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SENATE BILL NO. 263

Offered January 14, 2026

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A BILL to amend and reenact §§ 2.2-1603 through 2.2-1606, 2.2-1608, 2.2-1609, 2.2-1610, 2.2-2311.1, 2.2-2358, 2.2-3705.6, 2.2-4310, 4.1-604, 15.2-965.1, 15.2-965.2, 18.2-213.1, 23.1-1002, 23.1-1017, 23.1-3138, and 56-235.1:2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-4310.4, relating to Department of Small Business and Supplier Diversity; Virginia Public Procurement Act; certification for service disabled veteran-owned businesses and veteran-owned businesses; participation requirements; penalty.

Patron—Stanley

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1603 through 2.2-1606, 2.2-1608, 2.2-1609, 2.2-1610, 2.2-2311.1, 2.2-2358, 2.2-3705.6, 2.2-4310, 4.1-604, 15.2-965.1, 15.2-965.2, 18.2-213.1, 23.1-1002, and 56-235.1:2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-4310.4 as follows:

§ 2.2-1603. Department of Small Business and Supplier Diversity; appointment of Director; offices; personnel.

A. There is hereby created a Department of Small Business and Supplier Diversity (the Department), which shall be headed by a Director appointed by the Governor to serve at his pleasure. The Director shall also serve as a special assistant to the Governor for small, women-owned, and minority-owned, service disabled veteran-owned, and veteran-owned business development.

B. The Director of the Department shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor.

C. The Department shall have its main office in Richmond and may have branch offices as may be necessary, as determined by the Director subject to the approval of the Secretary of Commerce and Trade.

§ 2.2-1604. Definitions.

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

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

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

"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.

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

"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

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59 who is regarded as such by the community of which this person claims to be a part or who is recognized by a
60 tribal organization.

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

70 "*Service disabled veteran*" means a veteran who (i) served on active duty in the United States military
71 ground, naval, or air service; (ii) was discharged or released under conditions other than dishonorable; and
72 (iii) has a service-connected disability rating fixed by the U.S. Department of Veterans Affairs.

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

79 "Small business" means a business that is at least 51 percent independently owned and controlled by one
80 or more individuals, or in the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et
81 seq.) of Title 13.1 as a nonstock corporation, is at least 51 percent independently controlled by one or more
82 members, who are U.S. citizens or legal resident aliens and, together with affiliates, has 250 or fewer
83 employees or average annual gross receipts of \$10 million or less averaged over the previous three years. One
84 or more of the individual owners or members shall control both the management and daily business
85 operations of the small business.

86 "*Small SWaM business*" means a small business certified by the Department as being small or any
87 subcategory of small, small women-owned, small minority-owned, small service disabled veteran-owned, or
88 small veteran-owned.

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

91 "SWaM" means small, women-owned, ~~or~~ minority-owned, *service disabled veteran-owned*, or *veteran-*
92 *owned* or related to a small, women-owned, ~~or~~ minority-owned, *service disabled veteran-owned*, or *veteran-*
93 *owned* business.

94 "SWaM plan" means a written program, plan, or progress report submitted by a state agency to the
95 Department pursuant to § 2.2-4310.

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

98 "*Veteran owned business*" means a business that is at least 51 percent owned by one or more veterans or,
99 in the case of a corporation, partnership, or limited liability company or other entity, a business in which at
100 least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company
101 or other entity is owned by one or more individuals who are veterans and both the management and daily
102 business operations are controlled by one or more individuals who are veterans.

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

108 **§ 2.2-1605. Powers and duties of Department.**

109 A. The Department shall have the following powers and duties:

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

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

118 3. Establish a center for the development, collection, summarization, and dissemination of information
119 that will be helpful to persons and organizations throughout the nation in undertaking or promoting
120 procurement from small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*, and *veteran-*

121 *owned* businesses;

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

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

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

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

138 8. Facilitate relationships between established businesses and start-up women-owned ~~and~~,
139 minority-owned, *and veteran-owned* businesses by creating and administering a mentorship program under
140 the provisions of § 2.2-1605.1.

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

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

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

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

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

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

155 6. Annually review and provide feedback on SWaM plans. The review shall focus on strategies state
156 agencies can use to improve SWaM spending, increase procurement of goods and services from SWaM
157 businesses, and meet procurement goals outlined in SWaM plans. The Department shall encourage state
158 agencies to integrate such strategies with all current and future procurements. The Department shall suggest
159 strategies that may be more effective or changes to strategies that have not been effective. Upon request of a
160 state agency, the Department shall meet with the state agency one-on-one to discuss its SWaM goals and
161 strategies and advise it on effective strategies. The Department shall research and compile information that
162 state agencies can use to increase SWaM spending and shall develop and publish guidance on how state
163 agencies can implement these strategies.

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

166 **§ 2.2-1605.1. Mentorship program.**

167 A. The Department shall establish and administer a pilot program whereby established businesses, or
168 subject matter experts in relevant industry sectors, act as mentors for start-up women-owned ~~and~~,
169 minority-owned, *service disabled veteran-owned, and veteran-owned* businesses. In establishing the program,
170 the Department may include any of the following elements: (i) requiring a participant who has completed the
171 Department's Scaling4Growth program or any successor program to act as a mentor for a start-up
172 women-owned ~~or~~, minority-owned, *service disabled veteran-owned, or veteran-owned* business; (ii)
173 awarding grants in each region, as defined in § 2.2-2484, to recruit mentors and match them with start-up
174 women-owned ~~and~~, minority-owned, *service disabled veteran-owned, and veteran-owned* businesses in such
175 region; or (iii) any other measures the Department deems appropriate for facilitating mentorship relationships
176 between established businesses and start-up women-owned ~~and~~, minority-owned, *service disabled veteran-*
177 *owned, and veteran-owned* businesses. The Department shall also evaluate the feasibility of awarding
178 procurement preferences for businesses who agree to act as mentors in the mentorship program.

