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SENATE BILL NO. 378

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 12, 2026)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 40.1-55 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.23; and to repeal §§ 32.1-331.04 and 40.1-54.3 and Article 2.1 (§§ 40.1-57.2 and 40.1-57.3) of Chapter 4 of Title 40.1 of the Code of Virginia, relating to collective bargaining by public employees; Public Employee Relations Board established; exclusive bargaining representatives; report.

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-55 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.23, as follows:

§ 40.1-55. Employee striking terminates, and becomes temporarily ineligible for, public employment.

~~A. Any employee of the Commonwealth, or of any county, city, town, or other political subdivision thereof, or of any agency of any one of them, who, in concert with two or more other such employees, for the purpose of obstructing, impeding, or suspending any activity or operation of his employing agency or any other governmental agency, strikes or willfully refuses to perform the duties of his employment shall, by such action, be deemed to have terminated his employment and shall thereafter be ineligible for employment in any position or capacity during the next 12 months by the Commonwealth, or any county, city, town, or other political subdivision of the Commonwealth, or by any department or agency of any of them.~~

~~B. The provisions of subsection A shall apply to any employee of any county, city, or town or local school board without regard to any local ordinance or resolution adopted pursuant to § 40.1-57.2 by such county, city, or town or school board that authorizes its employees to engage in collective bargaining.~~

~~Article 2.2.~~

~~Collective Bargaining by Public Employees.~~

§ 40.1-57.4. Definitions.

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

"Arbitration" means the procedure whereby the parties involved in an impasse or grievance dispute submit their differences to a third party for a final and binding decision or as otherwise provided in this article.

"Board" means the Public Employee Relations Board established pursuant to § 40.1-57.7.

"Collective bargaining" or "negotiation" means the performance of the mutual obligation of the public employer, by its representatives, and the representatives of its public employees to negotiate in good faith at reasonable times and places with respect to wages, hours, and other terms and conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement, and includes executing a written contract incorporating the terms of any agreement reached.

"Confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

"Emergency medical services provider" means an individual who is employed by or a member of an emergency medical services agency that is licensed pursuant to § 32.1-111.6. "Emergency medical services provider" does not include (i) the highest-ranking official of a department or agency providing emergency medical services or (ii) an employee one rank below such highest-ranking official.

"Employee organization" means an organization in which public employees participate and which exists for the purpose, in whole or in part, of bargaining collectively or dealing with public employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment.

"Exclusive bargaining representative" or "exclusive representative" means an employee organization (i) certified as the exclusive bargaining representative of a bargaining unit by the Board pursuant to the provisions of this article or (ii) recognized as an exclusive representative by any county, city, town, local school board, or other public employer as of July 1, 2026.

"Firefighter" means the same as that term is defined in § 9.1-300, except that for the purposes of this article, "firefighter" does not include (i) the chief or highest-ranking official of a fire department or agency or (ii) an employee one rank below such chief or highest-ranking official.

"Governing body" means the General Assembly; any board, council, authority, or commission, whether elected or appointed, of the Commonwealth; any local government; or any other public body that determines the fiscal appropriations or policies for operation of a political subdivision, public transportation provider,

60 or public institution of higher education of the Commonwealth.

61 "Impasse" means the failure of a public employer and an exclusive bargaining representative to reach
62 agreement in the course of negotiations.

63 "Local government" means:

64 1. Any county, city, or town, as defined in § 15.2-102, or other local or regional political subdivision or
65 body politic and corporate designated as such by the General Assembly;

66 2. Any local public school board or other local education agency or the governing body under any joint
67 agreement of any type formed by two or more school divisions; and

68 3. Any public transportation provider.

69 "Local government employee" means any individual who is employed by a local government, except
70 individuals exempted from the provisions of this article by § 40.1-57.6.

71 "Mediation" means assistance by an impartial third party to reconcile an impasse between a public
72 employer and the exclusive bargaining representative regarding wages, hours, and other terms and
73 conditions of employment through interpretation, suggestion, and advice.

74 "Public employee" means any state employee or local government employee except an individual
75 exempted from the provisions of this article by § 40.1-57.6. "Public employee" includes an employee of a
76 local school board, an employee of a public transportation provider, and an employee of any public
77 institution of higher education, as that term is defined in § 23.1-100, including a student employed in any
78 capacity.

79 "Public employer" means any state agency, local government, public institution of higher education, as
80 that term is defined in § 23.1-100, local school board, or public transportation provider.

81 "Public transportation provider" means:

82 1. A transportation district, including a transportation district established pursuant to § 33.2-1903;

83 2. A corporation, including a public service corporation as defined in § 56-1, that is wholly owned by any
84 county, city, or town or any combination thereof and provides public transportation services; and

85 3. Any other political subdivision that provides public transportation services.

86 "State agency" means the Commonwealth or any agency, department, or institution thereof, including any
87 public institution of higher education and any independent political subdivision.

88 "State employee" means any individual who is employed by a state agency, except individuals exempted
89 from the provisions of this article by § 40.1-57.6.

90 "Strike" means, in concerted action with others, a public employee's refusal to report to duty, willful
91 absence from his position, or stoppage of work for the purpose of inducing, influencing, or coercing a change
92 in the conditions, compensation, rights, privileges, or obligations of public employment.

93 "Supervisor" means an employee who devotes a majority of his work time to supervisory duties, who
94 customarily and regularly directs the work of two or more other employees, and who has the authority, in the
95 interest of the employer, to hire, promote, or discipline other employees or to recommend such actions
96 effectively, but does not include individuals who perform merely routine, incidental, or clerical duties who
97 occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their
98 subordinates. "Supervisor" does not include (i) lead employees and employees who have authority limited to
99 assigning and directing employees or (ii) a firefighter.

100 "Temporary public employee" means an employee hired by a public employer other than a public
101 institution of higher learning to fill a seasonal or other temporary position intended to last three months or
102 less in any 24-month period.

103 **§ 40.1-57.5. Collective bargaining by public employees.**

104 Public employees may:

105 1. Organize, form, join, or assist any employee organization or refrain from any such activity;

106 2. Negotiate collectively through representatives of their own choosing; and

107 3. Engage in other concerted activities for the purposes of collective bargaining or other mutual aid or
108 protection insofar as any such activity is not prohibited by this article or any other law of the
109 Commonwealth.

