

26110414D

SENATE BILL NO. 378
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Governor
on April 13, 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 10 of Title 32.1 an article numbered 5, consisting of sections numbered 32.1-331.18 through 32.1-331.21, and by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.24; 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; individual home care providers; Virginia Home Care Council established; Public Employee Relations Board established; exclusive bargaining representatives.

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 10 of Title 32.1 an article numbered 5, consisting of sections numbered 32.1-331.18 through 32.1-331.21, and by adding in Chapter 4 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-57.4 through 40.1-57.24, as follows:

Article 5.

Virginia Home Care Council.

§ 32.1-331.18. Virginia Home Care Council; creation.

Effective July 1, 2027, there is hereby created the Virginia Home Care Council, responsible to the Secretary of Health and Human Resources, to promote the stability of the individual provider workforce in the Commonwealth.

§ 32.1-331.19. Definitions.

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

"Collective bargaining" means the same as that term is defined in § 40.1-57.4.

"Council" means the Virginia Home Care Council established pursuant to this article.

"Covered program" means a program to provide consumer-directed direct support services funded in whole or in part by the Department or the Department for Aging and Rehabilitative Services, including services under the Commonwealth Coordinated Care Plus program and development disability waiver programs established pursuant to home and community-based service waivers authorized under § 1915(c) of the Social Security Act.

"Direct support services" means personal care services that assist participants with instrumental activities of daily living, including grooming, toileting, bathing, eating, dressing, monitoring health status and physical condition, and assisting with housekeeping activities, and other in-home, long-term services and supports provided to an elderly person or person with a disability to meet such person's daily living needs and ensure that such person may adequately function at home and have safe access to the community.

"Exclusive bargaining representative" means the same as that term is defined in § 40.1-57.4.

"Individual provider" means an individual employed by a participant or participant representative to provide direct support services to such participant.

"Participant" means an individual who receives direct support services from an individual provider through a covered program.

"Participant representative" means a participant's legal guardian or an individual having the authority and responsibility to act on behalf of a participant with respect to the provision of direct support services through a covered program.

§ 32.1-331.20. Council composition; membership; quorum.

A. The Council shall consist of five members to be appointed in accordance with the provisions of this section. The Director of the Department, or his designee, shall be a permanent member of the Council. The Governor shall appoint two members representing the interests of participants and participant representatives and two members representing nonprofit organizations that advocate on behalf of elderly adults or people with disabilities.

B. Except for the initial appointments, appointees to the Council by the Governor shall serve four-year terms.

C. If a vacancy occurs, a new Council member shall be appointed or designated to serve the remainder of the unexpired term or, if the vacancy occurs as the result of the completion of a term, to serve a full term.

D. Members of the Council may serve successive terms.

E. A majority of the members of the Council shall constitute a quorum for the transaction of any business. The Council shall make its own policies and procedures and shall adopt bylaws not inconsistent with this article governing its operations. The Council shall adopt bylaws consistent with the Virginia Freedom of

SENATE SUBSTITUTE

SB37855

4/14/26 13:40

60 Information Act (§ 2.2-3700 et seq.) governing its procedures and the holding of meetings. The Council shall
 61 meet at the call of the chair and as may be provided in the bylaws.

62 F. The Council shall elect a chair and vice-chair from among its membership.

63 **§ 32.1-331.21. Powers and duties of Council.**

64 The Council shall have the following powers and duties:

65 1. To establish and maintain a central registry of individual providers;

66 2. To create a system for participants who need direct support services to identify potential individual
 67 providers;

68 3. To serve as the public employer of individual providers solely for purposes of collective bargaining
 69 pursuant to Article 2.2 (§ 40.1-57.4 et seq.) of Chapter 4 of Title 40.1;

70 4. If there is no current exclusive bargaining representative for individual providers, to provide an
 71 employee organization, as defined in § 40.1-57.4, seeking certification as an exclusive bargaining
 72 representative of individual providers the following contact information within 10 business days after a
 73 request for such information and in an electronic format: the name, home address, home telephone number,
 74 personal cell phone number, and personal email address of each individual provider on file with the Council.
 75 An individual provider may affirmatively direct that his personal and home contact information not be
 76 provided to an employee organization. Records of personal and home contact information described in this
 77 subdivision are not public records under the Virginia Public Records Act (§ 42.1-76 et seq.) and shall be
 78 exempt from public disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

79 5. To arrange for the provision of an orientation for newly hired individual providers. Such training
 80 program shall be developed in consultation with participants and participant representatives, individual
 81 providers, and any exclusive bargaining representative of individual providers. The Council shall establish
 82 requirements for the provision of such training;

83 6. To espouse, support, and work to preserve participant selection and self-direction of individual
 84 providers. Nothing in this article shall be construed to limit a participant's authority to hire or fire an
 85 individual provider, set schedules, direct daily care, and supervise job performance;

86 7. To serve as a communications hub for the individual provider workforce to share information relevant
 87 to individual providers;

88 8. To collect statewide information and data related to the individual provider workforce, including
 89 individual provider pay, retention and turnover rates, individual provider job satisfaction, service gaps
 90 caused by individual provider shortages, and other relevant information;

91 9. To enter into contracts and agreements, and contract for services of persons or entities, as appropriate
 92 to accomplish the purposes and provisions of this article;

93 10. To employ, appoint, engage, and compensate employees to accomplish the purposes and provisions of
 94 this article;

95 11. To collaborate with the Department to ensure processes are in place to pay individual providers in a
 96 timely manner in accordance with applicable federal and state requirements; and

97 12. Except as otherwise provided by law, to perform all other acts necessary or convenient to implement
 98 the purposes and provisions of this article.

99 **§ 40.1-55. Employee striking terminates, and becomes temporarily ineligible for, public
 100 employment.**

101 ~~A.~~ Any employee of the Commonwealth, or of any county, city, town, or other political subdivision
 102 thereof, or of any agency of any one of them, or any individual provider, as defined in § 32.1-331.19, who, in
 103 concert with two or more other such employees, for the purpose of obstructing, impeding, or suspending any
 104 activity or operation of his employing agency or any other governmental agency, strikes or willfully refuses
 105 to perform the duties of his employment shall, by such action, be deemed to have terminated his employment
 106 and shall thereafter be ineligible for employment in any position or capacity during the next 12 months by the
 107 Commonwealth, or any county, city, town, or other political subdivision of the Commonwealth, or by any
 108 department or agency of any of them.