179 B. In establishing the pilot program under subsection A, the Department shall by July 1, 2023, select an
180 initial group of established businesses, subject matter experts in relevant industry sectors, and start-up
181 women-owned ~~and~~, minority-owned, *service disabled veteran-owned, and veteran-owned* businesses. The
182 Department shall by July 1, 2024, report on the progress of the initial group pursuant to § 2.2-1610, but shall

183 not select a second group unless directed to do so in legislation enacted by the General Assembly.

184 **§ 2.2-1606. Powers of Director.**

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

186 1. With the participation of other state departments and agencies, develop comprehensive plans and
187 specific program goals for small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*, and
188 *veteran-owned* business programs; establish regular performance monitoring and reporting systems to assure
189 that goals of state agencies and institutions are being achieved; and evaluate the impact of federal and state
190 support in achieving objectives.

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

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

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

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

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

205 7. Recommend appropriate legislative or executive actions.

206 8. Adopt regulations to implement certification programs for small, women-owned, ~~and~~ minority-owned,
207 *service disabled veteran-owned*, and *veteran-owned* businesses and employment services organizations,
208 which regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to
209 subdivision B 2 of § 2.2-4002. Such certification programs shall allow applications for certification to be
210 submitted by electronic means as authorized by § 59.1-496 and the applicant to affix thereto his electronic
211 signature, as defined in § 59.1-480. Such certification programs shall deny certification to vendors from states
212 that deny like certifications to Virginia-based small, women-owned, ~~or~~ minority-owned, *service disabled*
213 *veteran-owned*, or *veteran-owned* businesses and employment services organizations or that provide a
214 preference for small, women-owned, ~~or~~ minority-owned, *service disabled veteran-owned*, or *veteran-owned*
215 businesses and employment services organizations based in that state that is not available to Virginia-based
216 businesses. The regulations shall (i) establish minimum requirements for certification of small,
217 women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*, and *veteran-owned* businesses and
218 employment services organizations; (ii) provide a process for evaluating existing local, state, and private
219 sector certification programs that meet the minimum requirements; and (iii) mandate certification without any
220 additional paperwork of any small, women-owned, ~~or~~ minority-owned, *service disabled veteran-owned*, or
221 *veteran-owned* business that has obtained (a) certification under any federal certification program or (b)
222 certification under any other certification program that is determined to meet the minimum requirements
223 established in the regulations, and of any employment services organization that has been approved by the
224 Department for Aging and Rehabilitative Services. All employment services organization certifications shall
225 remain in effect until the Department is notified by the Department for Aging and Rehabilitative Services that
226 such organization is no longer approved. The regulations shall also require as a prerequisite for approval that
227 any out-of-state business applying for certification in Virginia as a small, women-owned, ~~or~~ minority-owned,
228 *service disabled veteran-owned*, or *veteran-owned* business have the equivalent certification in the business's
229 state of origin. An out-of-state business located in a state that does not have a small, women-owned, ~~or~~
230 minority-owned, *service disabled veteran-owned*, or *veteran-owned* business certification program shall be
231 exempt from the requirements of this provision. The regulations shall establish a process for businesses that
232 are denied initial certification as a small, women-owned, ~~or~~ minority-owned, *service disabled veteran-owned*,
233 or *veteran-owned* business to appeal such denial on the basis that the Department made a mistake in denying
234 the business's application for certification.

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

237 **§ 2.2-1608. Interdepartmental Board; cooperation with Department.**

238 A. The Interdepartmental Board established by the Director shall be composed of heads of the several
239 departments and agencies of state government, or their respective designees, whose functions affect small,
240 women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*, and *veteran-owned* businesses. The
241 participating departments and agencies shall be determined by the Director of the Department. The
242 Interdepartmental Board shall meet at the call of the Director and shall supply the Director with information
243 useful in promoting small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*, and
244 *veteran-owned* business development.

245 B. The head of each participating state department and agency or his designee shall furnish information,
246 assistance, and reports to, and shall otherwise cooperate with, the Director in the performance of his duties as
247 needed.

248 C. The head of each participating state department or agency shall, when so requested by the Director,
249 designate an assistant or such other similar official to have primary and continuing responsibility for the
250 participation and cooperation of that department or agency in matters concerning small, women-owned, ~~and~~
251 minority-owned, *service disabled veteran-owned, and veteran-owned* businesses.

252 D. Each participating state department or agency shall, within constraints of law and availability of
253 funding, continue all current efforts to foster and promote small, women-owned, ~~and~~ minority-owned, *service*
254 *disabled veteran-owned, and veteran-owned* businesses and to support small, women-owned, ~~and~~
255 minority-owned, *service disabled veteran-owned, and veteran-owned* business programs, and shall cooperate
256 with the Director in increasing the total state effort.

257 **§ 2.2-1609. Use of vendors identified by public institutions of higher education as small, women-**
258 **owned, minority-owned, service disabled veteran-owned, and veteran-owned businesses.**

259 For purposes of compliance with § 2.2-4310, a public institution of higher education that meets the
260 conditions prescribed in subsection A of § 23.1-1002 may procure goods, services, and construction from
261 vendors identified by such public institutions of higher education as small, women-owned, ~~or~~
262 minority-owned, *service disabled veteran-owned, or veteran-owned* businesses that the institution has
263 certified as such based on criteria approved by the Department. An institution exercising the authority granted
264 by this section shall establish and follow internal procedures and processes designed to verify whether or not
265 a vendor qualifies to be certified as a small, women-owned, ~~or~~ minority-owned, *service disabled veteran-*
266 *owned, or veteran-owned* business under the Department-approved criteria and the certification requirements.
267 The institution shall notify the Department promptly of the certification and shall provide the Department
268 with a copy of its written certification identifying the vendor as a small, women-owned, ~~or~~ minority-owned,
269 *service disabled veteran-owned, or veteran-owned* business and all application materials submitted by the
270 vendor to the institution. Such certification shall remain in effect unless and until the Department notifies the
271 institution that the vendor does not meet the certification requirements.