110 **§ 40.1-57.6. Exemptions from article.**

111 A. The following individuals shall be excluded from the provisions of this article:

112 1. Elected officials, persons appointed to fill vacancies in elected offices, and members of any board or
113 commission;

114 2. Representatives of a public employer, including the administrative officer, director, or chief executive
115 officer of a public employer or major division thereof, as well as his deputy, first assistant, and any
116 nonbargaining unit supervisory employees, provided, however, that nothing herein shall be construed to
117 prohibit a public employer from bargaining with, and entering into a contract with, a labor organization
118 certified to represent a separate unit composed solely of supervisors;

119 3. Confidential employees;

120 4. Temporary public employees;

121 5. Judicial branch employees, including any judge as defined in § 51.1-301, referees, receivers, arbiters,

122 *masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any*
123 *court to exercise judicial functions, and jurors and notaries public;*

124 *6. Patients and inmates employed, sentenced, or committed to any state or local institution; and*

125 *7. Employees working for the General Assembly.*

126 *B. The provisions of this article shall apply to law-enforcement officers, as defined in § 9.1-101. Any*
127 *officer elected pursuant to Article VII, Section 4 of the Constitution of Virginia may elect to be subject to the*
128 *provisions of this article and to authorize his public employees to collectively bargain pursuant thereto. For a*
129 *public employee of a constitutional officer that makes such election, the governing body of the locality in*
130 *which such constitutional officer is elected shall be considered the public employer with respect to issues of*
131 *wages or benefits, and the constitutional officer shall be considered the public employer with respect to all*
132 *other matters relating to employment. However, (i) no collective bargaining representative shall represent a*
133 *law-enforcement officer or constitutional officer in a pending internal investigation involving serious*
134 *misconduct as defined in statewide professional standards of conduct adopted by the Criminal Justice*
135 *Services Board and (ii) no collective bargaining agreement shall limit, alter, or otherwise impact the*
136 *procedures required by the Law-Enforcement Officers Procedural Guarantee Act (§ 9.1-500 et seq.),*
137 *decertification pursuant to § 15.2-1707, or any regulations adopted pursuant to § 9.1-102 relating to the*
138 *statewide professional standards of conduct applicable to certified law-enforcement officers and certified jail*
139 *officers and procedures for decertification based on serious misconduct in violation of such standards.*
140 *Additionally, to the extent that any collective bargaining agreement conflicts with any provision of a state or*
141 *federal law, regulation, or local ordinance, such law, regulation, or ordinance shall control.*

142 **§ 40.1-57.7. Public Employee Relations Board created; powers.**

143 *A. Notwithstanding the provisions of § 40.1-1, the Public Employee Relations Board is established as an*
144 *agency, as defined in § 2.2-4001, in the executive branch of state government. The Board shall be composed*
145 *of five members, of whom:*

146 *1. Two members shall be representatives of management interests;*

147 *2. One member shall be a representative of employee organizations representing state employees or local*
148 *government employees employed by a county, city, town, or public transportation provider and shall be*
149 *selected from a list of names submitted by the state labor federation with employee organization affiliates*
150 *that have been certified as exclusive bargaining representatives for state, county, city, town, or public*
151 *transportation provider employees;*

152 *3. One member shall be a representative of employee organizations representing local government*
153 *employees employed by a local public school board and shall be selected from a list of names submitted by*
154 *the state education employee organization with local employee organization affiliates that have been certified*
155 *as exclusive bargaining representatives of public school board employees; and*

156 *4. One member shall be a representative of the public and shall serve as chair of the Board.*

157 *The Governor shall make initial appointments to the Board by October 1, 2026. Such appointments shall*
158 *be subject to confirmation by the General Assembly.*

159 *B. All members shall be appointed by the Governor for a term of three years or until their successors have*
160 *been appointed, except that the initial appointment of one of the members described in subdivision A 1 shall*
161 *be for a term of one year, the initial appointment of the member described in subdivision A 2 shall be for a*
162 *term of two years, and the initial appointment of the member described in subdivision A 3 shall be for a term*
163 *of two years.*

164 *C. A minimum of three members shall be required to constitute a quorum to conduct official business of*
165 *the Board in a contested case. In the event that there are three or more vacancies on the Board for a period*
166 *of 120 days or more, a party to a contested case may remove the case to the circuit court for the locality*
167 *where the case arose.*

168 *D. Members of the Board shall receive such compensation for the performance of their duties as may be*
169 *provided therefor in a general appropriation act.*

170 *E. The Board shall:*

171 *1. Administer the provisions of this article;*

172 *2. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive*
173 *evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate*
174 *such power to a member of the Board or persons appointed or employed by the Board, including hearing*
175 *officers, for the performances of its functions. In cases of refusal to obey a subpoena issued by the Board, the*
176 *circuit court of the locality where the person refusing to obey such subpoena may be found, on application by*
177 *the Board, may issue an order requiring such person to appear before the Board and to testify and produce*
178 *evidence ordered relating to the matter under investigation, and any failure to obey such order shall be*
179 *punished by the court as a contempt thereof; and*

180 *3. Adopt such regulations and rules as it may deem necessary to carry out the purposes of this article.*

181 *F. The Board shall have the power to:*

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

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

184 3. Make and enter into all contracts and agreements necessary or incidental to the performance of its
185 duties, the furtherance of its purposes, and the execution of its powers under this article;

186 4. Employ, at its discretion, such employees as may be necessary and fix their compensation to be payable
187 from funds made available to the Board. Legal services for the Board shall be provided by the Attorney
188 General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

189 5. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business
190 shall be transacted and the manner in which the powers of the Board shall be exercised and its duties
191 performed. The Board may delegate or assign any duty or task to be performed by the Board to any officer or
192 employee of the Board. The Board shall remain responsible for the performance of any such duties or tasks.
193 Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines
194 for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the
195 Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the
196 responsibility to ensure faithful performance of the duties and tasks;

197 6. Conduct or engage in any lawful activity, effort, or project consistent with the Board's purposes or
198 necessary or convenient to exercise its powers;

199 7. Develop policies and procedures generally applicable to the procurement of goods, services, and
200 construction, based upon competitive principles;

201 8. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
202 2.2;

203 9. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
204 of records, memoranda, papers, and other documents before the Board or any agent of the Board; and
205 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the
206 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and
207 issue case decisions, subject to final decision by the Board, on application of any party aggrieved;

208 10. Enter into consent agreements including findings of fact and that may include an admission or a
209 finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not
210 be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but
211 may be considered by the Board in future proceedings; and

212 11. Do all acts necessary or advisable to carry out the purposes of this article.

213 **§ 40.1-57.8. Powers of public employers.**

214 Except as limited by the provisions of a collective bargaining agreement, the provisions of this title, or by
215 any other statutory provision, a public employer may:

216 1. Direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate public
217 employees;

218 2. Determine qualifications for employment and the nature and content of personnel examinations; and

219 3. Take actions as may be necessary to carry out the mission of such public employer in emergencies as
220 defined in § 44-146.16.

