

**REPORT OF THE
VIRGINIA CODE COMMISSION
ON
REVISION OF TITLE 22 OF THE CODE OF VIRGINIA
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 21

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RICHMOND
1980**

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**Report of the
Virginia Code Commission
On
Revision of Title 22 of the Code of Virginia
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1980**

To: **The Honorable John N. Dalton, Governor of Virginia
and
The General Assembly of Virginia**

House Joint Resolution 216 of the 1977 Acts of Assembly directed the Virginia Code Commission to make a thorough and comprehensive study of the laws governing public elementary and secondary education in the Commonwealth. The Commission was further directed to recommend to the House Education Committee and the Senate Education and Health Committee such legislation as the members of the Commission deemed advisable or necessary. In accordance with that directive, the Commission has examined the present laws in the *Code of Virginia* relating to public education. The result of the Commission's study is a proposed revision of Title 22 which will be designated as Title 22.1.

Pursuant to the mandate of House Joint Resolution 216, it has been the intention of the Commission to eliminate outdated provisions of the *Code*, to provide for uniformity in the school laws, and to make other appropriate deletions, revisions and additions.

Generally, the revision rewrites and combines many sections in Title 22 so as to simplify and clarify them, as well as to eliminate language that is archaic, unnecessary or redundant. It also attempts to place sections in a more logical order and to group together sections dealing with a particular subject.

Throughout this revision, where possible, separate provisions governing city and county school boards and divisions have been eliminated. Sections are changed to refer simply to school boards or school divisions. Referring only to school boards or divisions has the effect of including the town school boards and divisions, which are sometimes overlooked in existing law. This change also permits the elimination of a great deal of redundant material. Also, this revision takes into account where appropriate the fact that it is possible for a school division to be composed of more than one county or city under a single school board and that counties and cities can be divided in forming school divisions. The term "school board member" is used consistently and in place of the term "school trustee" where that term still appears for the sake of uniformity and to conform with the wording used in the 1971 revision of the *Constitution of Virginia*. References to "town school districts operated as separate school districts" have been deleted as obsolete and, where appropriate, references to town school divisions are substituted instead. These are to be distinguished from "special town school districts that now exist for the purposes of representation on division school boards", some of which still exist.

A summary of the other major changes of the revision, arranged by chapter is as follows:

Chapter 1. System of Public Schools; General Provisions .

In defining the ages at which persons are entitled to attend the public schools, a date by which the twentieth birthday must be reached is added. (§ 22.1-1)

Reference is made to residence within the school division rather than the county, city or town in defining who is entitled to attend the schools in the school division. (§ 22.1-3)

Provision is made for the admission to public schools of any child who does not have a birth certificate rather than wards of the State only and the division superintendent is given responsibility for securing a birth certificate. (§ 22.1-4)

The Board of Education is authorized to prescribe by regulation the fees and charges that public schools may levy on pupils and the enumeration of permissible fees and charges is deleted from the

Code . (§ 22.1-6)

Chapter 2. Board of Education .

The Board of Education is authorized to prescribe regulations "to carry out its powers and duties and the provisions of (Title 22.1)" rather than "for the management and conduct of schools." (§ 22.1-16)

For the purposes of accreditation, a distinction is made where none exists in the *Code* now between public and private schools so that the Board is required to provide for accreditation of public schools and is authorized to provide for accreditation of private schools. (§ 22.1-19) A prohibition on a nonpublic kindergarten or nursery school holding itself out as sanctioned or approved by the Board is deleted. (§ 22.1-19)

Chapter 3. Superintendent of Public Instruction .

No material change.

Chapter 4. School Divisions, Joint Schools and Contracts Between School Divisions .

Towns that become independent cities are automatically constituted as school divisions. (§ 22.1-25)

School boards are authorized to contract with school boards of adjacent divisions to furnish public school facilities. (§ 22.1-27)

Chapter 5. School Boards; Selection, Qualification and Salaries of Members .

Persons appointed to school boards are required to be qualified voters. (§ 22.1-29)

The officers who are eligible or ineligible to serve on school boards are made uniform, with two local exceptions. (§ 22.1-30)

The limit on the additional compensation payable to school board chairmen is made uniform at \$500 and a conflict between §§ 22-67.2 and 14.1-5 as to mileage payable to school board members is eliminated. (§ 22.1-32)

The name of the school trustee electoral board is changed to the school board selection commission in view of the change of the term "trustee" to "member" in the *Constitution of Virginia* . (§ 22.1-35)

Tie-breakers to serve county school boards are provided for so that the tie-breaker for the board of supervisors is not utilized for both boards. (§§ 22.1-40, 22.1-44, 22-1.47, 22.1-75, 15.1-609, 15.1-644, 15.1-708 and 15.1-770)

The number of members on school boards appointed by a school board selection commission (school trustee electoral board) and by the governing body after a referendum is made consistent. (§ 22.1-44)

Provision for a referendum to revert back to appointment of the school board by a school board selection commission (school trustee electoral board) after changing to appointment by the governing body is added. (§ 22.1-45)

Chapter 6. Division Superintendent .

A section is added requiring a division superintendent for each school division. (§ 22.1-58)

The date by which a division superintendent must be appointed is changed from May 1 to March 1 (§ 22.1-60).