272 **§ 2.2-1610. Reports and recommendations; collection of data.**

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

276 The Director shall report, on or before November 1 of each year, to the Governor and the General
277 Assembly the identity of the state departments and agencies failing to submit annual progress reports on
278 small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned, and veteran-owned* business
279 procurement required by § 2.2-4310 and the nature and extent of such lack of compliance. The annual report
280 shall include recommendations on the ways to improve compliance with the provisions of § 2.2-4310 and
281 such other related matters as the Director deems appropriate. The Department shall include in its annual
282 report information on the progress of the mentorship program established under § 2.2-1605.1.

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

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

292 **§ 2.2-2311.1. Creation, administration, and management of the SWaM Business Loan Fund.**

293 A. For the purposes of this section:

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

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

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

305 "*Service disabled veteran-owned business*" means a for-profit small business concern that is majority-
306 owned by one or more service disabled veterans. In the case of a corporation, a majority of the stock shall be

307 *owned by one or more service disabled veterans and the management and daily business operations shall be*
 308 *controlled by one or more of the service disabled veterans who own it.*

309 *"SWaM" means small, women-owned, minority-owned, service disabled veteran-owned, or veteran-owned*
 310 *or related to a small, women-owned, minority-owned, service disabled veteran-owned, or veteran-owned*
 311 *business.*

312 *"Veteran-owned business" means a for-profit small business concern that is majority-owned by one or*
 313 *more veterans. In the case of a corporation, a majority of the stock shall be owned by one or more veterans*
 314 *and the management and daily business operations shall be controlled by one or more of the veterans who*
 315 *own it.*

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

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

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

331 **§ 2.2-2358. Division of Investment.**

332 A. Within the Authority shall be created a Division of Investment (the Division) to provide the
 333 Commonwealth with a competitive advantage through an array of funding mechanisms as provided in
 334 § 2.2-2355 related to direct and indirect venture capital investments. The Division may (i) make direct
 335 investments in business entities, (ii) make indirect investments in business entities through intermediary
 336 entities, whether formed by the Authority, or by another public or private entity or provide other financial
 337 support to encourage the formation of such intermediary entities or sidecar funds, (iii) benchmark state tax
 338 incentive programs relating to the formation and growth of technology-based businesses, and (iv) perform
 339 any other duties or responsibilities assigned by the Board.

340 B. The Division shall partner with and support women-owned ~~and~~, minority-owned, *service disabled*
 341 *veteran-owned, and veteran-owned* entrepreneurial entities through initiatives such as investor networks,
 342 accelerators, and incubators that promote and develop women ~~and~~, minority, *service disabled veteran, and*
 343 *veteran* founders. Further, the Division shall consider status as a woman-owned ~~or~~, minority-owned, *service*
 344 *disabled veteran-owned, or veteran-owned* business when making direct or indirect investments.

345 C. The Division shall work to support investments in the diverse economies and regions of the
 346 Commonwealth and shall engage members of rural and geographically underrepresented communities on
 347 advisory committees and in positions of decision making.

348 D. The Division shall be advised by an Advisory Committee on Investment (the Advisory Committee), to
 349 be appointed by the Board.

350 E. The Board, in consultation with the Division and the Advisory Committee, shall make biennial
 351 recommendations to the Governor regarding investment strategies.

352 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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

357 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or
 358 62.1-134.1.

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

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

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

368 5. Fisheries data that would permit identification of any person or vessel, except when required by court

369 order as specified in § 28.2-204.

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

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

378 8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the
 379 Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter
 380 10 of Title 32.1.

381 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost
 382 projections provided by a private transportation business to the Virginia Department of Transportation and
 383 the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed
 384 to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L.
 385 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of
 386 Information Act or the federal Interstate Commerce Act or other laws administered by the Surface
 387 Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to
 388 the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided
 389 by this subdivision shall not apply to any wholly owned subsidiary of a public body.

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

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

401 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected
 402 local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et
 403 seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if
 404 disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of
 405 the private entity, including balance sheets and financial statements, that are not generally available to the
 406 public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity
 407 where if such information was made public prior to the execution of an interim agreement or a
 408 comprehensive agreement, the financial interest or bargaining position of the public or private entity would
 409 be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from
 410 the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

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

415 The responsible public entity shall determine whether the requested exclusion from disclosure is
 416 necessary to protect the trade secrets or financial information of the private entity. To protect other
 417 information submitted by the private entity from disclosure, the responsible public entity shall determine
 418 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement
 419 would adversely affect the financial interest or bargaining position of the public or private entity. The
 420 responsible public entity shall make a written determination of the nature and scope of the protection to be
 421 afforded by the responsible public entity under this subdivision. Once a written determination is made by the
 422 responsible public entity, the information afforded protection under this subdivision shall continue to be
 423 protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

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

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

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

441 13. Trade secrets or confidential proprietary information that is not generally available to the public
 442 through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii)
 443 franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority
 444 pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to
 445 the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new
 446 technologies or implementation of improvements, where such new services, technologies, or improvements
 447 have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if
 448 such information were made public, the competitive advantage or financial interests of the franchisee would
 449 be adversely affected.