221 **§ 40.1-57.9. Duty to negotiate in good faith.**

222 A. A public employer and an employee organization that is the exclusive bargaining representative of
223 such public employer's employees shall meet at reasonable times, including meetings reasonably in advance
224 of such public employer's budget-making process, to negotiate in good faith with respect to wages, hours, and
225 other terms and conditions of employment. A collective bargaining agreement negotiated between such
226 employer and such exclusive bargaining representative shall contain a grievance resolution procedure that
227 shall apply to all employees in the bargaining unit and shall provide for final and binding arbitration of
228 disputes concerning disciplinary and adverse personnel actions and the administration or interpretation of
229 the agreement, including questions of eligibility for arbitration. The collective bargaining agreement
230 negotiated between the public employer and the exclusive bargaining representative shall also include a
231 provision for the voluntary payroll deduction of fees and dues to such labor organization with authorization
232 for the payroll deduction of such fees and dues revocable at the option of the public employee in accordance
233 with the terms of the payroll deduction authorization, which shall, at a minimum, provide for one opportunity
234 each year to revoke such authorization. Where a public employee is in a bargaining unit represented by an
235 exclusive representative, the public employer of such employee shall honor a payroll deduction authorization
236 for dues and fees paid to such exclusive representative only. Such public employer shall negotiate only with
237 such exclusive bargaining representative on matters contained in this article. Such obligation to negotiate in
238 good faith does not compel either party to agree to a proposal or make a concession.

239 B. A public employer shall honor the terms of employees' authorizations for payroll deductions to an
240 exclusive representative made in any form including those that satisfy the Uniform Electronic Transactions
241 Act (§ 59.1-479 et seq.), including electronic authorizations and voice authorizations. Unless an exclusive
242 representative otherwise directs, a public employee's request to cancel or change authorization for payroll
243 deductions shall be directed to such exclusive representative and not to a public employer. An exclusive
244 bargaining representative shall be responsible for processing such requests in accordance with the terms of
245 such authorization. An exclusive representative that certifies that it has and will maintain individual public

246 employees' authorizations shall not be required to provide a copy to a public employer unless a dispute arises
 247 about the existence or terms of such authorization. An exclusive representative that is at fault shall indemnify
 248 a public employer for any disputed deductions made on behalf of a public employee in reliance on such
 249 authorization.

250 C. 1. a. Not later than 10 calendar days after the hire of a public employee, a public employer shall
 251 provide the following contact information to such employee's exclusive bargaining representative, in an
 252 editable electronic format agreed to by such exclusive bargaining representative: such public employee's
 253 name, job title, worksite location, home address, work telephone number, home telephone number, personal
 254 cell phone number, work email address, and personal email on file with such public employer.

255 b. A public employer shall provide an exclusive bargaining representative with a list of all contact
 256 information specified in this subsection in an editable electronic format agreed to by such exclusive
 257 bargaining representative, for all employees in a bargaining unit, not less than once a month.

258 c. Records of a public employee's personal and home contact information described in this subsection are
 259 not public records under the Virginia Public Records Act (§ 42.1-76 et seq.) and shall be exempt from
 260 disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

261 2. A public employer shall provide an exclusive bargaining representative reasonable access to the public
 262 employees that the exclusive bargaining representative represents. Such access includes:

263 a. The right to meet with employees during the work day to discuss and investigate grievances and other
 264 workplace issues;

265 b. The right to conduct worksite meetings during meal periods and other breaks, and before and after the
 266 workday; and

267 c. The right to address newly hired employees on paid time for no less than 30 minutes during new
 268 employee orientations, within 30 days of hire or, if a public employer does not conduct new employee
 269 orientations, at individual or group meetings of new employees within 30 days of hire. Attendance at such
 270 orientation or meeting shall be mandatory for newly hired employees. Managers, supervisors, and other
 271 nonbargaining unit employees shall not attend an exclusive bargaining representative's presentation at such
 272 orientation or meeting. A public employer shall give an exclusive bargaining representative not less than 10
 273 days' written notice of such orientation or meeting, except that shorter notice may be provided if there is an
 274 urgent need critical to such public employer's operations that was not reasonably foreseeable by such public
 275 employer. The structure and manner of such access to new employee meetings or orientations shall be
 276 determined through negotiation.

277 3. Exclusive bargaining representatives shall have the right to communicate with bargaining unit
 278 members concerning collective bargaining; the administration of collective bargaining agreements,
 279 grievances, and other workplace issues; and internal union matters via the employer's email systems or other
 280 communication systems commonly used at the workplace.

281 4. The duty to bargain in good faith includes, in the case of a public employer, a duty to furnish data to
 282 the exclusive representative that:

283 a. Is normally maintained by the public employer in the regular course of business;

284 b. Is reasonably available and necessary for full and proper discussion, understanding, and negotiation of
 285 subjects within the scope of collective bargaining or subject to a grievance under a collective bargaining
 286 agreement; and

287 c. Does not include an obligation to furnish information that constitutes guidance, advice, counsel, or
 288 training provided for nonbargaining unit employees relating to collective bargaining.

289 **§ 40.1-57.10. Prohibited conduct.**

290 A. No public employer or exclusive bargaining representative shall refuse to negotiate in good faith with
 291 respect to the scope of negotiations as set forth in § 40.1-57.15.

292 B. No public employer or its designated representative shall:

293 1. Interfere with, restrain, or coerce public employees in the exercise of rights granted by this article;

294 2. Dominate or interfere in the administration of any employee organization;

295 3. Encourage or discourage membership in any employee organization, committee, or association
 296 including by discrimination in hiring, tenure, or other terms or conditions of employment;

297 4. Use any public funds or official position to support or oppose an employee organization, except that a
 298 public employer may provide routine services, facilities, and paid time for union representatives pursuant to
 299 law or to a collective bargaining agreement between such public employer and an exclusive representative;

300 5. Discharge or discriminate against any public employee because such public employee has filed an
 301 affidavit, petition, or complaint or given any information or testimony under this article or has formed,
 302 joined, or chosen to be represented by any exclusive bargaining representative;

303 6. Refuse to negotiate with representatives of any employee organization that is an exclusive bargaining
 304 representative as required in this article;

305 7. Deny the rights accompanying certification as the exclusive representative granted in this article,
 306 including by denying a public employee the right to a representative designated by the exclusive
 307 representative at any examination of the public employee in connection with an investigation if:

- 308 a. The public employee reasonably believes that the examination may result in disciplinary action against
309 him; and
- 310 b. The public employee requests representation;
- 311 8. Refuse to participate in good faith in any agreed-upon impasse procedures or those set forth in this
312 article;
- 313 9. Refuse to reduce a collective bargaining agreement to writing and sign such agreement; or
- 314 10. Disclose to any private entity, other than the exclusive representative, personally identifiable
315 information about public employees within a bargaining unit that is exempt from disclosure, including the
316 contact information specified in § 40.1-57.9.
- 317 C. No employee organization or its agents shall:
- 318 1. Interfere with, restrain, or coerce a public employee with respect to rights granted in this article or
319 with respect to selecting an exclusive representative;
- 320 2. Fail to represent an employee who is in a bargaining unit exclusively represented by the employee
321 organization fairly and without discrimination, provided that (i) such failure is willful or deliberate and (ii)
322 an exclusive representative may require a public employee who is not a dues-paying member to pay for the
323 reasonable costs and fees of handling a grievance. Failure to pay costs and fees shall relieve the exclusive
324 representative of further responsibility to the non-member regarding the grievance;
- 325 3. Refuse to negotiate with the public employer as required in this article;
- 326 4. Refuse to participate in good faith in any agreed-upon impasse procedures or procedures set forth in
327 this article; or
- 328 5. Violate the impasse provisions of this article, which are hereby made applicable to public employers,
329 public employees, and exclusive representatives.
- 330 **§ 40.1-57.11. Board procedures.**
- 331 A. Proceedings against a party alleging a violation of § 40.1-57.10 shall be commenced by filing a charge
332 with the Board within six months of the alleged violation, or acquiring knowledge thereof, and causing a
333 copy of the charge to be served upon the accused party in the manner of an original notice as provided in
334 § 40.1-57.21. The accused party shall have 10 business days within which to file a written answer to the
335 charge. The Board may conduct a preliminary investigation of the alleged violation, and if the Board
336 determines that the charge has no legal or factual basis, it may dismiss the charge. If it does not dismiss the
337 charge, the Board shall promptly thereafter set a time and place for a hearing in the locality where the
338 alleged violation occurred or in the locality where the Board maintains its principal office. The parties shall
339 be permitted to be represented by counsel or other designated representative, summon witnesses, and request
340 the Board to subpoena witnesses and the production of records on the requester's behalf. Compliance with
341 the technical rules of pleading and evidence shall not be required.
- 342 B. The Board may designate a hearing officer to conduct any hearing. The hearing officer shall have such
343 powers as may be exercised by the Board for conducting the hearing and shall follow the procedures adopted
344 by the Board for conducting the hearing. The decision of the hearing officer may be appealed to the Board
345 and the Board may hear the case de novo or upon the record as submitted before the hearing officer.
- 346 C. The Board shall provide for an official written transcript to report the proceedings and the Board shall
347 affix the reasonable amount of compensation for such service, and such amount shall be taxed as other costs.
- 348 D. The Board shall file its findings of fact and conclusions of law. If the Board finds that the party
349 accused has violated any provision of this article, the Board may issue an order directing the party to cease
350 and desist engaging in violation and may order such other affirmative relief as is necessary to remedy the
351 violation. The Board may petition the circuit court for the locality in which the Board maintains its principal
352 office, the locality in which the public employer maintains its principal office, or the locality in which the
353 charge arose for enforcement of its orders.
- 354 E. Any party aggrieved by any decision or order of the Board may appeal to the circuit court for the
355 locality in which the Board maintains its principal office, the locality in which the public employer maintains
356 its principal office, or the locality in which the charge arose to obtain judicial review of an order of the
357 Board entered under this article. The Board and all parties of record in the proceedings before the Board
358 shall be named as parties to the appeal. In any judicial review proceeding, the employee organization may
359 sue or be sued as an entity and on behalf of the employees whom it represents. The service of legal process,
360 summons, or subpoena upon an officer or agent of the employee organization in his capacity as such shall
361 constitute service upon such employee organization.
- 362 F. Any appeal of a decision made by the Board shall proceed in accordance with the provisions of the
363 Administrative Process Act (§ 2.2-4000 et seq.) and corresponding Rules of the Supreme Court of Virginia.
- 364 G. In the absence of fraud, the findings of fact made by the Board shall be conclusive if supported by
365 substantial evidence on the record considered as a whole.
- 366 H. Any order or decision of the Board may be modified, reversed, or set aside on one or more of the
367 grounds set forth in § 8.01-581.010 or 8.01-581.011.
- 368 I. If a circuit court, on appeal, reverses or sets aside an order or decision of the Board, the court may
369 remand the case to the Board for further proceedings in harmony with the holdings of the court, or it may

370 enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect
 371 as if action had been originally brought and tried in such court. The assessment of costs in such appeals shall
 372 be at the discretion of the court.

373 **§ 40.1-57.12. Determination of appropriate bargaining unit.**

374 A. Any determination by the Board of an appropriate bargaining unit shall be made upon the filing of a
 375 petition by an employee organization or in accordance with this section. Any disputes about the placement of
 376 employees in bargaining units established in subsection C or D shall be resolved by the Board.

377 B. When a determination of an appropriate unit is necessary, within 30 days of receipt of a petition, the
 378 Board shall conduct a public hearing, receive written or oral testimony, and promptly thereafter file an order
 379 defining the appropriate bargaining unit. In defining such unit, the Board shall take into consideration, along
 380 with other relevant factors, (i) the desires of the employees involved; (ii) the community of interest, including
 381 such factors as the similarity of duties, skills, and working conditions of the employees involved; (iii) wages,
 382 hours, and other working conditions of the employees involved; (iv) the efficiency of operations of the public
 383 employer; (v) the administrative structure of the public employer; (vi) the recommendation of the parties; and
 384 (vii) the history of collective bargaining in other public sector jurisdictions. Nothing herein shall prohibit the
 385 petitioning employee organization and the public employer from entering into a consent agreement on the
 386 appropriate unit in lieu of a hearing.

387 C. Bargaining units of state employees shall include employees in broad classification categories across
 388 the various agencies and departments of the executive branch. There shall be bargaining units for each of the
 389 following:

- 390 1. Administrative services;
- 391 2. Education and media services;
- 392 3. Engineering and technology;
- 393 4. Health and human services counseling services and health care compliance;
- 394 5. Health and human services direct services;
- 395 6. Health and human services health care technology, rehabilitation therapies, pharmaceutical services,
 396 and nurse and physician assistant services;
- 397 7. Health and human services physician services, psychological services, and dental services;
- 398 8. Natural resources and applied science;
- 399 9. Security guards and protective services;
- 400 10. Corrections;
- 401 11. Juvenile justice;
- 402 12. Probation and parole;
- 403 13. Law enforcement, except for state police;
- 404 14. State police;
- 405 15. Firefighters;
- 406 16. Other public safety services not described in another subdivision of this subsection; and
- 407 17. Trades and operations.

