

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-2905, 17.1-276, 28.2-1206, 33.2-299.1, and 33.2-299.3 of the Code of*
 3 *Virginia and to amend the Code of Virginia by adding a section numbered 33.2-299.1:1, relating to*
 4 *Virginia Passenger Rail Authority; exemptions.*

5 [H 141]

6 Approved

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

8 **1. That §§ 2.2-2905, 17.1-276, 28.2-1206, 33.2-299.1, and 33.2-299.3 of the Code of Virginia are**
 9 **amended and reenacted and that the Code of Virginia is amended by adding a section numbered**
 10 **33.2-299.1:1 as follows:**

11 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

12 The provisions of this chapter shall not apply to:

- 13 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 14 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 15 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house
16 thereof is required or not;
- 17 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 18 5. Members of boards and commissions however selected;
- 19 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
20 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries
21 public;
- 22 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
23 special inquiries, investigations, or examinations on its behalf;
- 24 8. The presidents and teaching and research staffs of state educational institutions;
- 25 9. Commissioned officers and enlisted personnel of the National Guard;
- 26 10. Student employees at institutions of higher education and patient or inmate help in other state
27 institutions;
- 28 11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees
29 compensated on an hourly or daily basis;
- 30 12. County, city, town, and district officers, deputies, assistants, and employees;
- 31 13. The employees of the Virginia Workers' Compensation Commission;
- 32 14. The officers and employees of the Virginia Retirement System;
- 33 15. Employees whose positions are identified by the State Council of Higher Education and the boards of
34 the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation,
35 the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute,
36 the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of
37 the Department of Human Resource Management as requiring specialized and professional training;
- 38 16. Employees of the Virginia Lottery;
- 39 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and
40 service industries who have a human resources classification of industry worker;
- 41 18. Employees of the Virginia Commonwealth University Health System Authority;
- 42 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such
43 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia.
44 The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center
45 personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State
46 Grievance Procedure (§ 2.2-3000 et seq.);
- 47 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy,
48 or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy
49 or administration. An employee serving in either one of these two positions shall be deemed to serve on an
50 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
- 51 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
52 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 53 22. Officers and employees of the Virginia Port Authority;
- 54 23. Employees of the Commonwealth Savers Plan;
- 55 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
56 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to

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57 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure
58 (§ 2.2-3000 et seq.);

59 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state
60 employees for purposes of participation in the Virginia Retirement System, health insurance, and all other
61 employee benefits offered by the Commonwealth to its classified employees;

62 26. Employees of the Virginia Indigent Defense Commission;

63 27. Any chief of a campus police department that has been designated by the governing body of a public
64 institution of higher education as exempt, pursuant to § 23.1-809;

65 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage
66 Control Authority; and

67 29. Officers and employees of the Fort Monroe Authority; and

68 30. *Officers and employees of the Virginia Passenger Rail Authority.*

69 **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

70 A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294
71 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the
72 clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in
73 § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in
74 § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an amount
75 not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover
76 operational expenses as defined in § 17.1-295.

77 The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation,
78 the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General
79 Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic
80 Beverage Control Authority, the Department of Rail and Public Transportation, *the Virginia Passenger Rail*
81 *Authority*, and the State Corporation Commission shall be exempt from paying any fee for remote access to
82 land records. If any clerk contracts with an outside vendor to provide remote access to land records to
83 subscribers, such contract shall contain a provision exempting the Office of the Attorney General, the
84 Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the
85 Department of Historic Resources, the Department of General Services, the Department of Conservation and
86 Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, the Department
87 of Rail and Public Transportation, *the Virginia Passenger Rail Authority*, and the State Corporation
88 Commission from paying any access or subscription fee.

89 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to
90 have remote access, in accordance with the security standards established by the Virginia Information
91 Technologies Agency. Any such agreement between a state agency, *political subdivision*, or employee
92 thereof acting in the employee's official capacity and the clerk or an outside vendor contracted by the clerk to
93 provide remote access to land records to subscribers, or such an agreement between a state agency, *political*
94 *subdivision*, or employee thereof acting in the employee's official capacity and both the clerk and the outside
95 vendor, shall not contain any provision requiring the state agency, *political subdivision*, or employee thereof
96 acting in the employee's official capacity to indemnify the clerk or the vendor. Any such agreement between
97 a (i) state agency or *political subdivision* and (ii) the clerk or an outside vendor shall provide that the state
98 agency or *political subdivision* is required to monitor its employees' activity under such agreement to ensure
99 compliance with its terms.

100 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that
101 shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded
102 in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

103 D. Nothing herein shall be construed to require the use by the general public of the secure remote access
104 to land records made available by the clerk, and such records may continue to be accessed in person in the
105 clerk's office.

