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SENATE BILL NO. 263

Offered January 14, 2026

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

Patron—Stanley

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

§ 2.2-1604. Definitions.

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

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

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

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

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

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

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

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

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

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

tribal organization.

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

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

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

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

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

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

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

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

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

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

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

§ 2.2-1605. Powers and duties of Department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2.2-1605.1. Mentorship program.

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

B. In establishing the pilot program under subsection A, the Department shall by July 1, 2023, select an initial group of established businesses, subject matter experts in relevant industry sectors, and start-up women-owned ~~and~~, minority-owned, *service disabled veteran-owned, and veteran-owned* businesses. The Department shall by July 1, 2024, report on the progress of the initial group pursuant to § 2.2-1610, but shall not select a second group unless directed to do so in legislation enacted by the General Assembly.

§ 2.2-1606. Powers of Director.

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

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

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

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

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

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

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

7. Recommend appropriate legislative or executive actions.

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

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

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

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

B. The head of each participating state department and agency or his designee shall furnish information,

assistance, and reports to, and shall otherwise cooperate with, the Director in the performance of his duties as needed.

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

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

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

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

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

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

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

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

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

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

A. For the purposes of this section:

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

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

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

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

307 *controlled by one or more of the service disabled veterans who own it.*

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

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

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

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

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

330 **§ 2.2-2358. Division of Investment.**

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

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

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

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

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

351 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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

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

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

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

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

367 5. Fisheries data that would permit identification of any person or vessel, except when required by court
 368 order as specified in § 28.2-204.

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

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

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

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

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"

"comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Stating the reasons why protection is necessary.

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

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

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

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

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

c. Stating the reasons why protection is necessary.

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

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal

555 regulatory enforcement action.

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

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

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

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

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

570 c. Stating the reasons why protection is necessary.

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

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

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

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

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

597 c. Stating the reasons why protection is necessary.

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

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

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

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

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

614 c. Stating the reasons why protection is necessary.

615 The Virginia Department of Transportation shall determine whether the requested exclusion from
616 disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia

Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

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

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

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

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

c. Stating the reasons why protection is necessary.

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

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

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

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

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

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

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

c. Stating the reasons why protection is necessary.

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

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

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, *status as a veteran*, status as a military family, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each

679 public body shall include businesses selected from a list made available by the Department of Small Business
680 and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

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

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

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

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

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

723 F. As used in this section:

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

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

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

740 "Minority individual" means an individual who is a citizen of the United States or a legal resident alien

and who satisfies one or more of the following definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

owned businesses seeking to work with the public body, (iv) provide quarterly updates to the public body on service disabled veteran-owned and veteran-owned business contracting performance, and (v) coordinate with the Department of Small Business and Supplier Diversity on best practices and training related to procurement opportunities for service disabled veteran-owned and veteran-owned businesses.

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

The Board shall have the following powers and duties:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Ensure that the institution's academic programs and course offerings maintain high academic standards

by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors;

5. Improve student retention so that students progress from initial enrollment to a timely graduation and the number of degrees conferred increases as enrollment increases;

6. Consistent with its institutional mission, develop articulation agreements that have uniform application to all comprehensive community colleges and meet appropriate general education and program requirements at the baccalaureate institution of higher education, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement pursuant to Article 4 (§ 23.1-1004 et seq.), in areas with below-state average income levels and employment rates;

8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;

9. Work actively and cooperatively with public elementary and secondary school administrators, teachers, and students to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;

10. Prepare a six-year financial plan consistent with § 23.1-306;

11. Conduct the institution's business affairs in a manner that (i) helps maximize the operational efficiencies and economies of the institution and the Commonwealth and (ii) meets all financial and administrative management standards pursuant to § 23.1-1001 specified by the Governor and included in the current general appropriation act, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*, and *veteran-owned* business enterprises; and

12. Seek to ensure the safety and security of students on campus.

B. Each public institution of higher education that meets the state goals set forth in subsection A on or after August 1, 2005, may:

1. Dispose of its surplus materials at the location where the surplus materials are held and retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

2. As provided in and pursuant to the conditions in subsection C of § 2.2-1132, contract with a building official of the locality in which construction is taking place and for such official to perform any inspection and certifications required to comply with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to subsection C of § 36-98.1;

3. For each public institution of higher education that has in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the general appropriation act, as provided in subsection C of § 2.2-1132, enter into contracts for specific construction projects without the preliminary review and approval of the Division of Engineering and Buildings of the Department of General Services, provided that such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the Division of Engineering and Buildings and the Office of the Attorney General;

4. Acquire easements as provided in subdivision 4 of § 2.2-1149;

5. Enter into an operating/income lease or capital lease pursuant to the conditions and provisions in subdivision 5 of § 2.2-1149;

6. Convey an easement pertaining to any property such institution owns or controls as provided in subsection C of § 2.2-1150;

7. In accordance with the conditions and provisions in subdivision C 2 of § 2.2-1153, sell surplus real property that is possessed and controlled by the institution and valued at less than \$5 million;

8. For purposes of compliance with § 2.2-4310, procure goods, services, and construction from a vendor that the institution has certified as a small, women-owned, ~~or~~ minority-owned, *service disabled veteran-owned*, or *veteran-owned* business enterprise pursuant to the conditions and provisions in § 2.2-1609;

9. Be exempt from review of its budget request for information technology by the CIO as provided in subdivision B 3 of § 2.2-2007.1;

10. Adopt policies for the designation of administrative and professional faculty positions at the institution pursuant to the conditions and provisions in subsection E of § 2.2-2901;

11. Be exempt from reporting its purchases to the Secretary of Education, provided that all purchases, including sole source purchases, are placed through the Commonwealth's electronic procurement system using proper system codes for the methods of procurement; and

12. Utilize as methods of procurement a fixed price, design-build, or construction management contract in compliance with the provisions of Chapter 43.1 (§ 2.2-4378 et seq.) of Title 2.2.