408 D. For public school board employees, there shall be the following bargaining units:

- 409 1. Administrative personnel, including principals, assistant principals, and school board employees
 410 required by the Department of Education or school board job description to have an endorsement pursuant
 411 to 8VAC20-23-620 of the Virginia Administrative Code;
- 412 2. Licensed personnel, including non-administrative school board employees whose position requires a
 413 license from the Board of Education or Department of Health Professions and all school board employees
 414 who as a core job function provide instructional support to students and are required by their job description
 415 to have a postsecondary degree and state or national-level certification;
- 416 3. Supervisors, as defined in § 40.1-57.4 and excluding school board employees included in the
 417 bargaining unit for administrative personnel; and
- 418 4. Education support personnel, including all other school board employees who support division
 419 operations, administration, or education programs.

420 E. Each state-controlled enterprise, independent political subdivision, authority, or agency employing
 421 public employees not covered by the Virginia Personnel Act (§ 2.2-2900 et seq.) shall have separate
 422 bargaining units of such employees as determined by the Board.

423 F. Each public institution of higher education, the Virginia Community College System, the University of
 424 Virginia Medical Center, and the Virginia Commonwealth University Health System Authority shall have
 425 separate bargaining units as determined by the Board, and employees of such bargaining units shall not be
 426 included with employees in any bargaining unit described in subsection C.

427 G. Upon request of the exclusive representative involved, there shall be bargaining for state employees by
 428 a coalition of all or some exclusive representatives, irrespective of a bargaining unit of state employees
 429 described in subsection C, concerning wages, fringe benefits, and those matters that have applicability to
 430 more than one bargaining unit of state employees. Upon request of the exclusive representative, there shall
 431 be supplementary bargaining on behalf of public employees in a bargaining unit or part of a bargaining unit

432 concerning matters uniquely affecting those public employees, or consolidated bargaining between two or
433 more bargaining units concerning matters affecting those public employees.

434 H. An exclusive representative may represent more than one bargaining unit. Upon the request of an
435 exclusive representative that represents more than one bargaining unit, the employer shall negotiate a single
436 agreement covering the represented bargaining units.

437 **§ 40.1-57.13. Certification and decertification of exclusive bargaining representatives; representation**
438 **elections.**

439 A. Board certification of an employee organization as the exclusive bargaining representative of a
440 bargaining unit shall be upon a petition filed with the Board by a public employee or an employee
441 organization and an election pursuant to § 40.1-57.14 or upon administratively acceptable evidence that a
442 majority of bargaining unit employees authorized an employee organization to represent them for the
443 purposes of collective bargaining.

444 B. A petition of an employee organization for a representation election shall be accompanied by
445 administratively acceptable evidence that 30 percent of the public employees in an appropriate bargaining
446 unit are members of the employee organization or have authorized it to represent them for the purposes of
447 collective bargaining. A petition by an employee organization for certification without an election shall be
448 accompanied by administratively acceptable evidence alleging that a majority of the public employees in an
449 appropriate bargaining unit are members of the employee organization or have authorized it to represent
450 them for the purposes of collective bargaining. Upon validating the evidence that a majority of the public
451 employees in a bargaining unit are members of the employee organization or have authorized it to represent
452 them for the purposes of collective bargaining, the Board shall certify the employee organization as the
453 exclusive bargaining representative of the bargaining unit, provided that no other employee organization
454 submits evidence that at least 30 percent of the public employees in the appropriate unit support
455 representation for purposes of collective bargaining by such other employee organization within 21 days of
456 notification by the Board that it has received the petition as provided in subsection D. In such a case, the
457 Board shall conduct a secret ballot election between such employee organizations to determine whether the
458 public employees in the appropriate bargaining unit wish to be represented by any such employee
459 organization.

460 C. For the purpose of decertification, the petition of a public employee or employee organization shall
461 allege that an employee organization that has been certified or recognized as the exclusive bargaining
462 representative of an appropriate unit does not represent a majority of such public employees and that the
463 petitioners do not want to be represented by an employee organization or seek certification of a different
464 employee organization. Such petition shall be accompanied by administratively acceptable evidence that 50
465 percent of such employees do not want to be represented by the exclusive representative employee
466 organization or seek certification of a different employee organization. Upon validation of the 50 percent
467 showing of interest, the Board shall conduct a secret ballot election in accordance with this article.

468 D. The Board shall investigate the allegations of any petition and shall give reasonable notice of the
469 receipt of such petition to all public employees, employee organizations, and public employers named or
470 described in such petitions or interested in the representation question. When necessary, the Board shall call
471 an election under § 40.1-57.14 within 30 days of receipt of a petition unless it finds that less than 30 percent
472 of the public employees in the unit appropriate for collective bargaining support the petition for certification,
473 or it finds that less than 50 percent of employees in the unit appropriate for collective bargaining support the
474 petition for decertification, or the appropriate bargaining unit has not been determined pursuant to
475 § 40.1-57.12.

476 E. For purposes of this article, administratively acceptable evidence to support a petition for certification
477 without election, for a certification through a representation election, or for a decertification election may
478 consist of a combination of membership cards, evidence of dues payment, petitions to be represented by a
479 bargaining representative, or other evidence of a public employee's desire to be represented by an employee
480 organization for the purposes of collective bargaining, including evidence that satisfies the Uniform
481 Electronic Transactions Act (§ 59.1-479 et seq.), electronic authorizations, and voice authorizations. The
482 determination by the Board of the sufficiency of a showing of majority support or sufficiency of support for a
483 representation election shall not be subject to challenge by any person, employee organization, or public
484 employer.

485 F. The hearing and appeal procedures shall be the same as provided for in § 40.1-57.11.

486 **§ 40.1-57.14. Elections.**

487 A. Whenever a petition for an election is filed by an employee or employee organization containing the
488 signatures of at least 30 percent of the public employees in an appropriate bargaining unit, or in the case of
489 decertification, the signatures of at least 50 percent of such public employees, the Board shall conduct a
490 secret ballot representation election to determine whether the public employees in the appropriate
491 bargaining unit wish to be represented by an exclusive bargaining representative. The ballot shall contain
492 the names of the petitioning employee organization, any employee organization submitting within 21 days of
493 the initial petition evidence that at least 30 percent of the public employees in the appropriate bargaining

494 unit support representation for purposes of collective bargaining by that employee organization, and any
 495 incumbent labor organization. The ballot shall also contain an option of no representation.

496 B. If none of the choices on the ballot receives the vote of a majority of the public employees voting, the
 497 Board shall, within 30 days, conduct a runoff election between the two choices receiving the greatest number
 498 of votes.