Members of local governing bodies and school boards are made ineligible to be appointed to and hold the office of division superintendent in the school division which they serve. Other officers and

employees are made ineligible only to hold the office of division superintendent. (§ 22.1-63)

School boards are authorized to punish and remove division superintendents. The grounds for punishment and removal are changed to "for sufficient cause." Superintendents are given the right to a trial *de novo* in circuit court if they are punished or removed by a school board or the State Board. (§ 22.1-65)

The minimum salaries of division superintendents, of which the State pays 60%, are to be prescribed by the State Board rather than set out in the statute. (§ 22.1-67)

A provision is added to permit a designee of the division superintendent to attend school board meetings when the superintendent cannot attend. (§ 22.1-69) The school board must approve annually the person who will serve as the designee. (§ 22.1-76)

Chapter 7. General Powers and Duties of School Boards .

School boards are authorized to employ counsel when they are the plaintiffs in legal proceedings. The cost, expenses and liabilities of legal proceedings and counsel are to be paid out of school board funds. (§ 22.1-82)

A school board's authority to pay the legal fees and expenses of its employees in cases of criminal charges arising out of the discharge of their duties is limited to cases where the charges are dismissed or a verdict of not guilty is rendered. (§ 22.1-83)

The procedure for appealing school board actions is revised to delete an appeal to the division superintendent prior to review by the circuit court, and to specify the evidence on which judicial review is to be based. (§ 22.1-87)

Chapter 8. Public School Funds .

Present law provides for submitting alternative estimates of the amount of money needed for the public schools to the local governing body. The revision provides for one estimate only. (§ 22.1-92).

Present law requires localities to levy taxes on real property sufficient to meet the costs of meeting the standards of quality. The revision adds a requirement that sufficient funds be appropriated to meet those costs. (§ 22.1-94)

The six percent limitation on the interest rate payable on temporary loans to school boards is deleted. (§ 22.1-110).

Provisions requiring counties to pay to town school divisions the town school division's share of State school funds are deleted as payable directly by the State to the town. (§ 22.1-113)

All school boards are authorized to appoint agents to examine and pay claims against the school board. (§ 22.1-122)

Chapter 9. School Property .

The provision prohibiting a city school board from locating a school outside the city without the approval of the governing body of the locality in which the school will be located is extended to all school boards. (§ 22.1-127)

Provisions providing for an appeal of an attorney's refusal to approve the title to real estate that a school board plans to acquire are deleted. (§ 22.1-128)

The procedure for the sale of a school board's real property is changed. Since the funds from any such sale are subject to appropriation by the local governing body, provision is made for returning the school board's surplus property to the governing body for disposition as it sees fit. School boards are authorized to dispose of personal property as they see fit without regard to the value of the property. (§ 22.1-129)

Many of the present laws relating to construction of school buildings and to Board of Education

services and regulations with regard to such construction are revised or deleted as obsolete or superceded by the Uniform Statewide Building Code. (§§ 22.1-138 through 22.1-141)

Chapter 10. Literary Fund .

The limit on the amount of a loan from the Literary Fund is raised from one million to five million dollars (§ 22.1-147) and the limit on interest rates payable on such loans raised from three to six percent. (§ 22.1-150)

A requirement is added that the lien created by a loan from the Literary Fund be recorded and that evidence of the recordation be filed with the State Treasurer. (§§ 22.1-151 and 22.1-157)

Chapter 11. Virginia Public School Authority .

No material changes.

Chapter 12. Pupil Transportation .

Rather than prescribing in statute what a "physically capable" school bus driver is, the revision requires a physical examination of a scope prescribed by the Board of Education with the advice of the Medical Society of Virginia. The date for attaining the minimum and maximum age limits for school bus drivers is changed from the date of signing the contract of employment to the first day of the school year. (§ 22.1-178)

Ferries are prohibited from charging tolls to students using them daily to attend educational institutions. (§ 22.1-187)

The authority of cities, towns and their respective school boards to self-insure school buses is extended to counties and county school boards. (§ 22.1-190)

The deadlines for obtaining school bus insurance are made earlier. (§ 22.1-191)

Chapter 13. Programs, Courses of Instruction and Textbooks .

The equipment of vehicles used in driver education programs is left to regulation by the Board of Education. (§ 22.1-205)

The upper age limit for purposes of the provision of special education to handicapped children is conformed to federal law. (§ 22.1-213)

It is specifically stated rather than implied that the Board of Education must review and approve all vocational education projects (§ 22.1-231) and that school boards may advance, contribute and loan funds to defined corporations for vocational education projects. (§ 22.1-233)

The Board of Education is to approve rather than select textbooks and is authorized to approve instructional aids and materials as provided in § 5 (d) of Article VIII of the *Constitution of Virginia* . (§ 22.1-238)

Chapter 14. Pupils .

The compulsory school attendance law is revised to delete the requirement that tutoring be in a home and that children regularly attend since regular attendance is covered elsewhere. (§ 22.1-254)

A provision giving attendance officers the powers of a sheriff is deleted but attendance officers are authorized to pick up truants and deliver them to school. (§ 22.1-266)

Pupils are authorized to submit a doctor's certificate stating that they have begun their immunizations in lieu of a certificate that they have completed them in order to gain admission to the public schools. (§ 22.1-270). If a pupil's immunizations are not completed within 60 days of admission, the pupil may not be counted in ADM and the parent or guardian is guilty of a Class 4 misdemeanor. (§ 22.1-271)

Sections relating to the employment of health personnel for schools are revised so that the Board of Education is given sole responsibility to set standards for health personnel so employed. Local health departments are authorized to provide health personnel. (§ 22.1-274)

Sections relating to the suspension and expulsion of pupils are revised to conform to the standards set forth in *Goss v. Lopez*, 419 U.S. 565 (1975). (§§ 22.1-277 and 22.1-278)

The separate census of deaf and blind children is deleted. These children will be counted in the census of all other handicapped children by type of handicap. The handicapped census is to be taken by school division rather than by county and city. (§ 22.1-281)

Any special census necessary for the equitable distribution of State school funds is required to be statewide. (§ 22.1-285)

Chapter 15. Teachers, Officers and Employees .

