf entire files of public information.

The Authority may receive data in electronic format from members of the public for the purpose of transmitting such data electronically to various agencies, institutions, boards, bureaus, commissions, councils, or other authorities.

All of the statutory restrictions governing the confidentiality or use of any public information, including, but not limited to, the Freedom of Information Act (§ 2.1-340 et seq.), the Privacy Protection Act of 1976 (§ 2.1-377 et seq.), and the Virginia Public Records Act (§ 42.1-76 et seq.), and all penalties for any violation thereof shall apply to the Authority and its employees.

§ 2.1-563.43. Exemption from taxes.

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the Commonwealth. As the operation of the Authority and the undertaking of activities in the furtherance of the purposes of the Authority will constitute the performance of the essential governmental functions, the Authority shall not be required to pay any taxes upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption hereby granted shall not be construed to extend to persons conducting on the premises of the facility businesses for which local or state taxes would otherwise be required.

§ 2.1-563.44. Ownership of data not affected.

Nothing in this chapter shall be deemed to effect a transfer of ownership of any data from any state agency, institution, board, bureau, commission, council to the Authority.

§ 2.1-563.45. Financing and operations.

The Authority shall fund its operations from revenues generated from subscribers, sales or licensing and from money, goods or in-kind services donated from private sources. Initial funding for start-up costs shall be obtained from private donations. No state funds shall be used for any Authority purpose.

All moneys received by the Authority from gifts, donations, grants or any other private source shall be deposited in the state treasury and credited to the Authority.

§ 2.1-563.46. Exemption of Authority from personnel and procurement procedures.

The provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 and Chapter 7 (§ 11-35 et seq.) of Title 11 of the Code of Virginia shall not apply to the Authority in the exercise of any power conferred under this chapter.

§ 2.1-563.47. Forms of accounts and records; audit; annual report.

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived, shall be in such form as the Auditor of Public Accounts prescribes. The Auditor of Public Accounts, and his legally authorized representatives, shall annually examine the accounts and books of the Authority. Such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of § 2.1-467.