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

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

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

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

463 16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier
 464 E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of
 465 wireless E-911 service.

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

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

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

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

486 20. Trade secrets or financial information of a business, including balance sheets and financial statements,
 487 that are not generally available to the public through regulatory disclosure or otherwise, provided to the
 488 Department of Small Business and Supplier Diversity as part of an application for certification as a small,
 489 women-owned, ~~or~~ minority-owned, *service disabled veteran-owned*, or *veteran-owned* business in
 490 accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to
 491 be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission
 492 of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other

493 materials for which protection is sought, and (iii) state the reasons why protection is necessary.

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

496 22. Trade secrets, including, but not limited to, financial information, including balance sheets and
497 financial statements, that are not generally available to the public through regulatory disclosure or otherwise,
498 and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector
499 General for the purpose of an audit, special investigation, or any study requested by the Office of the State
500 Inspector General in accordance with law.

501 In order for the information specified in this subdivision to be excluded from the provisions of this
502 chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

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

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

506 c. Stating the reasons why protection is necessary.

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

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

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

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

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

527 c. Stating the reasons why protection is necessary.

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

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

536 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such
537 information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private
538 entity, including balance sheets and financial statements, that are not generally available to the public through
539 regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely
540 affect the financial interest or bargaining position of the Authority or private entity.

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

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

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

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

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

552 25. Information of a proprietary nature furnished by an agricultural landowner or operator to the
553 Department of Conservation and Recreation, the Department of Environmental Quality, the Department of
554 Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth

555 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
556 regulatory enforcement action.

557 26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of
558 § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting
559 party shall (i) invoke this exclusion upon submission of the data or materials for which protection from
560 disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the
561 reasons why protection is necessary.

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

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

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

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

571 c. Stating the reasons why protection is necessary.

572 28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or
573 investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the
574 Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the
575 Authority, or any other entity designated by the Authority to review such applications, to the extent that such
576 records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment
577 application that is not a public body, including balance sheets and financial statements, that are not generally
578 available to the public through regulatory disclosure or otherwise; or (c) research-related information
579 produced or collected by a party to the application in the conduct of or as a result of study or research on
580 medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not
581 been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of
582 a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information
583 prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the
584 evaluation of grant, loan, or investment applications, including any scoring or prioritization documents
585 prepared for and forwarded to the Authority.

586 29. Proprietary information, voluntarily provided by a private business pursuant to a promise of
587 confidentiality from a public body, used by the public body for a solar services or carbon sequestration
588 agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b)
589 financial information of the private business, including balance sheets and financial statements, that are not
590 generally available to the public through regulatory disclosure or otherwise; or (c) other information
591 submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the
592 public body or private business.

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

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

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

598 c. Stating the reasons why protection is necessary.

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

605 31. Trade secrets, including, but not limited to, financial information, including balance sheets and
606 financial statements that are not generally available to the public through regulatory disclosure or otherwise,
607 and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department
608 of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia
609 Department of Transportation in accordance with law.

610 In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the
611 private or nongovernmental entity shall make a written request to the Department:

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

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

615 c. Stating the reasons why protection is necessary.

616 The Virginia Department of Transportation shall determine whether the requested exclusion from

617 disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia
618 Department of Transportation shall make a written determination of the nature and scope of the protection to
619 be afforded by it under this subdivision.

620 32. Information related to a grant application, or accompanying a grant application, submitted to the
621 Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial
622 information of a grant applicant that is not a public body, including balance sheets and financial statements,
623 that are not generally available to the public through regulatory disclosure or otherwise, or (c)
624 research-related information produced or collected by the applicant in the conduct of or as a result of study or
625 research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such
626 information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the
627 competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants
628 administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26
629 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the
630 appropriations act.

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

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

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

636 c. Stating the reasons why protection is necessary.

637 The Department shall determine whether the requested exclusion from disclosure is necessary to protect
638 the trade secrets or confidential proprietary information of the applicant. The Department shall make a
639 written determination of the nature and scope of the protection to be afforded by it under this subdivision.

640 33. Financial and proprietary records submitted with a loan application to a locality for the preservation or
641 construction of affordable housing that is related to a competitive application to be submitted to either the
642 U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development
643 Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive
644 position of the applicant. Such records shall not be withheld after they have been made public by HUD or
645 VHDA.

646 34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits
647 manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer
648 pursuant to § 54.1-3442.02.

649 35. Trade secrets, proprietary information, or financial information, including balance sheets and financial
650 statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied
651 by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of
652 complying with the obligations of any lease, easement, license, permit, or other agreement, whether of a
653 commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort
654 Monroe.

655 In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the
656 individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

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

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

660 c. Stating the reasons why protection is necessary.

661 36. Information of a proprietary or confidential nature, including trade secrets, employee compensation
662 information, balance sheets and financial statements that are not available to the public through regulatory
663 disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to
664 the Department of Workforce Development and Advancement (the Department) for the purpose of
665 sponsoring, implementing, and operating (i) an apprenticeship program approved by the Department or (ii) a
666 similar lawful workforce development or public-private partnership approved by the Department that assists
667 the Department in fulfilling its mission and objectives and whose workforce development initiative could not
668 advance without such exemption, as determined by the Commissioner of the Department and the Secretary of
669 Labor. However, nothing in this subdivision shall be construed to allow the withholding of the name and
670 contact information of a private or nongovernmental entity sponsoring, implementing, or operating the
671 apprenticeship program, the location of the program, the occupations offered by the program, or the terms
672 and conditions of a contract or agreement entered into by such private or nongovernmental entity.