106 **§ 28.2-1206. Fees; exemptions.**

107 A. A non-refundable processing fee of \$100 shall accompany each application (i) submitted for a
108 Commission permit for the use of state-owned submerged lands or (ii) submitted pursuant to § 28.2-1203. No
109 such processing fee shall be required for an application to explore or recover underwater historic property or
110 to conduct any activity authorized by a Virginia Marine Resources Commission General Permit.

111 B. The fee paid to the Commission for issuing each permit to recover underwater historic property shall be
112 \$25.

113 The fee paid to the Commission for issuing each permit to use state-owned bottomlands shall be \$100; if
114 the cost of the project is to exceed \$10,000 but not exceed \$500,000, the fee paid shall be \$300; and if the
115 cost of the project is to exceed \$500,000, the fee paid shall be \$600. Riparian owners of (i) commercial
116 facilities engaged in the business of ship construction or repair, (ii) commercial facilities providing services
117 relating to the shipping of domestic or foreign cargo, and (iii) commercial facilities engaged in the business
118 of selling or servicing watercraft shall be exempt from the payment of rents and royalties, except as provided

119 in subsection C.

120 C. When the activity or project for which a permit is requested will involve the removal of bottom
121 material, the application shall indicate this fact. If granted, the permit shall specify a royalty of not less than
122 \$0.40, nor more than \$0.80, per cubic yard of bottom material removed. In fixing the amount of the royalty,
123 the Commission shall consider, among other factors, the following:

124 1. The primary and secondary purposes for removing the bottom material;

125 2. Whether the material has any commercial value and whether it will be used for any commercial
126 purpose;

127 3. The use to be made of the removed material and any public benefit or adverse effect upon the public
128 that will result from the removal or disposal of the material;

129 4. The physical characteristics of the material to be removed; and

130 5. The expense of removing and disposing of the material.

131 D. Where it appears that the project or facility for which a permit application is made has been completed
132 or work thereon commenced at the time application is made, the Commission may impose additional
133 assessments not to exceed an amount of three times the normal permit fee and royalties, unless such royalties
134 are prohibited by this chapter.

135 E. Bottom material removed attendant to maintenance dredging or directional drilling shall be exempt
136 from any royalty. The Virginia Department of Transportation *and Virginia Passenger Rail Authority* shall be
137 exempt from all fees, rents and royalties otherwise assessable under this section. All counties, cities, and
138 towns of the Commonwealth shall pay the required permit fee but shall be exempt from all other fees, rents
139 and royalties assessable under this section if the permit is issued prior to the commencement of any work to
140 be accomplished under the permit.

141 F. All fees, rents and royalties collected pursuant to this chapter on and after July 1, 2000, shall be paid
142 into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund.

143 G. Beginning July 1, 2020, and not more frequently than every three years thereafter, the Commission
144 may increase or decrease fees for marine habitat applications, permits, leases, rents, and royalties that are
145 authorized by this chapter, but such increase or decrease shall be no greater than the respective increase or
146 decrease, expressed as a percentage, in the United States Average Consumer Price Index for all items, all
147 urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor,
148 since the date on which the fee was last set or adjusted.

149 **§ 33.2-299.1. Exemption of Authority from personnel and procurement procedures.**

150 The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act
151 (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this article.
152 The Authority shall develop and adopt rules governing their procurement procedures. However, such rules
153 adopted for the procurement of professional services with a cost expected to exceed ~~\$80,000~~ \$150,000 shall
154 be consistent with the provisions of §§ 2.2-4302.2; and 2.2-4303.1 ~~and 2.2-4303.2~~, *except that, in the case of*
155 *term contracts procured in a manner consistent with the provisions of § 2.2-4303.1, the sum of all projects*
156 *performed in a contract term shall not exceed \$20 million and the fees for any single project shall not exceed*
157 *\$10 million.* The initial rules shall be adopted by the Board no later than six months after the first meeting of
158 the Board.

159 **§ 33.2-299.1:1. Exemption of Authority from certain technology procedures.**

160 *The provisions regulating the Virginia Information Technologies Agency (§ 2.2-2005 et seq.) shall not*
161 *apply to the Authority in the exercise of any power conferred under this article.*

162 **§ 33.2-299.3. Governmental function; exemption from taxation.**

163 The exercise of the powers granted by this article will be in all respects for the benefit of the people of the
164 Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health
165 and living conditions, and as the operation and maintenance of rail facilities by the Authority and the
166 undertaking of activities in the furtherance of the purposes of the Authority will constitute the performance of
167 the essential governmental functions, the Authority shall not be required to pay any taxes or assessments
168 upon any rail facilities or any property acquired or used by the Authority under the provisions of this article
169 or upon the income therefrom, including sales and use taxes on the tangible personal property used in the
170 operations of the Authority *and charges assessed by a locality pursuant to Article 2 (§ 15.2-2109 et seq.) of*
171 *Chapter 21 of Title 15.2.* The exemption hereby granted shall not be construed to extend to persons
172 conducting on the premises of any rail facility businesses for which local or state taxes would otherwise be
173 required.