C. Each public institution of higher education that (i) has been certified during the fiscal year by the

1051 Council pursuant to § 23.1-206 as having met the institutional performance benchmarks for public institutions
1052 of higher education and (ii) meets the state goals set in subsection A shall receive the following financial
1053 benefits:

1054 1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues deposited
1055 into the state treasury by the institution, as provided in the general appropriation act. Such interest shall be
1056 paid from the general fund and shall be an appropriate and equitable amount as determined and certified in
1057 writing by the Secretary of Finance to the Comptroller by the end of each fiscal year or as soon as practicable
1058 after the end of such fiscal year;

1059 2. Any unexpended appropriations of the public institution of higher education at the end of the fiscal
1060 year, which shall be reappropriated and allotted for expenditure by the institution in the immediately
1061 following fiscal year;

1062 3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or less
1063 made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share based upon
1064 its total transactions of \$5,000 or less using the credit card that is approved for use by all state agencies as
1065 compared to all transactions of \$5,000 or less using such card by all state agencies. The Comptroller shall
1066 determine the public institution's pro rata share and, as provided in the general appropriation act, shall pay the
1067 institution by August 15 of the fiscal year immediately following the year of certification or as soon as
1068 practicable after August 15 of such fiscal year. The payment to an institution of its pro rata share under this
1069 subdivision shall also be applicable to other rebate or refund programs in effect that are similar to that of the
1070 credit card rebate program described in this subdivision. The Secretary of Finance shall identify such other
1071 rebate or refund programs and shall determine the pro rata share to be paid to the institution; and

1072 4. A rebate of any transaction fees for the prior fiscal year paid for sole source procurements made by the
1073 institution in accordance with subsection E of § 2.2-4303 for using a vendor that is not registered with the
1074 Department of General Services' web-based electronic procurement program commonly known as "eVA," as
1075 provided in the general appropriation act. Such rebate shall be certified by the Department of General
1076 Services and paid to each public institution by August 15 of the fiscal year immediately following the year of
1077 certification or as soon as practicable after August 15 of such fiscal year.

1078 **§ 23.1-1017. Covered institutions; operational authority; procurement.**

1079 A. Subject to the express provisions of the management agreement, each covered institution may be
1080 exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for
1081 §§ 2.2-4340, 2.2-4340.1, 2.2-4340.2, 2.2-4342, and 2.2-4376.2, which shall not be construed to require
1082 compliance with the prequalification application procedures of subsection B of § 2.2-4317, provided,
1083 however, that (i) any deviations from the Virginia Public Procurement Act in the management agreement
1084 shall be uniform across all covered institutions and (ii) the governing board of the covered institution shall
1085 adopt, and the covered institution shall comply with, policies for the procurement of goods and services,
1086 including professional services, that shall (a) be based upon competitive principles; (b) in each instance seek
1087 competition to the maximum practical degree; (c) implement a system of competitive negotiation for
1088 professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (d) prohibit discrimination in the solicitation
1089 and award of contracts on the basis of the bidder's or offeror's race, religion, color, sex, sexual orientation,
1090 gender identity, national origin, age, or disability or on any other basis prohibited by state or federal law; (e)
1091 incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (f) consider the impact on
1092 correctional enterprises under § 53.1-47; and (g) provide that whenever solicitations are made seeking
1093 competitive procurement of goods or services, it shall be a priority of the institution to provide for fair and
1094 reasonable consideration of small, women-owned, ~~and~~ minority-owned, *service disabled veteran-owned*, and
1095 *veteran-owned* businesses and to promote and encourage a diversity of suppliers.

1096 B. Such policies may (i) provide for consideration of the dollar amount of the intended procurement, the
1097 term of the anticipated contract, and the likely extent of competition; (ii) implement a prequalification
1098 procedure for contractors or products; and (iii) include provisions for cooperative arrangements with other
1099 covered institutions, other public or private educational institutions, or other public or private organizations
1100 or entities, including public-private partnerships, public bodies, charitable organizations, health care provider
1101 alliances or purchasing organizations or entities, state agencies or institutions of the Commonwealth or the
1102 other states, the District of Columbia, the territories, or the United States, and any combination of such
1103 organizations and entities.

1104 C. Nothing in this section shall preclude a covered institution from requesting and utilizing the assistance
1105 of the Virginia Information Technologies Agency for information technology procurements and covered
1106 institutions are encouraged to utilize such assistance.

1107 D. Each covered institution shall post on the Department of General Services' central electronic
1108 procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency
1109 award notices to ensure visibility and access to the Commonwealth's procurement opportunities on one
1110 website.

1111 E. As part of any procurement provisions of the management agreement, the governing board of a covered
1112 institution shall identify the public, educational, and operational interests served by any procurement rule that

deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

§ 23.1-3138. Procurement and information technology.

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

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

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

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

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

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

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