The Duty-Free Lunch Incentive Fund law is revised to make each school division's share of the Fund depend upon the number of teachers in the division who have duty-free lunch periods. (§ 22.1-291)

School boards are merely authorized to pay employees monthly, semi-monthly or biweekly. All other related provisions such as those requiring payment on the last day of the pay period and authorizing school boards to deposit compensation in employees' banks are deleted. (§ 22.1-296)

A provision qualifying teachers with two years' experience and nine hours of professional education for a collegiate professional certificate is deleted and left to regulations of the Board of Education. (§§ 22.1-298 and 22.1-299)

Being charged with any felony, whether or not it involves moral turpitude, is made grounds for suspending a teacher, and conviction of a felony or a crime of moral turpitude is made grounds for dismissing or placing a teacher on probation. (§§ 22.1-307 and 22.1-315)

Chapter 16. Private Trade, Technical, Business and Correspondence Schools; Schools for the Handicapped

The Board of Education is specifically authorized to prescribe standards for these schools since that authority is implied in existing law. (§ 22.1-321)

The Administrative Process Act is made applicable to all proceedings under this chapter. (§§ 22.1-321, 22.1-329 and 22.1-334)

The term "certificate of approval" is changed to "certificate to operate."

Chapter 17. Compact for Education; Education Commission of the States .

No material changes.

Chapter 18. Rehabilitative School Authority .

The appointment of the Authority Superintendent is changed from appointment by the Board of the Rehabilitative School Authority to appointment by the Governor in conformity with § 2.1-41.2 of the *Code of Virginia* . (§ 22.1-344)

Chapter 19. Public Telecommunications .

No material changes.

Amendments to Other Titles .

A chapter in Title 22 dealing with rehabilitative services has been moved in the revision from Title 22 to Title 2.1 of the *Code of Virginia* . The chapter is revised to authorize the Department of Rehabilitative Services to coordinate with the Division of Engineering and Buildings in preventing

environmental barriers in State Buildings (§ 2.1-582) and to accept and use gifts and donations for the general rehabilitation of disabled persons, not just their vocational rehabilitation. (§ 2.1-587)

References to boards of education are deleted since the term school board is the proper term. (§§ 15.1-186 and 15.1-189)

Town boards are included in the laws authorizing county and city school boards to borrow from the Virginia Supplemental Retirement System. (§§ 15.1-228 through 15.1-234)

The six percent limitation on the interest rate payable on loans from the Retirement System is deleted. (§ 15.1-230)

The area in which counties, cities and towns, singly or in combination, may acquire property for educational purposes is restricted to the area within the acquiring locality, or localities, or adjacent localities rather than the congressional district. A fifty-acre limitation is imposed if the property is in an adjacent locality. (§ 15.1-265)

In provisions relating to the County Executive form of government, references to the school board members' serving at the pleasure of the governing body are deleted as not practiced and as superceded by a later enactment. (§§ 15.1-609 and 15.1-609.1)

In all special forms of county government, provision is made for appointment of a tie breaker for the school board, the term "school board member" rather than "trustee" is used and references to towns operated as separate school districts under a town school board are deleted. (§§ 15.1-609, 15.1-609.1, 15.1-644, 15.1-644.1, 15.1-708 and 15.1-770)

A provision prescribing the annual salary payable to members of school boards in counties having the county board form of government is changed to eliminate a conflicting section in present law. (§ 15.1-708)

When a town becomes a city, the adjustment of debts is to be made between the governing bodies alone. The county school board is omitted. (§ 15.1-1003)

Certain annual reports required of State educational institutions are limited to State institutions of higher education and need not be submitted to the Superintendent of Public Instruction, but only to the State Council of Higher Education. (§ 23-1)

Obsolete references to membership of the Superintendent of Public Instruction on the boards of visitors of the University of Virginia and Virginia Polytechnic Institute and State University are deleted. (§§ 23-70, 23-71, 23-72, 23-115, and 23-117)

These and other less significant changes are noted in the Reviser's Notes following the sections in the proposed revision.