499 C. Upon written objection filed by any party to the election within 10 days after notice of the results of the
 500 election, if the Board finds that misconduct or other circumstances prevented the public employees eligible to
 501 vote from freely expressing their preferences, the Board may invalidate the election and hold a second or
 502 subsequent election for the public employees.

503 D. Upon completion of a valid election in which the majority choice of the bargaining unit employees
 504 voting is determined, the Board shall certify the results of the election and shall give reasonable notice to all
 505 employee organizations listed on the ballot, the public employers, and the public employees in the
 506 appropriate bargaining unit. An employee organization that is the majority choice of the bargaining unit
 507 employees voting in a valid election under this section shall be certified by the Board as the exclusive
 508 bargaining representative for the bargaining unit employees.

509 E. A petition for decertification or certification of an exclusive bargaining representative shall not be
 510 considered by the Board for a period of one year from the date of the certification or noncertification of an
 511 exclusive bargaining representative or during the duration of a collective bargaining agreement not to
 512 exceed three years. A petition for decertification shall not be considered during the duration of a collective
 513 bargaining agreement unless the collective bargaining agreement has been in effect for more than three
 514 years or the petition for decertification is filed not more than 210 days and not less than 180 days prior to the
 515 expiration of the collective bargaining agreement.

516 F. An exclusive representative recognized or certified in accordance with an ordinance or resolution
 517 adopted by any county, city, town, local school board, or other unit of government shall be deemed certified
 518 by the Board and subject to the terms of this article.

519 **§ 40.1-57.15. Duties of exclusive bargaining representative.**

520 A. An employee organization certified as a bargaining representative shall be the exclusive representative
 521 of all public employees in the bargaining unit and shall represent all public employees fairly, provided that
 522 an exclusive representative may require a public employee who is not a dues-paying member to pay for the
 523 reasonable costs and fees of handling a grievance. The exclusive representative may require a non-member
 524 to pay any anticipated proportional costs and fees prior to a grievance or arbitration hearing. Failure to pay
 525 costs and fees shall relieve the exclusive representative of further responsibility to the non-member regarding
 526 the matter. Any individual public employee shall have the right at any time to present a grievance specific to
 527 that employee to their public employer and to have such grievance adjusted without the intervention of the
 528 exclusive bargaining representative so long as (i) the adjustment is not inconsistent with the terms of a
 529 collective bargaining agreement then in effect and (ii) the exclusive bargaining representative has been given
 530 the opportunity to be present and participate during the grievance process and at such adjustment. The right
 531 to self-representation does not include the right to present a grievance to arbitration.

532 B. The employee organization that is an exclusive bargaining representative and the public employer may
 533 designate any individual or individuals as its representatives to engage in collective bargaining negotiations.

534 C. The scope of collective bargaining between a local government and an exclusive bargaining
 535 representative of local employees shall include wages, hours, and other terms and conditions of employment,
 536 and the duty to bargain includes matters described in Chapter 15 (§ 15.2-1500 et seq.) of Title 15.2;
 537 however, benefits provided under Title 51.1 and Title 65.2 shall not be subject to bargaining unless such
 538 benefits are adopted at the discretion of a local government. To the extent that an agreement is inconsistent
 539 with the terms of Chapter 15 of Title 15.2, the terms of the agreement shall prevail.

540 D. The scope of collective bargaining between a state agency and an exclusive bargaining representative
 541 of state employees shall include wages, hours, and other terms and conditions of employment and shall
 542 specifically include matters within the administrative discretion of the Director of the Department of Human
 543 Resource Management or appointing authorities; however, benefits provided under Title 51.1 and Title 65.2
 544 shall not be subject to bargaining. A collective bargaining agreement may not be inconsistent with the
 545 provisions of Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2, provided that all matters relating to wages and
 546 salaries shall be a mandatory subject of collective bargaining and enforceable in any collective bargaining
 547 agreement. The Governor shall appoint the state agency's representative in collective bargaining.

548 E. Negotiating sessions, including strategy meetings of public employers or exclusive bargaining
 549 representatives, mediation, and the deliberative process of arbitrators shall be exempt from the provisions of
 550 § 2.2-3707.

551 **§ 40.1-57.16. Negotiation and impasse procedures.**

552 A. Except (i) as otherwise agreed by the parties to the negotiations or (ii) in the case of an impasse
 553 between an exclusive representative of employees that are firefighters or emergency medical services
 554 providers and the public employers of such employees, which impasse shall be resolved according to the
 555 provisions of § 40.1-57.24, each state agency and exclusive representative of state employees shall comply

556 with the provisions of this section, including the following negotiation and impasse procedures:

557 1. A request for negotiations shall be filed in writing by the exclusive representative to the Commonwealth
558 no later than June 1 of each odd-numbered year for any collective bargaining agreement that is to become
559 effective on July 1 of the following year;

560 2. Negotiations shall begin no later than July 1 of the year the request is filed;

561 3. If an impasse occurs during negotiations, or if no agreement is reached by the parties by October 1 of
562 the year the request is filed, either party may submit a request for mediation to the Board. The parties
563 involved shall mutually agree upon a mediator or request the Board to appoint an impartial mediator;

564 4. The mediator shall provide services to the parties until the parties reach agreement, the mediator
565 believes that mediation services are no longer helpful, or October 10 of the year the request is filed,
566 whichever occurs first. If the mediator determines that mediation services are no longer helpful or if the
567 October 10 deadline occurs, the parties shall jointly submit the unresolved issues to final and binding
568 arbitration. The parties shall jointly select an arbitrator or, if they are unable to agree on an arbitrator, they
569 shall request a list of seven arbitrators from the Federal Mediation and Conciliation Service or the American
570 Arbitration Association. Each party in turn shall strike a name from the list until only one name remains.
571 Negotiations may continue throughout the impasse procedures;

572 5. Each party shall submit its final offer on each separate item remaining at impasse to the arbitrator and
573 the other party within 10 days after selection of the arbitrator. The arbitrator shall determine that either the
574 final offer of the employer or the final offer of the employee organization on each separate issue shall be
575 incorporated into the final collective bargaining agreement; however, the arbitrator shall not amend the offer
576 of either party on any issue;

577 6. The arbitrator shall (i) begin hearings no later than November 20 of the year the request is filed in
578 accordance with procedures prescribed by the Board and (ii) render a decision in writing no later than
579 December 15 of such year;

580 7. Negotiations following the initial certification of an employee organization as an exclusive
581 representative of state employees shall convene within 30 days of the request of either party. Either party
582 may invoke arbitration in accordance with the provisions of subdivisions 4, 5, and 6 any time at least 90 days
583 after the first negotiation session. Matters not requiring the approval of the General Assembly shall take
584 effect in accordance with the terms of the agreement or award of an arbitrator. Matters requiring the
585 approval of the General Assembly shall take effect in accordance with § 40.1-57.17. Initial agreements shall
586 expire on June 30 of the next even-numbered year; and

587 8. Any time limit specified in this subsection may be extended by mutual agreement of the parties.