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

112 Article 2.2.

113 Collective Bargaining by Public Employees.

114 **§ 40.1-57.4. Definitions.**

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

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

118 "Bargaining unit" means a group of public employees who share clear and identifiable interests in wages
 119 and conditions based on similar job duties, skills, or other criteria. A bargaining unit is represented by a
 120 single exclusive bargaining representative.

121 "Board" means the Public Employee Relations Board established pursuant to § 40.1-57.8.

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

128 "Confidential employee" means an employee who is authorized to access confidential information
 129 pertaining to a public employer's budgetary and fiscal data or confidential personnel information relevant to
 130 matters within the scope of collective bargaining as described in this article or an employee that assists and
 131 acts in a confidential capacity to any person who formulates, determines, and effectuates management
 132 policies.

133 "Direct support services" means personal care services that assist participants with instrumental
 134 activities of daily living, including grooming, toileting, bathing, eating, dressing, monitoring health status
 135 and physical condition, and assisting with housekeeping activities and other in-home, long-term services and
 136 supports provided to an elderly person or person with a disability to meet such person's daily living needs
 137 and ensure that such person may adequately function at home and have safe access to the community.

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

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

145 "Exclusive bargaining representative" or "exclusive representative" means an employee organization (i)
 146 certified as the exclusive bargaining representative of a bargaining unit by the Board pursuant to the
 147 provisions of this article or (ii) recognized as an exclusive representative by any county, city, town, local
 148 school board, or other public employer as of January 1, 2030.

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

152 "Governing body" means the General Assembly; any board, council, authority, or commission, whether
 153 elected or appointed, of the Commonwealth; or any other public body that determines the fiscal
 154 appropriations or approves budgets for the operation of a political subdivision or public transportation
 155 provider. For purposes of a public employer that is a public institution of higher education, the governing
 156 body shall be its governing board, as defined in § 23.1-100. Beginning January 1, 2030, "governing body"
 157 includes any local government.

158 "Impasse" means the failure of a public employer and an exclusive bargaining representative to reach
 159 agreement in the course of collective bargaining.

160 "Individual provider" means the same as that term is defined in § 32.1-331.19.

161 "Local government" means:

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

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

166 3. Any public transportation provider.

167 "Local government employee" means any individual who is employed by a local government, except
 168 individuals exempted from the provisions of this article by § 40.1-57.7.

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

172 "Public employee" means any state employee except an individual exempted from the provisions of this
 173 article by § 40.1-57.7. "Public employee" includes an employee of any public institution of higher education,
 174 including a student employed in any capacity. Beginning January 1, 2030, "public employee" includes a local
 175 government employee.

176 "Public employer" means any state agency. Beginning January 1, 2030, "public employer" includes any
 177 local government.

178 "Public institution of higher education" means the same as that term is defined in § 23.1-100.

179 "Public transportation provider" means:

180 1. A transportation district established pursuant to § 33.2-1903 or other transportation district;

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

183 3. Any other political subdivision or combination thereof that provides public transportation services.

184 "State agency" means the Commonwealth or any agency or department thereof and any independent
185 political subdivision.

186 "State employee" means any individual who is employed by a state agency, except individuals exempted
187 from the provisions of this article by § 40.1-57.7.

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

191 "Supervisor" means an employee who devotes a majority of his work time to supervisory duties, who
192 customarily and regularly directs the work of two or more other employees, and who has the authority, in the
193 interest of the employer, to hire, promote, or discipline other employees or to recommend such actions
194 effectively, but does not include individuals who perform merely routine, incidental, or clerical duties who
195 occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their
196 subordinates. "Supervisor" does not include (i) lead employees and employees who have authority limited to
197 assigning and directing employees or (ii) a firefighter or emergency medical services provider.

198 "Temporary public employee" means an employee hired by a public employer to fill a seasonal or other
199 temporary position intended to last three months or less in any 24-month period.

200 "Virginia Home Care Council" or "the Council" means the Virginia Home Care Council established
201 pursuant to § 32.1-331.18.

202 **§ 40.1-57.5. Individual providers.**

203 A. Only for the purposes of effectuating this article, an individual provider shall be considered a public
204 employee. The Virginia Home Care Council shall only serve as the public employer of individual providers
205 for purposes of collective bargaining as described in § 32.1-331.21. The scope of collective bargaining
206 between individual providers and the Council may include wages and all terms and conditions of employment
207 that are within the Council's control, including any adverse action impacting such terms and conditions of
208 employment, but shall not extend to those rights reserved to participants and participants' representatives
209 pursuant to subsection C.

210 B. Any exclusive bargaining representative of individual providers shall be selected by and shall
211 represent all individual providers in the Commonwealth, including individual providers who are related to a
212 participant or participant's representative.

213 C. Participants or participants' representatives shall retain the rights to select, hire, direct, supervise, and
214 terminate the services of any individual provider providing direct support services for the participants.
215 Nothing in this article shall be construed to alter such rights. No provision of any agreement reached
216 between any exclusive bargaining representative of individual providers and the Council shall interfere with
217 such rights.

218 D. Nothing in this article shall be construed to classify individual providers as employees of the
219 Commonwealth. No individual provider shall be eligible for state retirement programs or health care
220 benefits. The Commonwealth shall not be liable for any act or omission by an individual provider.

221 **§ 40.1-57.6. Collective bargaining by public employees.**

222 Public employees may:

- 223 1. Organize, form, join, or assist any employee organization or refrain from any such activity;
- 224 2. Negotiate collectively through representatives of their own choosing; and
- 225 3. Engage in other concerted activities for the purposes of collective bargaining or other mutual aid or
226 protection insofar as any such activity is not prohibited by this article or any other law of the
227 Commonwealth.