In addition, many statutes were found to be archaic, unnecessary, redundant or in conflict with the appropriation act or other provisions of law. They are eliminated entirely in the revision. Sections recommended for deletion in their entirety and the reasons therefor are as follows:

§ 22-3 - Deleted as unnecessary

§ 22-3.1 - Deleted as unnecessary

§ 22-4 - Deleted as unnecessary

§ 22-6 - Deleted as unnecessary

§ 22-7.1 - Deleted as unnecessary (see enactment clause 8)

§ 22-7.2 - Deleted as unnecessary

§ 22-10 - Deleted as unnecessary and obsolete

- § 22-10.1 - Deleted as covered by discovery proceedings
- § 22-10.12 - Deleted as covered by § 22.1-16
- § 22-16 - Deleted as unnecessary
- § 22-23 - Deleted as unnecessary and covered by the appropriations act and §§ 14.1-5 and 14.1-5:2
- § 22-29 - Deleted as unnecessary
- § 22-29.1 - Deleted as unnecessary
- § 22-29.2 - Deleted as unnecessary
- § 22-41 - Deleted as unnecessary and covered by § 22.1-70
- § 22-47 - Deleted as unnecessary
- § 22-50 - Deleted as unnecessary
- § 22-57.1 - Deleted as unnecessary since there is no law providing for the election of school boards.
- § 22-57.2 - Deleted as unnecessary and covered by § 22.1-296
- § 22-58 - Deleted as unnecessary
- § 22-59 - Deleted as unnecessary
- § 22-79.2 - Deleted as unnecessary
- § 22-81 - Deleted as obsolete.
- § 22-82 - Deleted as unnecessary
- § 22-83.2 - Deleted as covered by § 15.1-770
- § 22-93 - Deleted as unnecessary
- § 22-99 - Deleted as covered by §§ 22.1-27 and 22.1-52 through 22.1-57
- § 22-100 - Deleted as unnecessary
- § 22-100.3:1 - Deleted as covered by § 22.1-53
- § 22-100.5 - Deleted as unnecessary and covered by § 22.1-71
- § 22-100.7:1 - Deleted as not utilized and as in conflict with § 22.1-125
- § 22-100.8 - Deleted as unnecessary
- § 22-100.13 - Deleted as unnecessary
- § 22-107.1 - Deleted as obsolete and in conflict with other provisions of law.
- § 22-1-107.2 - Deleted as unnecessary (see enactment clause 8)
- § 22-115.29 through 22-115.35 - Deleted as having been adjudged unconstitutional.
- § 22-117 - Deleted as unnecessary and covered by § 22.1-98

- § 22-120.2 - Deleted as unnecessary (see enactment clause 8)
- § 22-120.4 - Deleted as unnecessary
- § 22-128.1 - Deleted as unnecessary
- § 22-137 - Deleted as in conflict with the appropriations act
- § 22-146 - Deleted as unnecessary
- § 22-147 - Deleted as unnecessary and covered by § 22.1-125
- § 22-154 - Deleted as covered by Uniform Statewide Building Code, § 22.1-138
- § 22-160 - Deleted as unnecessary
- § 22-162 - Deleted as unnecessary (see enactment clause 8)
- § 22-163 - Deleted as in conflict with the appropriations act
- § 22-166 - Deleted as unnecessary
- § 22-166.1 - Deleted as obsolete
- § 22-166.3 - Deleted as obsolete
- § 22-166.6 - Deleted as obsolete
- § 22-166.7 - Deleted as in conflict with the appropriations act.
- § 22-166.9 - Deleted as obsolete and unnecessary
- § 22-166.10 - Deleted as obsolete and unnecessary
- § 22-166.11 - Deleted as covered by § 22.1-140
- § 22-166.13 - Deleted as covered by § 22.1-140
- § 22-188.50 - Deleted as unnecessary
- § 22-188.51 - Deleted as unnecessary and obsolete
- § 22-189 - Deleted as covered by § 22.1-2
- § 22-190 - Deleted as unnecessary and obsolete
- § 22-191 - Deleted as covered by § 22.1-16 and as in conflict with § 22.1-3
- § 22-192 - Deleted as unnecessary
- § 22-193 - Deleted as covered by Chapter 1 of the revision
- § 22-195 - Deleted as unconstitutional
- § 22-198 - Deleted as covered by Chapter 1 of the revision
- § 22-208.1 - Deleted as obsolete
- § 22-210 - Deleted as unnecessary
- § 22-214 - Deleted as covered by § 42.1-88

- § 22-216 - Deleted as covered by § 22.1-142
- § 22-217 - Deleted as unnecessary
- § 22-217.1 - Deleted as unnecessary
- § 22-232 - Deleted as unnecessary
- § 22-239 - Deleted as unnecessary
- § 22-240 - Deleted as unnecessary
- § 22-240.1 - Deleted as unnecessary and as in conflict with the standards of quality
- § 22-242 - Deleted as not practiced
- § 22-244 - Deleted as a proper subject of regulations authorized in § 22.1-299
- § 22-245 - Deleted as a proper subject of regulations authorized in § 22.1-299
- § 22-246 - Deleted as a proper subject of regulations authorized in § 22.1-299
- § 22-275.2 - Deleted as covered by § 22.1-254
- § 22-275.4:2 - Deleted as expired
- § 22-275.6 - Deleted as covered by § 22.1-254
- § 22-275.12 - Deleted as covered by and in conflict with § 22.1-265
- § 22-275.13 - Deleted as not practiced and as in conflict with the general provisions of the compulsory school attendance law
- § 22-275.14 - Deleted as unnecessary
- § 22-275.17 - Deleted as unnecessary and inadvisable
- § 22-275.22 - Deleted as obsolete
- § 22-279 - Deleted as covered by regulation
- § 22-283 - Deleted as unnecessary
- § 22-306.1 - Deleted as obsolete
- § 22-308 - Deleted as not practiced
- § 22-312 - Deleted as unnecessary and inadvisable
- § 22-313 - Deleted as not practiced
- § 22-316 - Deleted as in conflict with the appropriations act
- § 22-317 - Deleted as unnecessary
- § 22-318 - Deleted as not practiced
- § 22-320 - Deleted as unnecessary
- § 22-321 - Deleted as unnecessary
- § 22-322 - Deleted as unnecessary