673 **§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned,
674 service disabled veteran-owned, and veteran-owned businesses and military family-owned businesses
675 and employment services organizations.**

676 A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or
677 offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age,
678 disability, status as a service disabled veteran, *status as a veteran*, status as a military family, or any other

679 basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each
 680 public body shall include businesses selected from a list made available by the Department of Small Business
 681 and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

682 B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of
 683 small businesses, businesses owned by women, minorities, ~~and~~ service disabled veterans, *and veterans, and*
 684 military family-owned businesses; and employment services organizations in procurement transactions. The
 685 programs established shall be in writing and shall comply with the provisions of any enhancement or
 686 remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief
 687 executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any
 688 goals established therein. State agencies shall submit annual progress reports on (i) small, women-owned, and
 689 minority-owned business procurement; (ii) service disabled veteran-owned *and veteran-owned* business
 690 procurement; (iii) military family-owned business procurement; and (iv) employment services organization
 691 procurement to the Department of Small Business and Supplier Diversity in a form specified by the
 692 Department of Small Business and Supplier Diversity. All state agencies shall cooperate with the Department
 693 of Small Business and Supplier Diversity's annual review of their programs pursuant to § 2.2-1605 and shall
 694 update such programs to incorporate any feedback and suggestions for improvement. Contracts and
 695 subcontracts awarded to employment services organizations and ~~service disabled veteran-owned~~ or military
 696 family-owned businesses shall be credited toward the small business, women-owned business, ~~and~~
 697 minority-owned business, *service disabled veteran-owned business, and veteran-owned business* contracting
 698 and subcontracting goals of state agencies and contractors. The Department of Small Business and Supplier
 699 Diversity shall make information on service disabled veteran-owned, *veteran-owned*, or military
 700 family-owned procurement available to the Department of Veterans Services upon request.

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

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

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

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

724 F. As used in this section:

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

728 "Military family" means (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the
 729 United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38
 730 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by
 731 the service member to the individual shall have been provided 180 days immediately preceding an alleged
 732 action that if proven true would constitute unlawful discrimination under this section instead of 180 days
 733 immediately preceding an application for relief under 50 U.S.C. Chapter 50.

734 "Military family-owned business" means a business that is at least 51 percent owned by one or more
 735 persons within the definition of "military family" or, in the case of a corporation, partnership, or limited
 736 liability company or other entity, in which at least 51 percent of the equity ownership interest in the
 737 corporation, partnership, or limited liability company or other entity is owned by one or more individuals
 738 who are persons within the definition of "military family" and both the management and daily business
 739 operations are controlled by one or more individuals who are persons within the definition of "military
 740 family".

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

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

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

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

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

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

765 "Service disabled veteran" means a veteran who (i) served on active duty in the United States military
766 ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and
767 (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

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

774 "Small business" means a business, independently owned and controlled by one or more individuals, or in
775 the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et seq.) of Title 13.1 as a
776 nonstock corporation, controlled by one or more members, who are U.S. citizens or legal resident aliens, and
777 together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged
778 over the previous three years. One or more of the individual owners or members shall control both the
779 management and daily business operations of the small business.

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

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

784 "*Veteran owned business*" means a business that is at least 51 percent owned by one or more veterans or,
785 in the case of a corporation, partnership, or limited liability company or other entity, a business in which at
786 least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company
787 or other entity is owned by one or more individuals who are veterans and both the management and daily
788 business operations are controlled by one or more individuals who are veterans.

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

794 **§ 2.2-4310.4. Participation of service disabled veteran-owned and veteran-owned businesses;
795 requirements; Veteran Business Procurement Liaison.**

796 *A. Each public body shall annually award at least one percent of its contract dollars to service disabled
797 veteran-owned and veteran-owned businesses certified by the Department of Small Business and Supplier
798 Diversity pursuant to § 2.2-1606.*

799 *B. Each public body that has annual procurement expenditures exceeding \$10 million shall designate a
800 Veteran Business Procurement Liaison who shall (i) review upcoming procurement opportunities to identify
801 contracts suitable for service disabled veteran-owned and veteran-owned business participation, (ii) ensure
802 the public body's compliance with reporting requirements related to service disabled veteran-owned and*

803 *veteran-owned businesses, (iii) serve as a point of contact for service disabled veteran-owned and veteran-*
 804 *owned businesses seeking to work with the public body, (iv) provide quarterly updates to the public body on*
 805 *service disabled veteran-owned and veteran-owned business contracting performance, and (v) coordinate*
 806 *with the Department of Small Business and Supplier Diversity on best practices and training related to*
 807 *procurement opportunities for service disabled veteran-owned and veteran-owned businesses.*

808 **§ 4.1-604. Powers and duties of the Board.**

809 The Board shall have the following powers and duties:

810 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
 811 § 4.1-606;

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

813 3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized
 814 pursuant to this subtitle;

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

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

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

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

823 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity
 824 and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters
 825 related to diversity, equity, and inclusion standards in the marijuana industry;

826 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop
 827 requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to
 828 possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include
 829 a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and
 830 requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential
 831 barriers to entry for small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned, and*
 832 *veteran-owned* businesses and veteran-owned businesses interested in participating in the marijuana industry
 833 and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with
 834 business planning for potential marijuana establishment licensees; (iv) spread awareness of business
 835 opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana
 836 prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to
 837 potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas
 838 disproportionately impacted by marijuana prohibition and enforcement as necessary;

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

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

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

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

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

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

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

860 17. Receive and accept from any federal or private agency, foundation, corporation, association, or person
 861 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
 862 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
 863 from any other source aid or contributions of either money, property, or other things of value, to be held,
 864 used, and applied only for the purposes for which such grants and contributions may be made. All federal