228 **§ 40.1-57.7. Exemptions; scope of article.**

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

- 230 1. Elected officials, persons appointed to fill vacancies in elected offices, and members of any board or
231 commission;
- 232 2. Representatives of a public employer, including the administrative officer, director, or chief executive
233 officer of a public employer or major division thereof, as well as his deputy or first assistant;
- 234 3. Confidential employees;
- 235 4. Temporary public employees;
- 236 5. Judicial branch employees, including any judge as defined in § 51.1-301, referees, receivers, arbiters,
237 masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any
238 court to exercise judicial functions, and jurors and notaries public;
- 239 6. Patients and inmates employed, sentenced, or committed to any state or local institution;
- 240 7. Supervisors;
- 241 8. Quasi-judicial employees of the Commonwealth, including commissioners and deputy commissioners of
242 the Workers' Compensation Commission and hearing officers assigned to conduct grievance hearings
243 pursuant to § 2.2-3005;
- 244 9. Employees of a public institution of higher education, the University of Virginia Medical Center, and
245 the Virginia Commonwealth University Health System Authority except for service employees. For the

246 purposes of this subdivision, "service employee" means an employee employed at least 16 hours per week at
 247 a public institution of higher education performing service work or work in connection with the care or
 248 maintenance of property, including a janitor, security officer, groundskeeper, concierge, clerical and
 249 administrative assistant, door staff, trades worker, maintenance technician, handyman, superintendent,
 250 elevator operator, window cleaner, building engineer, or food services worker;

251 10. Employees working for the General Assembly; and

252 11. Individuals who manage or have decision-making authority over any investment of state government
 253 funds.

254 B. Any officer elected pursuant to Article VII, Section 4 of the Constitution of Virginia may elect to be
 255 subject to the provisions of this article and to authorize his public employees to collectively bargain pursuant
 256 thereto. If a constitutional officer makes such election, the processes for certifying an exclusive bargaining
 257 representative and engaging in collective bargaining shall be determined by the Board.

258 C. The provisions of this article shall apply to law-enforcement officers, as defined in § 9.1-101. However,
 259 (i) no collective bargaining representative shall represent a law-enforcement officer in a pending internal
 260 investigation involving serious misconduct as defined in statewide professional standards of conduct adopted
 261 by the Criminal Justice Services Board and (ii) no collective bargaining agreement shall limit, alter, or
 262 otherwise impact the procedures required by the Law-Enforcement Officers Procedural Guarantee Act
 263 (§ 9.1-500 et seq.), decertification pursuant to § 15.2-1707, or any regulations adopted pursuant to § 9.1-102
 264 relating to the statewide professional standards of conduct applicable to certified law-enforcement officers
 265 and certified jail officers and procedures for decertification based on serious misconduct in violation of such
 266 standards. Additionally, to the extent that any collective bargaining agreement conflicts with any provision of
 267 a state or federal law, regulation, or local ordinance, such law, regulation, or ordinance shall control.

268 D. Notwithstanding any other provision of this article, no provision of this article except for subdivisions
 269 A 2 and 3 of § 40.1-57.8 shall apply to a local government or a local government employee until January 1,
 270 2030.

271 **§ 40.1-57.8. Public Employee Relations Board created; powers.**

272 A. Notwithstanding the provisions of § 40.1-1, the Public Employee Relations Board is established within
 273 the Department. The Board shall be composed of five members, of whom:

274 1. Two members shall be representatives of public employers;

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

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

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

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

287 B. All members shall be appointed by the Governor for a term of five years or until their successors have
 288 been appointed, except that the initial appointment of one of the members described in subdivision A 1 shall
 289 be for a term of three years and the initial appointments of the members described in subdivisions A 2 and 3
 290 shall be for a term of four years.

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

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

297 E. The Board shall:

298 1. Administer the provisions of this article;

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

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

- 308 *F. The Board shall have the power to:*
309 *1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;*
310 *2. Adopt, use, and alter at will a common seal;*
311 *3. Make and enter into all contracts and agreements necessary or incidental to the performance of its*
312 *duties, the furtherance of its purposes, and the execution of its powers under this article;*
313 *4. Employ, at its discretion, such employees as may be necessary, including an executive director selected*
314 *in consultation with the Secretary of Labor, and fix their compensation to be payable from funds made*
315 *available to the Board. Legal services for the Board shall be provided by the Attorney General in accordance*
316 *with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;*
317 *5. Adopt, alter, and repeal bylaws, policies, procedures, rules, and regulations governing the manner in*
318 *which its business shall be transacted and the manner in which the powers of the Board shall be exercised*
319 *and its duties performed. The Board may delegate or assign any duty or task to be performed by the Board to*
320 *any officer or employee of the Board or the Department. Such delegation or assignment shall not relieve the*
321 *Board of the responsibility to ensure faithful performance of the duties and tasks;*
322 *6. Conduct or engage in any lawful activity, effort, or project consistent with the Board's purposes or*
323 *necessary or convenient to exercise its powers;*
324 *7. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title*
325 *2.2;*
326 *8. Enter into consent agreements including findings of fact and that may include an admission or a*
327 *finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not*
328 *be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but*
329 *may be considered by the Board in future proceedings; and*
330 *9. Do all acts necessary or advisable to carry out the purposes of this article.*
331 **§ 40.1-57.9. Powers of public employers.**
332 *A. A public employer shall reserve the right to:*
333 *1. Direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate public*
334 *employees;*
335 *2. Determine qualifications for employment and the nature and content of personnel examinations; and*
336 *3. Take actions as may be necessary to carry out the mission of such public employer in emergencies as*
337 *defined in § 44-146.16.*
338 *B. No provision of this section shall be construed to restrict a governing body's authority to establish the*
339 *budget of or appropriate funds to the public employer.*
340 **§ 40.1-57.10. Duty to negotiate in good faith.**
341 *A. A public employer and an employee organization that is the exclusive bargaining representative of*
342 *such public employer's employees shall meet at reasonable times, including meetings reasonably in advance*
343 *of such public employer's budget-making process, to negotiate in good faith with respect to wages, hours, and*
344 *other terms and conditions of employment. The Board shall adopt regulations regarding mandatory and*
345 *permissive subjects of collective bargaining that shall apply to all parties. A public employer shall negotiate*
346 *only with such exclusive bargaining representative on matters pertaining to this article. Such obligation to*
347 *negotiate in good faith does not compel either party to agree to a proposal or make a concession.*
348 *B. A public employer shall honor the terms of employees' voluntary authorizations for payroll deductions*
349 *to an exclusive representative made in any form including those that satisfy the Uniform Electronic*
350 *Transactions Act (§ 59.1-479 et seq.), including electronic authorizations and voice authorizations. The*
351 *Board shall adopt regulations related to authorized payroll deductions.*
352 *C. 1. a. Not later than 10 calendar days after the hire of a public employee, a public employer shall*
353 *provide the following contact information to such employee's exclusive bargaining representative, in an*
354 *editable electronic format agreed to by such exclusive bargaining representative: such public employee's*
355 *name, job title, worksite location, home address, work telephone number, home telephone number, personal*
356 *cell phone number, work email address, and personal email on file with such public employer. A public*
357 *employee may affirmatively direct that his personal and home contact information not be provided to an*
358 *employee organization.*
359 *b. A public employer shall provide an exclusive bargaining representative with a list of all contact*
360 *information specified in this subsection in an editable electronic format agreed to by such exclusive*
361 *bargaining representative, for all employees in a bargaining unit, not less than once a month.*
362 *c. Records of a public employee's personal and home contact information described in this subsection are*
363 *not public records under the Virginia Public Records Act (§ 42.1-76 et seq.) and shall be exempt from*
364 *disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*
365 *2. A public employer shall provide an exclusive bargaining representative reasonable access to the public*
366 *employees that the exclusive bargaining representative represents. The Board shall adopt regulations*
367 *regarding such reasonable access, including:*
368 *a. The right to meet with employees during the work day to discuss and investigate grievances and other*
369 *workplace issues;*