- § 22-323 - Deleted as obsolete and unnecessary
- § 22-324 - Deleted as unnecessary
- § 22-330 - Deleted as unnecessary
- § 22-330.3 - Deleted as unnecessary and covered by § 2.1-580
- § 22-330.8 - Deleted as unnecessary
- § 22-330.29 - Deleted as covered by the Administrative Process Act
- § 22-330.30 - Deleted as covered by the Administrative Process Act
- § 22-344.4 - Deleted as unnecessary
- § 22-351 through 22-359 - Deleted as not utilized

In addition to a number of open working sessions with members of the staff of Legislative Services and the Department of Education, the Commission held a public hearing on the revision of Title 22 at the Capitol in Richmond on November 19, 1979. This hearing was attended by representatives of a number of educational organizations across the Commonwealth.

Cross-referenced tables follow this text which indicate the equivalent sections in proposed Title 22.1 to those in present Title 22.

The Virginia Code Commission recommends that the General Assembly enact the attached bill at its 1980 session.

Respectfully submitted,

A. L. Philpott, Chairman
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A BILL to amend the Code of Virginia by adding a title numbered 22.1, containing chapters numbered 1 through 19 and sections numbered 22.1-1 through 22.1-357 and by adding in Title 2.1 a chapter numbered 38 containing sections numbered 2.1-574 through 2.1-587; to repeal § 7.1-36 and Title 22 of the Code of Virginia, which title contains Chapters 1 through 20 and §§ 22-1.1 through 22-363; and to amend and reenact §§ 2.1-349.1, 14.1-5, 15.1-186, 15.1-189, 15.1-228 through 15.1-232, 15.1-234, 15.1-262, 15.1-264, 15.1-265, 15.1-506.1, 15.1-571.1, 15.1-609, 15.1-609.1, 15.1-644, 15.1-644.1, 15.1-708, 15.1-770, 15.1-1003, 23-1, 23-70, 23-71, 23-72, 23-115, 23-117, 23-258, 25-232, 46.1-380.2, 51-111.24, 57-60 and 58-441.48 of the Code of Virginia so as to revise, rearrange, amend and recodify the laws of Virginia relating generally to education, the public school system and rehabilitative services; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a title numbered 22.1 containing chapters numbered 1 through 19 and sections numbered 22.1-1 through 22.1-357 and by adding in Title 2.1 a chapter numbered 38 containing sections numbered 2.1-574 through 2.1-587 and that §§ 2.1-349.1, 14.1-5, 15.1-186, 15.1-189, 15.1-228 through 15.1-232, 15.1-234, 15.1-262, 15.1-264, 15.1-265, 15.1-506.1, 15.1-571.1, 15.1-609, 15.1-609.1, 15.1-644, 15.1-644.1, 15.1-708, 15.1-770, 15.1-1003, 23-1, 23-70, 23-71, 23-72, 23-115, 23-117, 23-258, 25-232, 46.1-380.2, 51-111.24, 57-60 and 58-441.48 of the Code of Virginia are amended and reenacted as follows:

Title 22.1

Education.

Chapter 1.

System of Public Schools; General Provisions.

§ 22.1-1. Definitions.—As used in this title unless the context requires otherwise or it is otherwise specifically provided:

- 1. "Board" or "State Board" means the Board of Education.*
- 2. "Division superintendent" means the division superintendent of schools of a school division.*
- 3. "Elementary" includes kindergarten.*
- 4. "Person of school age" means a person who will have reached his fifth birthday on or before December thirty-first of the school year and who has not reached twenty years of age on or before August first of the school year.*
- 5. "School board" means the school board of a school division.*

Source: New

REVISER'S NOTE: A date for reaching the twentieth birthday is added in defining school age.

§ 22.1-2. System of free public elementary and secondary schools to be maintained; administration.—There shall be a system of free public elementary and secondary schools established and maintained as provided in this title and administered by the Board of Education, the Superintendent of Public Instruction, division superintendents and school boards.

Source: §§ 22-1.1 and 22-2

REVISER'S NOTE: No material change.

§ 22.1-3. Persons who shall be admitted to schools.—The public schools in each school division

shall be free to each person of school age who resides within the school division; provided, however, that a school board may withdraw a child from kindergarten until the following school year upon the recommendation of the principal of the school the child attends and with the consent of the child's parent or guardian. Every person of school age shall be deemed to reside in a school division when he or she is living with a natural parent, a parent by legal adoption or, when the parents of such person are dead, a person in loco parentis, who actually resides within the school division including a military or naval reservation located wholly or partly within the geographical boundaries of such school division.

Source: § 22-218

REVISER'S NOTE: Residence within the school division rather than a county, city or town is referred to in order to simplify the section and to encompass cases where a school division is composed of more than one locality. For provisions relating to school ages for the purposes of special education, see §§ 22.1-213 et seq. For provisions relating to ages when school attendance is required, see §§ 22.1-254 et seq.

§ 22.1-4. Admission of children whose age is not ascertainable because of lack of birth certificate.—Any child whose age is not ascertainable because of lack of birth certificate shall nonetheless be admitted into the public schools upon affidavit of any person acceptable to the division superintendent as being able to estimate with reasonable certainty the age of such child. The division superintendent with the assistance of the local superintendent of public welfare shall secure a birth certificate for such child as soon thereafter as reasonable.