588 B. A request for negotiations shall be filed in writing by an exclusive representative of employees of a
589 local government in a timely fashion reasonably in advance of the local government's budget-making process
590 or in accordance with any collective bargaining agreement in effect.

591 C. A local government and the exclusive representative may enter into a written agreement setting forth
592 an impasse resolution procedure. The procedure shall culminate with binding arbitration.

593 D. If local government and the exclusive representative have not agreed to an impasse resolution
594 procedure, negotiation impasses shall be subject to the following procedures:

595 1. At the request of either party, the parties shall enter into mediation. The parties involved shall mutually
596 agree upon a mediator or request the Board to appoint an impartial mediator.

597 2. At the request of either party, all impasses not resolved through mediation, or if the parties do not
598 agree to mediation, the issues subject to impasse, shall be submitted to final arbitration and subject to
599 approval pursuant to § 40.1-57.17. The parties shall jointly select an arbitrator or, if they are unable to
600 agree on an arbitrator, they shall request a list of seven arbitrators from the Federal Mediation and
601 Conciliation Service or American Arbitration Association. Each party in turn shall strike a name from the list
602 until only one name remains. Negotiations may continue throughout the impasse procedures.

603 E. In making any decision under the impasse procedures authorized by this article for any public
604 employer, a mediator or arbitrator shall give weight to the following factors:

605 1. The lawful authority of the public employer;

606 2. Stipulations of the parties;

607 3. The interests and welfare of the public;

608 4. The financial ability of the employer to meet the costs of any items to be included in the contract;

609 5. Comparison of wages, hours, and terms and conditions of employment of the employees involved in the
610 arbitration proceedings with the wages, hours, and terms and conditions of employment of other persons
611 performing similar services in the public and private sectors;

612 6. The average consumer prices for goods and services, commonly known as the cost of living;

613 7. The overall compensation presently received by the employees involved in the arbitration, including
614 wages, insurance benefits, vacations, holidays, and similar benefits;

615 8. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings; and

616 9. Such other factors that are normally or traditionally taken into consideration in the determination of
617 wages, hours, and terms and conditions of employment through voluntary collective bargaining, mediation,

618 *fact finding, arbitration, or otherwise between the parties, in public service or in private employment.*

619 *F. The expenses of the mediation and arbitration shall be borne equally by the parties.*

620 **§ 40.1-57.17. Funding for agreement implementation.**

621 *A. After a negotiated agreement has been agreed to by both parties, or a final and binding arbitration*
 622 *decision has been rendered in accordance with § 40.1-57.16, the chief executive of the public employer shall*
 623 *submit to the relevant governing body a request for funds necessary to implement the agreement and for*
 624 *approval of any other matter requiring the approval of the governing body within 30 days after (i) the date on*
 625 *which the parties finalize the agreement or (ii) the date on which the arbitration decision is issued, unless*
 626 *otherwise specified in this section. If the governing body, other than the General Assembly is not in session at*
 627 *the time, then the submission shall be within five days after it next convenes.*

628 *B. Any request for funds related to a negotiated agreement that requires the General Assembly's approval*
 629 *or rejection as the governing body that is submitted prior to November 1 in any calendar year shall be*
 630 *included in the next budget bill pursuant to § 2.2-1509. The General assembly shall approve or reject such*
 631 *request through its budget process by either providing the necessary appropriation to implement the*
 632 *negotiated agreement or not as reflected in the general appropriation act enacted in the first regular session*
 633 *following such request. Any such request for funds submitted on or after November 1 in any calendar year*
 634 *shall be included in the budget bill in the following calendar year and considered through the budget process*
 635 *in the applicable regular session.*

636 *C. The governing body shall approve or reject the submission as a whole.*

637 *D. If the governing body rejects the submission of the public employer, either party may reopen*
 638 *negotiations.*

639 *E. The parties shall specify that those provisions of the agreement not requiring action by a governing*
 640 *body shall be effective and operative in accordance with the terms of the agreement.*

641 *F. Upon the expiration of an agreement, the terms of such agreement shall remain in effect until*
 642 *superseded by a new agreement.*

643 *G. For the purposes of this section, the governing body for independent state agencies shall be the*
 644 *General Assembly.*

645 **§ 40.1-57.18. Judicial review.**

646 *The circuit court for the locality in which a dispute arose or in which a majority of the affected employees*
 647 *reside may review an award of the arbitrator, or an award of an arbitrator in a grievance arbitration, when*
 648 *(i) such arbitrator was without or exceeded his jurisdiction; (ii) the order is not supported by competent,*
 649 *material, and substantial evidence on the whole record; or (iii) the order was procured by fraud, collusion,*
 650 *or other similar and unlawful means. The pendency of a proceeding for review shall not automatically stay*
 651 *the order of an arbitrator.*

652 **§ 40.1-57.19. Strikes; lock-outs.**

653 *A. In accordance with the provisions of § 40.1-55, any public employee who, in concert with two or more*
 654 *other such employees, for the purpose of obstructing, impeding, or suspending any activity or operation of his*
 655 *employing agency or any other governmental agency, strikes or willfully refuses to perform the duties of his*
 656 *employment shall, by such action, be deemed to have terminated his employment.*

657 *B. A public employer shall not lock out employees in the event of a dispute with an employee organization.*

658 **§ 40.1-57.20. Civil procedures; personal liability.**

659 *A. Any employee organization or public employer may sue or be sued as an entity under the provisions of*
 660 *this article. Service upon a public employer or upon an exclusive bargaining representative shall be made*
 661 *pursuant to Title 8.01.*

662 *B. Nothing in this article shall be construed to make any individual or his assets liable for any judgment*
 663 *against a public employer or an exclusive bargaining representative.*

664 **§ 40.1-57.21. Delivery of notices.**

665 *Any notice required under the provisions of this article shall be in writing, but service thereof shall be*
 666 *sufficient if mailed by restricted certified mail, return receipt requested, addressed to the last-known address*
 667 *of the parties, unless otherwise provided in this article or by the rules of the Board, which shall provide for*
 668 *the electronic service of documents. Refusal of restricted certified mail by any party shall be considered*
 669 *service. Prescribed time periods shall commence from the date of the receipt of the notice. Any party may at*
 670 *any time execute and deliver an acceptance of service in lieu of a mailed notice.*