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

372 *c. The right to address newly hired employees; and*

373 *d. The right to communicate with bargaining unit members via the employer's email systems or other*
 374 *communication systems commonly used at the workplace.*

375 *3. In the case of a public employer, the duty to bargain in good faith includes a duty to furnish data to the*
 376 *exclusive representative. The Board shall adopt regulations related to furnishing data pursuant to this*
 377 *subdivision.*

378 **§ 40.1-57.11. Prohibited conduct.**

379 *A. No public employer or exclusive bargaining representative shall refuse to negotiate in good faith with*
 380 *respect to the scope of negotiations as set forth in § 40.1-57.16.*

381 *B. No public employer or its designated representative shall:*

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

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

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

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

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

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

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

397 *a. The public employee reasonably believes that the examination may result in disciplinary action against*
 398 *him; and*

399 *b. The public employee requests representation;*

400 *8. Refuse to participate in good faith in any agreed-upon impasse procedures or those set forth in this*
 401 *article;*

402 *9. Refuse to reduce a collective bargaining agreement to writing and sign such agreement;*

403 *10. Disclose to any private entity, other than the exclusive representative, personally identifiable*
 404 *information about public employees within a bargaining unit that is exempt from disclosure, including the*
 405 *contact information specified in § 40.1-57.10; or*

406 *11. Retaliate against a public employee for the exercise of rights under this article through adverse*
 407 *scheduling, reduction in hours, reassignment, delayed compensation, or manipulation of work assignments.*

408 *C. No employee organization or its agents shall:*

409 *1. Interfere with, restrain, or coerce a public employee with respect to rights granted in this article or*
 410 *with respect to selecting an exclusive representative;*

411 *2. Fail to represent an employee who is in a bargaining unit exclusively represented by the employee*
 412 *organization fairly and without discrimination, provided that (i) such failure is willful or deliberate and (ii)*
 413 *an exclusive representative may require a public employee who is not a dues-paying member to pay for the*
 414 *reasonable costs and fees of handling a grievance. Failure to pay costs and fees shall relieve the exclusive*
 415 *representative of further responsibility to the non-member regarding the grievance;*

416 *3. Refuse to negotiate with the public employer as required in this article;*

417 *4. Refuse to participate in good faith in any agreed-upon impasse procedures or procedures set forth in*
 418 *this article;*

419 *5. Violate the impasse provisions of this article, which are hereby made applicable to public employers,*
 420 *public employees, and exclusive representatives; or*

421 *6. Disclose to any private entity, other than the exclusive bargaining representative, personally*
 422 *identifiable information about public employees within a bargaining unit that is exempt from disclosure,*
 423 *including the contact information specified in § 40.1-57.10.*

424 **§ 40.1-57.12. Board procedures.**

425 *A. Proceedings against a party alleging a violation of § 40.1-57.11 shall be commenced by filing a charge*
 426 *with the Board within six months of the alleged violation, or acquiring knowledge thereof, and causing a*
 427 *copy of the charge to be served upon the accused party in a manner prescribed by the Board. The accused*
 428 *party shall have 10 business days within which to file a written answer to the charge. The Board may extend*
 429 *such time frame for good cause shown. The Board may conduct a preliminary investigation of the alleged*
 430 *violation, and if the Board determines that the charge has no legal or factual basis, it may dismiss the*
 431 *charge. If it does not dismiss the charge, the Board shall promptly thereafter set a time and place for a*

432 hearing in the locality where the alleged violation occurred or in the locality where the Board maintains its
433 principal office. The parties shall be permitted to be represented by counsel or other designated
434 representative, summon witnesses, and request the Board to subpoena witnesses and the production of
435 records on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be
436 required. The Board shall adopt regulations regarding the management of proceedings related to alleged
437 violations of § 40.1-57.11.

438 B. The Board shall file its findings of fact and conclusions of law. If the Board finds that the party accused
439 has violated any provision of this article, the Board may issue an order directing the party to cease and desist
440 engaging in violation and may order such other affirmative relief as is necessary to remedy the violation. The
441 Board may petition the circuit court for the locality in which the Board maintains its principal office, the
442 locality in which the public employer maintains its principal office, or the locality in which the charge arose
443 for enforcement of its orders.

444 C. Any party aggrieved by any decision or order of the Board may appeal to the circuit court for the
445 locality in which the Board maintains its principal office, the locality in which the public employer maintains
446 its principal office, or the locality in which the charge arose to obtain judicial review of an order of the
447 Board entered under this article. The Board and all parties of record in the proceedings before the Board
448 shall be named as parties to the appeal. In any judicial review proceeding, the employee organization may
449 sue or be sued as an entity and on behalf of the employees whom it represents. The service of legal process,
450 summons, or subpoena upon an officer or agent of the employee organization in his capacity as such shall
451 constitute service upon such employee organization.