Source: § 22-218.4

REVISER'S NOTE: This section, formerly applicable only to wards of the State, is made applicable to all children without birth certificates and the division superintendent, with the assistance of the local superintendent of public welfare, is given responsibility for securing a birth certificate.

§ 22.1-5. Regulations concerning admission of certain persons to schools; tuition charges.—A. The following persons may, in the discretion of the school board of a school division and pursuant to regulations adopted by the school board, be admitted into the public schools of the division and may, in the discretion of the school board, be charged tuition:

- 1. Persons who reside within the school division but who are not of school age.*
 - 2. Persons of school age who are residents of the Commonwealth but who do not reside within the school division.*
 - 3. Persons of school age who are attending school in the school division pursuant to a foreign student exchange program approved by the school board.*
 - 4. Persons of school age who reside beyond the boundaries of the Commonwealth but near thereto in a state or the District of Columbia which grants the same privileges to residents of the Commonwealth if the school division admitting such persons borders such state or District of Columbia.*
- B. Persons of school age who are not residents of the Commonwealth but are living temporarily with persons residing within a school division may, in the discretion of the school board and pursuant to regulations adopted by it, be admitted to the public schools of the school division. Tuition shall be charged such persons.*
- C. No tuition charge authorized or required in this section shall exceed the total per capita cost of education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school division and the actual, additional costs of any special education or gifted and talented program provided the pupil, except that if the tuition charge is payable by the school board of the school division of the pupil's residence pursuant to a contract entered into between the two school boards, the tuition charge shall be that fixed by such contract.*

Source: §§ 22-218.3, 22-219 and 22-220

REVISER'S NOTE: This section results from combining several sections relating to tuition charges in order to clarify and simplify them. As in § 22.1-3, residence within a school division rather than a county, city or town is referred to. School divisions are authorized to charge the actual costs above the normal tuition charge of any special education or gifted and talented program provided a pupil who may be charged tuition.

§ 22.1-6. Permitted fees and charges.—Except as provided in § 22.1-5 or as permitted by regulation of the Board of Education, no fees or charges may be levied on any pupil by any school board. No pupil's scholastic report card or diploma shall be withheld because of nonpayment of any such fee or charge.

Source: § 22-197, 22-198, 22-199 and 22-201

REVISER'S NOTE: Rather than spelling out in statute what fees and charges are permitted, the proposed revision leaves the matter to regulation of the Board of Education.

§ 22.1-7. Responsibility of each State board, agency and institution having children in residence.—Each State board, agency and institution having children in residence or in custody shall provide education and training to such children which is at least comparable to that which would be provided to such children in the public school system. Such board, agency or institution may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonsectarian school, agency or institution. The Board of Education shall prescribe standards and regulations for such education and training provided directly by a board, agency or institution. Each board, agency or institution providing such education and training shall submit annually its program therefor to the Board of Education for approval in accordance with regulations of the Board. If any child in the custody of any State board, agency or institution is a handicapped child as defined in § 22.1-213 and such board, agency or institution must contract with a private nonsectarian school to provide special education as defined in § 22.1-213 for such child, the board, agency or institution may proceed as a guardian pursuant to the provisions of § 22.1-218 A.

Source: § 22-9.1:04

REVISER'S NOTE: No material change.

Chapter 2.

Board of Education.

§ 22.1-8. General supervision vested in Board.—The general supervision of the public school system shall be vested in the Board of Education.

Source: § 22-11

REVISER'S NOTE: No material change.

§ 22.1-9. Appointment, terms and vacancies.—The Board of Education shall consist of nine members appointed by the Governor. Every appointment to the Board shall be for a term of four years, except that appointments to fill vacancies other than by expiration of term shall be for the unexpired terms. All appointments, including those to fill vacancies, shall be subject to confirmation by the General Assembly, and any appointment made during the recess of the General Assembly shall expire at the end of thirty days after the commencement of the next session of the General Assembly. No member of the Board shall be appointed to more than two consecutive four-year terms.

Source: § 22-12.1

REVISER'S NOTE: No material change.

§ 22.1-10 President.—The Board shall elect from its membership a president for a term of two years.

Source: § 22-13

REVISER'S NOTE: No material change.

§ 22.1-11. Quorum.—A majority of the members of the Board shall constitute a quorum for the transaction of business.

Source: § 22-14

REVISER'S NOTE: No material change.

§ 22.1-12. Oath of office.—Before entering upon the duties of office, a person appointed to the Board shall take and subscribe the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 of Title 49 of 'his Code.

Source: § 22-15

REVISER'S NOTE: A requirement that a minute of each member's qualification be entered in the proceedings of the Board is deleted.

§ 22.1-13. Meetings.—Meetings of the Board shall be held upon the call of the president or upon request of a majority of its members. The president shall give due notice to all the members of the time and place of all meetings. The place of meeting shall ordinarily be the office of the Superintendent of Public Instruction.

Source: § 22-17

REVISER'S NOTE: No material change.

§ 22.1-14. Minutes.—The minutes of each meeting of the Board shall be signed by the person presiding at such meeting.

Source: § 22-18

REVISER'S NOTE: Because the requirements that minutes be kept and that they be open to public inspection are set forth in the Freedom of Information Act, they are deleted from this section.

§ 22.1-15. Compensation and expenses.—Each member of the Board shall receive fifty dollars per day or portion thereof spent in the performance of duties as a member of the Board and reasonable expenses incurred in performing such duties.