865 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and
866 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys
867 accepted under this section shall be expended by the Authority upon such terms and conditions as are
868 prescribed by the Commonwealth;

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

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

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

881 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
882 2.2;

883 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
884 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
885 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
886 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
887 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
888 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
889 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
890 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
891 terms and conditions as may be determined by the Board; and occupy and improve any land or building
892 required for the purposes of this subtitle;

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

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

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

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

916 27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for
917 violations of this subtitle and Board regulations;

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

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

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

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

927 discourage practices that create a nuisance;

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

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

935 **§ 15.2-965.1. Participation of small, women-owned, minority-owned, service disabled veteran-**
936 **owned, and veteran-owned businesses.**

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

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

947 **§ 15.2-965.2. Enhancement of micro-business participation in local procurement.**

948 A. Any locality may enact an ordinance to enhance micro-business participation in local government
949 procurement practices. Such measures may include special designation of local micro-businesses, providing
950 technical support to micro-businesses, setting target goals for micro-business participation in the local
951 procurement process, and other reasonable measures intended to promote micro-business participation in the
952 locality.

953 B. For purposes of this section, "micro-business" means a small, women-owned, ~~or~~ minority-owned,
954 *service disabled veteran-owned, or veteran-owned* business with no more than 25 employees.

955 **§ 18.2-213.1. Obtaining certification as small, women-owned, minority-owned, service disabled**
956 **veteran-owned, or veteran-owned business by deception; penalty.**

957 A. Except as otherwise provided by § 18.2-498.3, a person ~~shall be~~ *is* guilty of a Class 1 misdemeanor if,
958 in the course of business, he:

959 1. Fraudulently obtains or retains certification as a small, women-owned, ~~or~~ minority-owned, *service*
960 *disabled veteran-owned, or veteran-owned* business;

961 2. Willfully makes a false statement knowing it to be untrue, whether by affidavit, report or other
962 representation, to an official or employee of a public body for the purpose of influencing the certification or
963 denial of certification of any business entity as a small, women-owned, ~~or~~ minority-owned, *service disabled*
964 *veteran-owned, or veteran-owned* business;

965 3. Willfully obstructs or impedes any agency official or employee who is investigating the qualifications
966 of a business entity which has requested certification as a small, women-owned, ~~or~~ minority-owned, *service*
967 *disabled veteran-owned, or veteran-owned* business; or

968 4. Fraudulently obtains public moneys reserved for or allocated or available to small, women-owned, ~~or~~
969 minority-owned, *service disabled veteran-owned, or veteran-owned* businesses.

970 B. For the purposes of this section, "minority-owned business," ~~and~~ *"service disabled veteran-owned*
971 *business," "small business," "veteran-owned business,"* and "women-owned business" shall have the same
972 meaning as those terms are defined in § 2.2-1604.

973 **§ 23.1-1002. Eligibility for restructured financial and administrative operational authority and**
974 **financial benefits.**

975 A. The state goals for each public institution of higher education are to:

976 1. Consistent with its institutional mission, provide access to higher education for all citizens throughout
977 the Commonwealth, including underrepresented populations, and consistent with subdivision 4 of § 23.1-203
978 and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as
979 agreed upon with the Council. Each such institution shall bear a measure of responsibility for ensuring that
980 the statewide demand for enrollment is met;

981 2. Consistent with § 23.1-306, ensure that higher education remains affordable, regardless of individual or
982 family income, and through a periodic assessment determine the impact of tuition and fee levels net of
983 financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition,
984 mandatory fees, and other necessary charges;

985 3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its
986 mission and assess regularly the extent to which the institution's curricula and degree programs address the
987 Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic
988 disciplines, professions, and geographic regions;