452 D. Any appeal of a decision made by the Board shall proceed in accordance with the provisions of the
453 Administrative Process Act (§ 2.2-4000 et seq.) and corresponding Rules of the Supreme Court of Virginia.

454 E. In the absence of fraud, the findings of fact made by the Board shall be conclusive if supported by
455 substantial evidence on the record considered as a whole.

456 F. Any order or decision of the Board may be modified, reversed, or set aside on one or more of the
457 grounds set forth in § 8.01-581.010 or 8.01-581.011.

458 G. If a circuit court, on appeal, reverses or sets aside an order or decision of the Board, the court may
459 remand the case to the Board for further proceedings in harmony with the holdings of the court, or it may
460 enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect
461 as if action had been originally brought and tried in such court. The assessment of costs in such appeals shall
462 be at the discretion of the court.

463 **§ 40.1-57.13. Determination of appropriate bargaining unit.**

464 A. If a public employer and the employee organization cannot mutually agree on the appropriateness of a
465 bargaining unit, a petition may be filed with the Board and the Board shall issue a determination of an
466 appropriate bargaining unit. Any disputes about the placement of employees in bargaining units established
467 under this section shall be resolved by the Board.

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

478 C. Bargaining units of state employees shall include employees in broad classification categories across
479 the various agencies and departments of the executive branch. There shall be bargaining units for each of the
480 following, subject to modification by the Board:

- 481 1. Administrative services;
- 482 2. Education and media services;
- 483 3. Engineering and technology;
- 484 4. Health and human services counseling services and health care compliance;
- 485 5. Health and human services direct services;
- 486 6. Health and human services health care technology, rehabilitation therapies, pharmaceutical services,
487 and nurse and physician assistant services;
- 488 7. Health and human services physician services, psychological services, and dental services;
- 489 8. Natural resources and applied science;
- 490 9. Security guards and protective services;
- 491 10. Corrections;
- 492 11. Juvenile justice;
- 493 12. Probation and parole;

- 494 13. Law enforcement, except for state police;
- 495 14. State police;
- 496 15. Firefighters;
- 497 16. Other public safety services not described in another subdivision of this subsection;
- 498 17. Trades and operations; and
- 499 18. Individual providers.

500 D. The Governor or his designee shall establish and chair a committee of state agency representatives,
 501 including the Department of Planning and Budget and the Department of Human Resource Management, to
 502 meet and negotiate with the exclusive representative of each of the units specified in subsection C. Upon the
 503 unanimous written request of the exclusive representatives of such bargaining units, the Governor or his
 504 designee may determine that negotiation be conducted for one or more such units in a common proceeding.
 505 The Governor, his designee, or the exclusive bargaining representative may request that supplemental
 506 negotiation be conducted for portions of a unit or units defined on the basis of appointing authority or
 507 geography or concerning matters uniquely affecting those public employees.

508 E. Each state-controlled enterprise, independent political subdivision, authority, or agency employing
 509 public employees not covered by the Virginia Personnel Act (§ 2.2-2900 et seq.) shall have separate
 510 bargaining units of such employees as determined by the Board. Notwithstanding any other provision of this
 511 article, no public employee of the Virginia Port Authority shall be included in a bargaining unit, nor shall a
 512 petition for exclusive representation of public employees of the Virginia Port Authority be accepted by the
 513 Board.

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

518 G. An exclusive representative may represent more than one bargaining unit. Upon the request of an
 519 exclusive representative that represents more than one bargaining unit, the employer shall negotiate a single
 520 agreement covering the represented bargaining units. Notwithstanding the provisions of this subsection, any
 521 bargaining unit certified on or after July 1, 2028, shall have a single exclusive bargaining representative.

522 **§ 40.1-57.14. Petitions for certification and decertification of exclusive bargaining representatives;**
 523 **representation elections.**

524 A. Board certification of an employee organization as the exclusive bargaining representative of a
 525 bargaining unit shall be upon a petition filed with the Board by a public employee or an employee
 526 organization and an election pursuant to § 40.1-57.15 or upon administratively acceptable evidence that a
 527 majority of bargaining unit employees authorized an employee organization to represent them for the
 528 purposes of collective bargaining, provided that:

529 1. A petition of an employee organization requesting that the Board conduct an election in accordance
 530 with § 40.1-57.15 to certify an exclusive bargaining representative shall be accompanied by administratively
 531 acceptable evidence that 30 percent of the public employees in an appropriate bargaining unit are members
 532 of the employee organization or have authorized it to represent them for the purposes of collective
 533 bargaining. The Board shall adopt regulations related to the requirements for such a petition; and

534 2. Notwithstanding any other provision of law, a public employer may elect to recognize as an exclusive
 535 bargaining representative an employee organization that provides administratively acceptable evidence
 536 demonstrating that a majority of the public employees in an appropriate bargaining unit are members of the
 537 employee organization or have authorized it to represent them for the purposes of collective bargaining.
 538 Upon validating such evidence, a public employer may petition the Board to certify the employee
 539 organization as the exclusive bargaining representative of the bargaining unit. The Board shall adopt
 540 regulations related to the recognition of an exclusive bargaining representative.

541 B. To decertify an exclusive bargaining representative, a public employee or employee organization may
 542 file a petition with the Board to conduct an election in accordance with § 40.1-57.15. A petition for the
 543 decertification of an exclusive bargaining representative shall allege that an employee organization that has
 544 been certified or recognized as the exclusive bargaining representative of an appropriate unit does not
 545 represent a majority of such public employees and that the petitioners do not want to be represented by an
 546 employee organization or seek certification of a different employee organization. The Board shall adopt
 547 regulations related to petitions for the decertification of an exclusive bargaining representative as
 548 demonstrated in the same manner as a petition for certification.

549 C. The hearing and appeal procedures for petitions for the certification or decertification of an exclusive
 550 bargaining representative shall be the same as provided for in § 40.1-57.12.