Source: § 22-20

REVISER'S NOTE: No material change.

§ 22.1-16. Bylaws and regulations.—The Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.

Source: § 22-19

REVISER'S NOTE: The Board's power to make regulations is revised from simply regulations "for the management and conduct of schools".

§ 22.1-17. Statements concerning regulations.—Not less than twenty days prior to the adoption of any regulation affecting school divisions, the Board of Education and the Department of Education shall prepare a statement as to the administrative impact of such regulation on school divisions and the projected costs of implementation of and compliance with such regulation and

shall send a copy thereof to each division superintendent.

Source: § 22-19.01

REVISER'S NOTE: Directions as to what is to be done with the statement are added and a time limit for preparing and disseminating the statement is prescribed.

§ 22.1-18. Report on education and standards of quality for school divisions; when submitted and effective.—By the fifteenth of November of each year, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein which have failed to establish and maintain schools meeting the existing prescribed standards of quality. In the odd-numbered years, such report shall further contain the standards of quality prescribed by the Board for the school divisions of the Commonwealth for the school years embraced within the fiscal years for which budget estimates are reported pursuant to § 2.1-394. Such standards of quality, subject to revision by the General Assembly, shall be effective for such school years.

Source: § 22-19.1

REVISER'S NOTE: No material change.

§ 22.1-19. Accreditation of elementary and secondary schools; nursery schools.—The Board shall, and in the case of private schools may, provide for the accreditation of elementary and secondary schools in accordance with standards prescribed by it. The Board in its discretion may recommend provisions for standards for private nursery schools.

Source: § 22-21

REVISER'S NOTE: The Board of Education is required to accredit public schools and authorized to accredit private schools in this revision. Under present law no distinction is made between public and private schools; the Board is merely authorized to accredit schools. A prohibition on a nonpublic kindergarten or nursery school holding itself out as sanctioned or approved by the Board of Education is deleted as being unnecessary.

§ 22.1-20. Retention of pupil personnel records.—The Board of Education is authorized to promulgate regulations governing the retention of pupil personnel records in public schools.

Source: § 22-53.1

REVISER'S NOTE: Language relating to the destruction of financial records is deleted as superseded by the Virginia Public Records Act (§ 42.1-76 et seq.).

Chapter 3.

Superintendent of Public Instruction.

§ 22.1-21. Appointment and qualification.—The Superintendent of Public Instruction shall be appointed by the Governor, after consultation with the Board of Education among others, subject to confirmation by the General Assembly, for a term coincident with that of the Governor making the appointment. Any vacancy shall be filled in the same manner. The Superintendent of Public Instruction shall be an experienced educator.

Source: § 22-22

REVISER'S NOTE: No material change.

§ 22.1-22. Oath of office.—Before entering upon the discharge of the duties of his office, the Superintendent of Public Instruction shall qualify by taking and subscribing the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 of Title 49 of this Code.

Source: § 22-24

REVISER'S NOTE: No material change.

§ 22.1-23. *Duties in general.—The Superintendent of Public Instruction shall:*

1. *Serve as secretary of the Board of Education;*
2. *Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;*
3. *Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;*
4. *Perform such other duties as the Board of Education may prescribe.*

Source: §§ 22-25, 22-26 and 22-28

REVISER'S NOTE: No material change.

§ 22.1-24. *Administration of "National School Lunch Act".—The Superintendent of Public Instruction is hereby designated as the "State educational agency" for the disbursement of funds received by the Commonwealth of Virginia under the provisions of Public Law 396, 79th Congress, known as the "National School Lunch Act" and any successor act or amendment thereto; and as such is authorized, empowered and directed to exercise the powers and perform the duties conferred and imposed by such act of Congress.*

Source: § 22-27

REVISER'S NOTE: A reference to amendments or acts successor to the National School Lunch Act is inserted.

Chapter 4.

School Divisions, Joint Schools and Contracts

Between School Divisions.

§ 22.1-25. *How school divisions made.—A. The Board of Education shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the standards of quality required by Section 2 of Article VIII of the Constitution of Virginia, subject to the following conditions:*

1. *The school divisions as they exist on July one, nineteen hundred seventy-eight, shall be and remain the school divisions of the State until further action of the Board of Education taken in accordance with the provisions of this section except that when a town becomes an independent city, the town shall also become a school division.*

2. *No school division shall be divided or consolidated without the consent of the school board thereof and the governing body of the county or city affected or, if a town comprises the school division, of the town council.*

3. *No change shall be made in the composition of any school division if such change conflicts with any joint resolution expressing the sense of the General Assembly with respect thereto adopted at the session next following January one of the year in which the composition of such school division is to be changed.*

B. Notice of any change in the composition of a school division proposed by the Board of Education shall be given by the Superintendent of Public Instruction, on or before January one of

the year in which the composition of such school division is to be changed, to the clerks of the school board and of the governing body involved and to each member of the General Assembly.

C. Subject to the conditions set forth in subsection A., the Board of Education shall consider the following criteria in determining appropriate school divisions:

- 1. The school-age population of the school division proposed to be divided or consolidated.*
- 2. The potential of the proposed school division to facilitate the offering of a comprehensive program for kindergarten through grade twelve at the level of the established standards of quality.*
- 3. The potential of the proposed school division to promote efficiency in the use of school facilities and school personnel and economy in operation.*
- 4. Anticipated increase or decrease in the number of children of school age in the proposed school division.*
- 5. Geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities.*
- 6. The ability of each existing school division to meet the standards of quality with its own resources and facilities or in cooperation with another school division or divisions if arrangements for such cooperation have been made.*

Source: § 22-30.1

REVISER'S NOTE: Added is a provision that towns becoming independent cities also become school divisions.