- 989 4. Ensure that the institution's academic programs and course offerings maintain high academic standards
 990 by undertaking a continuous review and improvement of academic programs, course availability, faculty
 991 productivity, and other relevant factors;
- 992 5. Improve student retention so that students progress from initial enrollment to a timely graduation and
 993 the number of degrees conferred increases as enrollment increases;
- 994 6. Consistent with its institutional mission, develop articulation agreements that have uniform application
 995 to all comprehensive community colleges and meet appropriate general education and program requirements
 996 at the baccalaureate institution of higher education, provide additional opportunities for associate degree
 997 graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;
- 998 7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the
 999 area in which the institution is located, and for those institutions subject to a management agreement pursuant
 1000 to Article 4 (§ 23.1-1004 et seq.), in areas with below-state average income levels and employment rates;
- 1001 8. Consistent with its institutional mission, increase the level of externally funded research conducted at
 1002 the institution and facilitate the transfer of technology from university research centers to private sector
 1003 companies;
- 1004 9. Work actively and cooperatively with public elementary and secondary school administrators, teachers,
 1005 and students to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen
 1006 leadership skills of school administrators;
- 1007 10. Prepare a six-year financial plan consistent with § 23.1-306;
- 1008 11. Conduct the institution's business affairs in a manner that (i) helps maximize the operational
 1009 efficiencies and economies of the institution and the Commonwealth and (ii) meets all financial and
 1010 administrative management standards pursuant to § 23.1-1001 specified by the Governor and included in the
 1011 current general appropriation act, which shall include best practices for electronic procurement and leveraged
 1012 purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair
 1013 and reasonable consideration of small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned,*
 1014 *and veteran-owned* business enterprises; and
- 1015 12. Seek to ensure the safety and security of students on campus.
- 1016 B. Each public institution of higher education that meets the state goals set forth in subsection A on or
 1017 after August 1, 2005, may:
- 1018 1. Dispose of its surplus materials at the location where the surplus materials are held and retain any
 1019 proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;
- 1020 2. As provided in and pursuant to the conditions in subsection C of § 2.2-1132, contract with a building
 1021 official of the locality in which construction is taking place and for such official to perform any inspection
 1022 and certifications required to comply with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to
 1023 subsection C of § 36-98.1;
- 1024 3. For each public institution of higher education that has in effect a signed memorandum of
 1025 understanding with the Secretary of Administration regarding participation in the nongeneral fund
 1026 decentralization program as set forth in the general appropriation act, as provided in subsection C of
 1027 § 2.2-1132, enter into contracts for specific construction projects without the preliminary review and approval
 1028 of the Division of Engineering and Buildings of the Department of General Services, provided that such
 1029 institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et
 1030 seq.) and utilize the general terms and conditions for those forms of procurement approved by the Division of
 1031 Engineering and Buildings and the Office of the Attorney General;
- 1032 4. Acquire easements as provided in subdivision 4 of § 2.2-1149;
- 1033 5. Enter into an operating/income lease or capital lease pursuant to the conditions and provisions in
 1034 subdivision 5 of § 2.2-1149;
- 1035 6. Convey an easement pertaining to any property such institution owns or controls as provided in
 1036 subsection C of § 2.2-1150;
- 1037 7. In accordance with the conditions and provisions in subdivision C 2 of § 2.2-1153, sell surplus real
 1038 property that is possessed and controlled by the institution and valued at less than \$5 million;
- 1039 8. For purposes of compliance with § 2.2-4310, procure goods, services, and construction from a vendor
 1040 that the institution has certified as a small, women-owned, ~~or~~ minority-owned, *service disabled veteran-*
 1041 *owned, or veteran-owned* business enterprise pursuant to the conditions and provisions in § 2.2-1609;
- 1042 9. Be exempt from review of its budget request for information technology by the CIO as provided in
 1043 subdivision B 3 of § 2.2-2007.1;
- 1044 10. Adopt policies for the designation of administrative and professional faculty positions at the institution
 1045 pursuant to the conditions and provisions in subsection E of § 2.2-2901;
- 1046 11. Be exempt from reporting its purchases to the Secretary of Education, provided that all purchases,
 1047 including sole source purchases, are placed through the Commonwealth's electronic procurement system
 1048 using proper system codes for the methods of procurement; and
- 1049 12. Utilize as methods of procurement a fixed price, design-build, or construction management contract in
 1050 compliance with the provisions of Chapter 43.1 (§ 2.2-4378 et seq.) of Title 2.2.

1051 C. Each public institution of higher education that (i) has been certified during the fiscal year by the
 1052 Council pursuant to § 23.1-206 as having met the institutional performance benchmarks for public institutions
 1053 of higher education and (ii) meets the state goals set in subsection A shall receive the following financial
 1054 benefits:

1055 1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues deposited
 1056 into the state treasury by the institution, as provided in the general appropriation act. Such interest shall be
 1057 paid from the general fund and shall be an appropriate and equitable amount as determined and certified in
 1058 writing by the Secretary of Finance to the Comptroller by the end of each fiscal year or as soon as practicable
 1059 after the end of such fiscal year;

1060 2. Any unexpended appropriations of the public institution of higher education at the end of the fiscal
 1061 year, which shall be reappropriated and allotted for expenditure by the institution in the immediately
 1062 following fiscal year;

1063 3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or less
 1064 made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share based upon
 1065 its total transactions of \$5,000 or less using the credit card that is approved for use by all state agencies as
 1066 compared to all transactions of \$5,000 or less using such card by all state agencies. The Comptroller shall
 1067 determine the public institution's pro rata share and, as provided in the general appropriation act, shall pay the
 1068 institution by August 15 of the fiscal year immediately following the year of certification or as soon as
 1069 practicable after August 15 of such fiscal year. The payment to an institution of its pro rata share under this
 1070 subdivision shall also be applicable to other rebate or refund programs in effect that are similar to that of the
 1071 credit card rebate program described in this subdivision. The Secretary of Finance shall identify such other
 1072 rebate or refund programs and shall determine the pro rata share to be paid to the institution; and

1073 4. A rebate of any transaction fees for the prior fiscal year paid for sole source procurements made by the
 1074 institution in accordance with subsection E of § 2.2-4303 for using a vendor that is not registered with the
 1075 Department of General Services' web-based electronic procurement program commonly known as "eVA," as
 1076 provided in the general appropriation act. Such rebate shall be certified by the Department of General
 1077 Services and paid to each public institution by August 15 of the fiscal year immediately following the year of
 1078 certification or as soon as practicable after August 15 of such fiscal year.

1079 **§ 23.1-1017. Covered institutions; operational authority; procurement.**

1080 A. Subject to the express provisions of the management agreement, each covered institution may be
 1081 exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for
 1082 §§ 2.2-4340, 2.2-4340.1, 2.2-4340.2, 2.2-4342, and 2.2-4376.2, which shall not be construed to require
 1083 compliance with the prequalification application procedures of subsection B of § 2.2-4317, provided,
 1084 however, that (i) any deviations from the Virginia Public Procurement Act in the management agreement
 1085 shall be uniform across all covered institutions and (ii) the governing board of the covered institution shall
 1086 adopt, and the covered institution shall comply with, policies for the procurement of goods and services,
 1087 including professional services, that shall (a) be based upon competitive principles; (b) in each instance seek
 1088 competition to the maximum practical degree; (c) implement a system of competitive negotiation for
 1089 professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (d) prohibit discrimination in the solicitation
 1090 and award of contracts on the basis of the bidder's or offeror's race, religion, color, sex, sexual orientation,
 1091 gender identity, national origin, age, or disability or on any other basis prohibited by state or federal law; (e)
 1092 incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (f) consider the impact on
 1093 correctional enterprises under § 53.1-47; and (g) provide that whenever solicitations are made seeking
 1094 competitive procurement of goods or services, it shall be a priority of the institution to provide for fair and
 1095 reasonable consideration of small, women-owned, and minority-owned, *service disabled veteran-owned, and*
 1096 *veteran-owned* businesses and to promote and encourage a diversity of suppliers.