551 **§ 40.1-57.15. Elections.**

552 A. Whenever a petition for an election is filed pursuant to § 40.1-57.14, the Board shall conduct a secret
 553 ballot representation election to determine whether the public employees in the appropriate bargaining unit
 554 wish to be represented by an exclusive bargaining representative. The ballot shall contain the names of the
 555 petitioning employee organization, any employee organization submitting within 21 days of the initial

556 petition evidence that at least 30 percent of the public employees in the appropriate bargaining unit support
557 representation for purposes of collective bargaining by that employee organization, and any incumbent labor
558 organization. The ballot shall also contain an option of no representation. All employees in a bargaining unit
559 shall have the opportunity to vote in a secret ballot election. The Board shall give reasonable notice of an
560 election to all employee organizations listed on the ballot, the public employers, and the public employees in
561 the appropriate bargaining unit.

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

565 C. Upon written objection filed by any party to the election within 10 days after notice of the results of the
566 election, if the Board finds that misconduct or other circumstances prevented the public employees eligible to
567 vote from freely expressing their preferences, the Board may invalidate the election and hold a second or
568 subsequent election for the public employees. The Board shall adopt regulations related to the conduct of
569 elections.

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

576 E. A petition for decertification or certification of an exclusive bargaining representative shall not be
577 considered by the Board for a period of one year from the date of the certification or noncertification of an
578 exclusive bargaining representative or during the duration of a collective bargaining agreement not to
579 exceed two years. A petition for decertification shall not be considered during the duration of a collective
580 bargaining agreement unless the collective bargaining agreement has been in effect for more than two years
581 or the petition for decertification is filed not more than 210 days and not less than 180 days prior to the
582 expiration of the collective bargaining agreement.

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

586 **§ 40.1-57.16. Duties of exclusive bargaining representative.**

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

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

601 C. The Board shall adopt regulations related to the scope of collective bargaining between public
602 employers that are not state agencies and exclusive bargaining representatives, including whether subjects of
603 bargaining are mandatory or permissive. Subjects of collective bargaining may include wages, hours, health
604 benefit plans unless the public employer participates in the health insurance program established pursuant to
605 § 2.2-1204, and other terms and conditions of employment. The duty to bargain includes matters described in
606 Chapter 15 (§ 15.2-1500 et seq.) of Title 15.2; however, benefits provided under Title 51.1 and Title 65.2
607 shall not be subject to bargaining unless such benefits are adopted at the discretion of a local government.
608 Issues prescribed by the Standards of Quality under Chapter 13.2 (§ 22.1-253.13:1 et seq.) of Title 22.1,
609 licensing requirements, and the Standards of Accreditation adopted pursuant to § 22.1-253.13:3 shall not be
610 subject to collective bargaining. To the extent that an agreement is inconsistent with the terms of Chapter 15
611 of Title 15.2, the terms of the agreement shall prevail.

612 D. The Board shall adopt regulations related to the scope of collective bargaining between a state agency
613 and an exclusive bargaining representative of state employees, including whether subjects of bargaining are
614 mandatory or permissive. Subjects of collective bargaining may include wages, hours, and other terms and
615 conditions of employment and shall specifically include matters within the administrative discretion of the
616 Director of the Department of Human Resource Management or appointing authorities; however, benefits
617 provided under Title 51.1 and Title 65.2 shall not be subject to bargaining. A collective bargaining

618 agreement may not be inconsistent with the provisions of Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2,
 619 provided that all matters relating to wages or salaries shall be a subject of collective bargaining and
 620 enforceable in any collective bargaining agreement.

621 E. Negotiating sessions, including strategy meetings of public employers or exclusive bargaining
 622 representatives, mediation, and the deliberative process of arbitrators shall be exempt from the provisions of
 623 § 2.2-3707.

624 **§ 40.1-57.17. Negotiation and impasse procedures.**

625 A. Except (i) as otherwise agreed by the parties to the negotiations or (ii) in the case of an impasse
 626 between an exclusive representative of employees that are firefighters or emergency medical services
 627 providers and the public employers of such employees, which impasse shall be resolved according to the
 628 provisions of § 40.1-57.25, each state agency and exclusive representative of state employees shall comply
 629 with the provisions of this section, including the following negotiation and impasse procedures for collective
 630 bargaining agreements:

631 1. A request for negotiations shall be filed in writing by the exclusive representative to the Board and the
 632 public employer. The Board shall adopt regulations related to the filing of a request for and the conduct of
 633 negotiations consistent with the requirements of this article;

634 2. If an impasse occurs during negotiations on a mandatory subject of collective bargaining as
 635 determined by the Board, or if no agreement is reached by the parties, either party may submit a request for
 636 mediation to the Board. Negotiations may continue throughout impasse procedures. The Board shall adopt
 637 regulations related to the timing and conduct of impasse mediation;

638 3. If the mediator determines that mediation services are no longer helpful, the parties shall jointly submit
 639 the unresolved issues to advisory arbitration. An arbitrator shall issue findings of fact and a nonbinding
 640 award but may not amend the offer of either party on any issue. Matters not requiring the approval of the
 641 governing body may take effect in accordance with the terms of the agreement or award of an arbitrator if
 642 applicable and as agreed by the parties in advance. Matters requiring the approval of the governing body
 643 shall take effect solely in accordance with § 40.1-57.18 and regardless of the agreement of the parties. The
 644 Board shall adopt regulations related to the timing and conduct of arbitration; and

645 4. Any time limit specified in this subsection or in regulations adopted pursuant to this subsection may be
 646 modified by mutual agreement of the parties.

647 B. A public employer and the exclusive representative may enter into a written agreement setting forth an
 648 alternative advisory impasse resolution procedure.

649 C. In making any decision under the impasse procedures authorized by this article for any public
 650 employer, in addition to any factors included in regulations adopted by the Board, a mediator or arbitrator
 651 may give weight to the following factors:

652 1. The lawful authority of the public employer;

653 2. Stipulations of the parties;

654 3. The interests and welfare of the public;

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

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

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

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

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

663 9. Such other factors that are normally or traditionally taken into consideration in the determination of
 664 wages, hours, and terms and conditions of employment through voluntary collective bargaining, mediation,
 665 fact finding, arbitration, or otherwise between the parties, in public service or in private employment.