671 **§ 40.1-57.22. Employee associations permitted.**

672 *Nothing in this article shall be construed to limit any person's right to freedom of speech, to association,*
 673 *or to petition or seek redress from the government.*

674 **§ 40.1-57.23. Firefighters and emergency medical services providers; arbitration process.**

675 *A. Notwithstanding the provisions of § 40.1-57.16, if a dispute arises between an exclusive representative*
 676 *of employees that are firefighters or emergency medical services providers and the public employer of such*
 677 *employees in which the collective bargaining process reaches an impasse, or if the relevant governing body*
 678 *does not approve an agreement reached between such parties within 30 days after such agreement is*
 679 *reached, then either party to such dispute, after written notice to the opposing party specifying the issue or*

680 *issues in dispute, may request the appointment of a board of arbitration.*

681 *B. Each board of arbitration shall consist of three members, of which one member shall be appointed by*
682 *the public employer, one member shall be appointed by the exclusive representative of such public employer's*
683 *employees, and one member shall be selected by the other two members. The two members appointed by the*
684 *public employer and by the exclusive representative shall be appointed within five days after the date of the*
685 *request to appoint such board of arbitration. If, after at least 10 days have passed since the appointment of*
686 *such two members, the third member has not been selected by such two members, either of the two members*
687 *may request a nonprofit organization in the field of alternative dispute resolution that administers arbitration*
688 *proceedings to furnish a list of three members of such organization residing in the Commonwealth or within*
689 *250 miles of the public employer. The member appointed by the public employer shall eliminate one name*
690 *from such list within five days after such list is furnished, and the member appointed by the exclusive*
691 *representative shall eliminate another name from such list within five days after such initial elimination. The*
692 *individual whose name remains on such list shall be appointed as the third member and shall serve as the*
693 *chair of the board of arbitration. The board of arbitration shall commence proceedings within 10 days after*
694 *the chair is selected and shall make its determination within 30 days after proceedings commence.*

695 *C. Notice by an exclusive representative of a dispute proceeding to a board of arbitration pursuant to this*
696 *section shall be served upon the head of the relevant governing body.*

697 *D. Each board of arbitration shall be authorized to administer oaths and compel the attendance of*
698 *witnesses and physical evidence by subpoena.*

699 *E. The compensation for the member of a board of arbitration appointed by an exclusive representative or*
700 *a public employer shall be paid by the party that appointed such member. The compensation for the*
701 *remaining member of such board of arbitration, as well as all stenographic and other expenses incurred by*
702 *such board of arbitration in connection with arbitration proceedings, shall be paid equally by the two parties*
703 *to the dispute.*

704 *F. The determination of the majority of the members of a board of arbitration established pursuant to this*
705 *section shall be final on the issue or issues in dispute and shall be binding on the parties involved. Such*
706 *determination shall be made in writing, and a copy thereof shall be sent to such parties.*

707 *G. No provision of this section shall be construed to prohibit a governing body from granting its*
708 *employees rights greater than those contained in a board of arbitration's determination.*

709 **2. That §§ 32.1-331.04 and 40.1-54.3 and Article 2.1 (§§ 40.1-57.2 and 40.1-57.3) of Chapter 4 of Title**
710 **40.1 of the Code of Virginia are repealed.**

711 **3. That the provisions of (i) § 40.1-55 of the Code of Virginia, as amended by this act; (ii) §§ 40.1-57.5,**
712 **40.1-57.6, and 40.1-57.8 through 40.1-57.23 of the Code of Virginia, as created by this act; and (iii) the**
713 **second enactment of this act shall become effective on July 1, 2028.**

714 **4. That nothing in this act shall be construed to supersede the existing certification of any exclusive**
715 **bargaining representative, as defined in § 40.1-57.4 of the Code of Virginia, as created by this act, or**
716 **any active negotiation or collective bargaining agreement between an employer and employees engaged**
717 **in a collective bargaining process prior to July 1, 2028, provided that on or after such date, an existing**
718 **exclusive bargaining representative may be decertified through a petition pursuant to the process**
719 **described in §§ 40.1-57.13 and 40.1-57.14 of the Code of Virginia, as created by this act.**

720 **5. That the Secretary of Health and Human Resources (the Secretary), in collaboration with the**
721 **Secretary of Labor, shall evaluate options to provide collective bargaining rights to consumer-directed**
722 **individual providers in the Medicaid waiver programs. The evaluation shall include: (i) a review of**
723 **other states and the methods by which they allow collective bargaining by such individual providers,**
724 **including establishing an authority that would be the public employer of such individual providers for**
725 **the purpose of collective bargaining and (ii) the potential costs of each method. In addition, the**
726 **evaluation shall consider the costs and best approaches to implement: (a) a central registry of**
727 **individual providers; (b) a system to match participants who need direct support services with**
728 **individual providers; (c) a paid training program to be available to all individual providers; (d) a paid**
729 **mandatory orientation program for individual providers related to employment in providing direct**
730 **support services; (e) provision of a communications hub for the individual provider workforce to share**
731 **information relevant to individual providers; (f) provision of home care assistance to participants to**
732 **ensure a continuation of direct support services in the event their individual provider is absent or no**
733 **longer able to perform his responsibilities; (g) oversight of the quality of direct support services to**
734 **ensure direct support services are provided in conformance with all applicable requirements; and (h)**
735 **collection of statewide information and data related to the individual provider workforce, including**
736 **individual provider pay, retention and turnover rates, individual provider job satisfaction, service gaps**
737 **caused by individual provider shortages, and other relevant information. The Department of Medical**
738 **Assistance and Services and the Department of Planning and Budget shall provide assistance to the**
739 **Secretary in conducting the evaluation. The Secretary shall report any findings and recommendations**
740 **to the Governor and the General Assembly by November 15, 2026.**

741 **6. That the Public Employee Relations Board established pursuant to § 40.1-57.7 of the Code of**

742 Virginia, as created by this act, shall review and evaluate the list of collective bargaining units
743 described in § 40.1-57.12 of the Code of Virginia, as created by this act, for state employees,
744 independent agencies, public institutions of higher education, and local school boards to determine
745 which bargaining units are most appropriate for the applicable entity. The Board shall also determine
746 whether the authority to collectively bargain should be phased in by bargaining unit over an
747 appropriate period of time and, if so, the schedule of such phase-in for each bargaining unit. The
748 Board shall report to the Governor and the General Assembly its findings and recommendations no
749 later than September 1, 2027.

750 7. That the governing board of each public institution of higher education, as defined in § 23.1-300 of
751 the Code of Virginia, shall assess the potential impact of the provisions of this act on its tuition as part
752 of the six-year plan that each such governing board is required to submit pursuant to § 23.1-306 of the
753 Code of Virginia.