1097 B. Such policies may (i) provide for consideration of the dollar amount of the intended procurement, the
 1098 term of the anticipated contract, and the likely extent of competition; (ii) implement a prequalification
 1099 procedure for contractors or products; and (iii) include provisions for cooperative arrangements with other
 1100 covered institutions, other public or private educational institutions, or other public or private organizations
 1101 or entities, including public-private partnerships, public bodies, charitable organizations, health care provider
 1102 alliances or purchasing organizations or entities, state agencies or institutions of the Commonwealth or the
 1103 other states, the District of Columbia, the territories, or the United States, and any combination of such
 1104 organizations and entities.

1105 C. Nothing in this section shall preclude a covered institution from requesting and utilizing the assistance
 1106 of the Virginia Information Technologies Agency for information technology procurements and covered
 1107 institutions are encouraged to utilize such assistance.

1108 D. Each covered institution shall post on the Department of General Services' central electronic
 1109 procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency
 1110 award notices to ensure visibility and access to the Commonwealth's procurement opportunities on one
 1111 website.

1112 E. As part of any procurement provisions of the management agreement, the governing board of a covered

1113 institution shall identify the public, educational, and operational interests served by any procurement rule that
1114 deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

1115 **§ 23.1-3138. Procurement and information technology.**

1116 A. The Authority shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300
1117 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the prequalification
1118 application procedures of subsection B of § 2.2-4317, if it adopts and complies with policies for the
1119 procurement of goods and services, including professional services, that (i) are based upon competitive
1120 principles; (ii) in each instance seek competition to the maximum practical degree; (iii) implement a system
1121 of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (iv) prohibit
1122 discrimination in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color,
1123 sex, sexual orientation, gender identity, national origin, age, or disability or on any other basis prohibited by
1124 state or federal law; (v) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (vi) consider
1125 the impact on correctional enterprises under § 53.1-47; (vii) provide that whenever solicitations are made
1126 seeking competitive procurement of goods or services, it shall be a priority of the Authority to provide for fair
1127 and reasonable consideration of small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*,
1128 *and veteran-owned* businesses and to promote and encourage a diversity of suppliers; and (viii) identify the
1129 public, educational, and operational interests served by any procurement rule that deviates from procurement
1130 rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

1131 B. The Authority shall be exempt from the provisions governing the Virginia Information Technologies
1132 Agency in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 and the provisions governing the Information
1133 Technology Advisory Council in Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if it adopts and
1134 complies with policies and professional best practices regarding strategic planning for information
1135 technology, project management, security, budgeting, infrastructure, and ongoing operations.

1136 **§ 56-235.1:2. Costs of using small, women-owned, minority-owned, service disabled veteran-owned,
1137 or veteran-owned businesses.**

1138 In any proceeding under this title in which the Commission is required to determine whether costs
1139 incurred by a public utility in its delivery or provision of any goods or service are reasonable or prudent, the
1140 incremental portion of the costs incurred as a result of the public utility's contracting with a small,
1141 woman-owned, ~~or~~ minority-owned, *service disabled veteran-owned*, *or veteran-owned* business to deliver or
1142 provide the goods or service rather than contracting with a business that could have delivered or provided the
1143 goods or service at lower costs shall not be found to be unreasonable or imprudently incurred, provided that
1144 the costs of the delivery or provision of the goods or services by the small, woman-owned, ~~or~~
1145 minority-owned, *service disabled veteran-owned*, *or veteran-owned* business do not exceed, by more than
1146 three percent, the costs thereof that would have been incurred had the public utility contracted with the
1147 lowest-cost qualified business. As used in this section, "small, woman-owned, ~~or~~ minority-owned, *service*
1148 *disabled veteran-owned*, *or veteran-owned* business" means a business that is certified by the Department of
1149 Small Business and Supplier Diversity as a small, woman-owned, ~~or~~ minority-owned, *service disabled*
1150 *veteran-owned*, *or veteran-owned* business pursuant to the conditions and provisions in § 2.2-1604.

1151 **2. That the Department of Small Business and Supplier Diversity, in consultation with the Department
1152 of Veterans Services, shall develop a plan to implement the provisions of the first enactment of this act.
1153 Such plan shall include (i) a preliminary schedule for the implementation of a certification process for
1154 service disabled veteran-owned and veteran-owned businesses; (ii) designation of points of contact,
1155 either within each agency or for the Commonwealth as a whole, to facilitate necessary coordination;
1156 (iii) development of technical assistance to eligible entrepreneurs seeking certification; (iv)
1157 development of outreach programs to inform the public about available opportunities for service
1158 disabled veteran-owned and veteran-owned businesses; and (v) access to information and training for
1159 all state procurement officers on such opportunities and additional reporting requirements. The plan
1160 shall be made readily available to the public on the electronic procurement system known as eVA by
1161 December 1, 2026.**

1162 **3. That the Department of General Services shall update the electronic procurement system known as
1163 eVA to reflect the procurement opportunities available to service disabled veteran-owned and veteran-
1164 owned businesses as provided for in this act.**

1165 **4. That the Department of Small Business and Supplier Diversity shall promulgate regulations to
1166 implement the provisions of this act to be effective within 280 days of its enactment.**