666 D. The expenses of the mediation and arbitration shall be borne equally by the parties.

667 **§ 40.1-57.18. Funding for agreement implementation; public employers that are not state agencies.**

668 A. As used in this section, "public employer" means a public employer that is not a state agency.

669 B. After a negotiated agreement has been agreed to by an exclusive bargaining representative and a
 670 public employer, including as finalized in good faith in response to an advisory arbitration award, the chief
 671 executive of the public employer shall submit to the relevant governing body a request for funds necessary to
 672 implement the agreement and for approval of any other matter requiring the approval of the governing body
 673 as soon as practicable after (i) the date on which the parties finalize the agreement or (ii) the date on which
 674 the advisory arbitration decision is issued, unless otherwise specified in this section or agreed to by the
 675 parties. If the governing body is not in session at the time, then such submission shall occur as soon as
 676 practicable after it next convenes.

677 C. If the governing body rejects or modifies the submission of the public employer, either party may
 678 reopen negotiations.

679 D. The parties may specify that those provisions of the agreement not requiring action by a governing

680 body shall be effective and operative in accordance with the terms of the agreement regardless of the
681 governing body's approval or rejection of the submission.

682 E. The parties may agree that upon the expiration of an agreement, the terms of such agreement not
683 requiring the appropriation of funds by the governing body shall remain in effect until superseded by a new
684 agreement.

685 F. No provision of this section shall apply to any negotiated agreement to which a state agency is a party.

686 **§ 40.1-57.19. Funding for agreement implementation; public employers that are state agencies.**

687 A. As used in this section, "public employer" means a public employer that is a state agency.

688 B. After a negotiated agreement has been agreed to by an exclusive bargaining representative and a
689 public employer, including as finalized in good faith in response to an advisory arbitration award, the
690 Governor shall submit to the General Assembly a request for funds necessary to implement the agreement
691 and for approval of any other matter requiring the approval of the General Assembly.

692 C. Any request that is not included by the General Assembly in a duly enacted general appropriation act
693 shall not take effect. If the General Assembly rejects or modifies the submission of the Governor by electing
694 not to include the request in the general appropriation act, either party may reopen negotiations.

695 D. The parties may specify that those provisions of the agreement not requiring action by the General
696 Assembly shall be effective and operative in accordance with the terms of the agreement regardless of the
697 General Assembly's approval, modification, or rejection of the submission.

698 E. The parties may agree that upon the expiration of an agreement, the terms of such agreement shall
699 remain in effect until superseded by a new agreement.

700 F. The provisions of this section shall apply to every negotiated agreement to which a state agency is a
701 party.

702 **§ 40.1-57.20. Grievance procedures; judicial review.**

703 A. A collective bargaining agreement negotiated between a public employer and an exclusive bargaining
704 representative shall contain a grievance resolution procedure that shall apply to all employees in the
705 bargaining unit and may provide for either arbitration or judicial review of disputes concerning disciplinary
706 and adverse personnel actions and the administration or interpretation of such agreement, including
707 questions of eligibility for arbitration. The Board shall adopt regulations related to grievance resolution
708 procedures.

709 B. If a collective bargaining agreement relies on arbitration for grievance resolution, the circuit court for
710 the locality in which a dispute arose or in which a majority of the affected employees reside may review an
711 award of an arbitrator in a grievance arbitration to determine whether (i) such arbitrator was without or
712 exceeded his jurisdiction; (ii) the arbitral award is not supported by competent, material, and substantial
713 evidence on the whole record; or (iii) the arbitral award was procured by fraud, collusion, or other similar
714 and unlawful means.

715 **§ 40.1-57.21. Strikes; lock-outs.**

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

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

721 **§ 40.1-57.22. Civil procedures; personal liability.**

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

725 B. No provision of this article shall be construed to make any individual or his assets liable for any
726 judgment against a public employer or an exclusive bargaining representative.

727 C. No provision of this article shall be construed as or deemed a waiver of the sovereign immunity of the
728 Commonwealth, any responsible public entity or public employer, any local government or affected local
729 jurisdiction, or any officer or employee thereof with respect to monetary damages.

730 **§ 40.1-57.23. Employee associations permitted.**

731 No provision of this article shall be construed to limit any person's right to freedom of speech, to
732 association, or to petition or seek redress from the government.

733 **§ 40.1-57.24. Firefighters and emergency medical services providers; arbitration process.**

734 A. Notwithstanding the provisions of § 40.1-57.17, if a dispute arises between an exclusive representative
735 of employees that are firefighters or emergency medical services providers and the public employer of such
736 employees in which the collective bargaining process reaches an impasse, or if the relevant governing body
737 does not approve an agreement reached between such parties within 30 days after such agreement is
738 reached, then either party to such dispute, after written notice to the opposing party specifying the issue or
739 issues in dispute, may request the appointment of a board of arbitration.

740 B. Each board of arbitration shall consist of three members, of which one member shall be appointed by
741 the public employer, one member shall be appointed by the exclusive representative of such public employer's

742 employees, and one member shall be selected by the other two members. The two members appointed by the
 743 public employer and by the exclusive representative shall be appointed within five days after the date of the
 744 request to appoint such board of arbitration. If, after at least 10 days have passed since the appointment of
 745 such two members, the third member has not been selected by such two members, either of the two members
 746 may request a nonprofit organization in the field of alternative dispute resolution that administers arbitration
 747 proceedings to furnish a list of three members of such organization residing in the Commonwealth or within
 748 250 miles of the public employer. The member appointed by the public employer shall eliminate one name
 749 from such list within five days after such list is furnished, and the member appointed by the exclusive
 750 representative shall eliminate another name from such list within five days after such initial elimination. The
 751 individual whose name remains on such list shall be appointed as the third member and shall serve as the
 752 chair of the board of arbitration. The board of arbitration shall commence proceedings within 10 days after
 753 the chair is selected and shall make its determination within 30 days after proceedings commence.

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

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

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

763 F. The determination of the majority of the members of a board of arbitration established pursuant to this
 764 section shall be final on the issue or issues in dispute, subject to judicial review under § 40.1-57.20. Such
 765 determination shall be made in writing, and a copy thereof shall be sent to such parties.

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

768 **2. That §§ 32.1-331.04 and 40.1-54.3 of the Code of Virginia are repealed effective July 1, 2028.**

769 **3. That Article 2.1 (§§ 40.1-57.2 and 40.1-57.3) of Chapter 4 of Title 40.1 of the Code of Virginia is**
 770 **repealed effective January 1, 2030.**

771 **4. That the initial appointments of the members of the Virginia Home Care Council, established**
 772 **pursuant to Article 5 (§ 32.1-331.18 et seq.) of Chapter 10 of Title 32.1 of the Code of Virginia, as**
 773 **created by this act, shall be staggered as follows: one member representing participants and**
 774 **participant representatives, as those terms are defined in § 32.1-331.19 of the Code of Virginia, as**
 775 **created by this act, for a term of one year; one member representing a nonprofit organization that**
 776 **advocates on behalf of seniors or people with disabilities for a term of two years; one member**
 777 **representing participants and participant representatives for a term of three years; and one member**
 778 **representing such a nonprofit organization for a term of four years.**

779 **5. That nothing in this act shall be construed to supersede the existing certification of any exclusive**
 780 **bargaining representative, as defined in § 40.1-57.4 of the Code of Virginia, as created by this act, of**
 781 **local government employees or any active negotiation or existing collective bargaining agreement**
 782 **between a local government and local government employees entered into prior to January 1, 2030,**
 783 **provided that on or after such date, an existing exclusive bargaining representative may be decertified**
 784 **through a petition pursuant to the process described in §§ 40.1-57.14 and 40.1-57.15 of the Code of**
 785 **Virginia, as created by this act.**

786 **6. Notwithstanding any other provision of this act, a local government that has adopted an ordinance**
 787 **or resolution pursuant to § 40.1-57.2 of the Code of Virginia may petition the Public Employee**
 788 **Relations Board (the Board) established pursuant to § 40.1-57.8 of the Code of Virginia, as created by**
 789 **this act, to continue the use of such local government's procedures for the certification and**
 790 **decertification of exclusive bargaining representatives, including reasonable public notice and**
 791 **opportunity for labor organizations to intervene in the process for designating an exclusive**
 792 **representative of a bargaining unit for a specified period of time after January 1, 2030. The Board shall**
 793 **adopt regulations related to the continuation of such local ordinances or resolutions that permit the**
 794 **continuation of such ordinances or resolutions to the maximum possible extent where a local**
 795 **government and an exclusive bargaining representative agree to such continuation.**

796 **7. That the Department of Labor and Industry shall, in accordance with the Administrative Process**
 797 **Act (§ 2.2-4000 et seq. of the Code of Virginia), promulgate any regulations necessary to effectuate the**
 798 **provisions of this act, including to further define terms, processes, and procedures, by July 1, 2028.**
 799 **Such regulations shall include regulations regarding mandatory and permissive subjects of collective**
 800 **bargaining, authorized payroll deductions, reasonable access to public employees, furnishing data,**
 801 **proceedings related to alleged violations of § 40.1-57.11 of the Code of Virginia, as created by this act,**
 802 **recognition of an exclusive bargaining representative, petitions for the certification and decertification**
 803 **of an exclusive bargaining representative, the scope of collective bargaining, the filing of a request for**

804 and the conduct of negotiations, the timing and conduct of mediation, the timing and conduct of
805 arbitration, the timing and conduct of elections, grievance resolution procedures, petitions for
806 processes for waivers, and exceptions for good cause shown. Mandatory subjects of collective
807 bargaining shall include wages and hours where appropriate. Upon the establishment of the Public
808 Employee Relations Board (the Board) pursuant to § 40.1-57.8 of the Code of Virginia, as created by
809 this act, such regulations shall be transferred to the Board, and the Board shall adopt such regulations
810 once finalized. Until such regulations are adopted, no petitions or elections as described by § 40.1-57.14
811 of the Code of Virginia, as created by this act, shall take place except pursuant to an ordinance or
812 resolution adopted prior to January 1, 2030, pursuant to § 40.1-57.2 of the Code of Virginia as effective
813 prior to such date. Regulations promulgated pursuant to this act shall be promulgated as required by
814 the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the provisions of
815 § 2.2-4007.06 of the Code of Virginia shall not apply. After the Board has been established and such
816 regulations have been transferred to the Board, the Board shall further adopt regulations establishing
817 a process for a local government that has adopted an ordinance or resolution pursuant to § 40.1-57.2 of
818 the Code of Virginia as effective prior to January 1, 2030.

819 8. That the Public Employee Relations Board established pursuant to § 40.1-57.8 of the Code of
820 Virginia, as created by this act, shall review and evaluate the list of collective bargaining units
821 described in § 40.1-57.13 of the Code of Virginia, as created by this act, for state employees,
822 independent agencies, public institutions of higher education, and local school boards to determine
823 which bargaining units are most appropriate for the applicable entity. The Board shall also determine
824 whether the authority to collectively bargain should be phased in by bargaining unit over an
825 appropriate period of time and, if so, the schedule of such phase-in for each bargaining unit. The
826 Board shall report to the Governor and the General Assembly its findings and recommendations no
827 later than September 1, 2027.

828 9. That the Public Employee Relations Board established pursuant to § 40.1-57.8 of the Code of
829 Virginia, as created by this act, shall adopt regulations defining a free and fair election for an exclusive
830 bargaining representative of public employees carried out pursuant to Article 2.2 (§ 40.1-57.4 et seq.)
831 of Chapter 4 of Title 40.1, as created by this act, and shall ensure that all public employees in a
832 bargaining unit have the opportunity to meaningfully participate in such an election.

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

837 11. That the Secretary of Education (the Secretary), in collaboration with the Secretary of Labor, shall
838 evaluate options and make recommendations to effectively administer the collective bargaining rights
839 of the employees of each public institution of higher education, the Virginia Community College
840 System, the University of Virginia Medical Center, and the Virginia Commonwealth University Health
841 System Authority that take effect by July 1, 2028, pursuant to the first enactment of this act. Such
842 evaluation shall include (i) a review of practices in other states and the methods by which such states
843 allow collective bargaining by similar employees at public institutions of higher learning and (ii) a
844 determination of best practices and recommendations for necessary administrative bargaining
845 practices and procedures at each public institute of higher learning within the Commonwealth. Each
846 public institution of higher education, the Virginia Community College System, the University of
847 Virginia Medical Center, the Virginia Commonwealth University Health System Authority, and the
848 State Council on Higher Education for Virginia shall provide assistance to the Secretary in conducting
849 such evaluation and developing such recommendations. The Secretary shall report any findings and
850 recommendations to the Governor and the General Assembly by November 15, 2026.