§ 22.1-26. Joint schools.—Two or more school boards may, with the consent of the State Board, establish joint schools for the use of their respective school divisions and may jointly purchase, take, hold, lease, convey and condemn both real and personal property for such joint schools. The school boards, acting jointly, shall have the same power of condemnation as other school boards except that land so condemned shall not be in excess of thirty acres for the use of any one joint school. The title to all property acquired for such purposes shall vest jointly in the school boards in such respective proportions as the school boards may determine, and the schools shall be managed and controlled by the school boards jointly, in accordance with such regulations as are promulgated by the State Board. However, the regulations in force at the time of the adoption of a plan for the operation of a joint school shall not be changed for such joint school by the State Board without the approval of the school boards.

Source: § 22-7

REVISER'S NOTE: No material change.

§ 22.1-27. Contracts to furnish facilities.—A school board may enter into a contract with the school board of an adjacent school division for furnishing public school facilities.

Source: New

Chapter 5.

School Boards; Selection, Qualification and Salaries

of Members.

Article 1.

General Provisions.

§ 22.1-28. Supervision of schools in division vested in school board.—The supervision of schools in each school division shall be vested in a school board selected as provided in this chapter or as otherwise provided by law.

Source: New

§ 22.1-29. Qualifications of members.—Each person appointed to a school board shall, at the time of his appointment, be a qualified voter and a bona fide resident of the district from which he is selected if appointment is by district or of the school division if appointment is at large; and if he shall cease to be a resident of such district or school division, his position on the school board shall be deemed vacant.

Source: §§ 22-68 and 22-90

REVISER'S NOTE: A requirement that persons appointed to school boards be qualified voters is added. An exception for the city of Norfolk is deleted as covered by § 22.1-51.

§ 22.1-30. Certain officers may not act on school board or serve as tie breaker.—No State, county, city or town officer, no deputy of any such officer, no member of the governing body of a county, city or town and, in counties having a population of more than one hundred thousand persons, no father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of a member of the county governing body may, during his term of office, be appointed or serve as a member of the school board for such county, city or town or as tie breaker for such school board except:

- 1. local superintendents of public welfare,*
- 2. commissioners in chancery,*
- 3. commissioners of accounts,*
- 4. registrars of vital records and health statistics,*
- 5. notaries public,*
- 6. clerks and employees of the federal government in the District of Columbia,*
- 7. medical examiners,*
- 8. officers and employees of the District of Columbia,*
- 9. in Northumberland County, oyster inspectors, and*
- 10. in Lunenburg County, members of the county library board and members of the board of public welfare.*

Source: §§ 22-69 and 22-92

REVISER'S NOTE: The same officers who may serve on county school boards are made eligible to serve on city school boards. However, provisions permitting city referees in chancery, commissioners in bankruptcy and members of city boards of health to serve are deleted. The provisions of the section are extended to school board tie breakers.

§ 22.1-31. Oath.—Before entering upon the discharge of the duties of office, each person appointed to a school board shall take and subscribe the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 of Title 49 of this Code.

Source: §§ 22-91 and 22-66

REVISER'S NOTE: A reference to the general provisions of law prescribing the procedure for

the taking of oaths is inserted and provisions setting forth the procedure in this section are deleted.

§ 22.1-32. Salary of members.—A. The school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Alleghany-fifteen hundred dollars;

Amelia-twelve hundred dollars;

Amherst-twelve hundred dollars;

Appomattox-twelve hundred dollars;

Buchanan-twelve hundred dollars;

Buckingham-twelve hundred dollars;

Campbell-two thousand four hundred dollars;

Caroline-eight hundred dollars;

Carroll-nine hundred dollars;

Charles City-two hundred forty dollars;

Charlotte-twelve hundred dollars;

Clarke-nine hundred dollars;

Craig-six hundred dollars;

Culpeper-fifteen hundred dollars;

Cumberland-eighteen hundred dollars;

Dickenson-twelve hundred twenty dollars;

Dinwiddie-two thousand four hundred dollars;

Essex-twelve hundred dollars;

Fauquier-nine hundred dollars;
Floyd-six hundred dollars;
Fluvanna-twelve hundred dollars;
Franklin-twelve hundred dollars;
Frederick-nine hundred dollars;
Giles-twelve hundred dollars;
Gloucester-one thousand two hundred forty dollars;
Goochland-twelve hundred dollars;
Grayson-twelve hundred dollars;
Greene-nine hundred dollars;
Greensville-eighteen hundred dollars;
Halifax-two thousand four hundred dollars;
Hanover-two thousand one hundred dollars;
Henrico-four thousand two hundred dollars;
Henry-twenty-four hundred dollars;
Highland-twelve hundred dollars;
Isle of Wight-twelve hundred dollars;
James City-six hundred forty dollars;
King and Queen-eight hundred dollars;
King George-twelve hundred dollars;
King William-eight hundred dollars;

Lee-twelve hundred sixty dollars;
Loudoun-four thousand dollars;
Louisa-twelve hundred dollars;
Lunenburg-twelve hundred dollars;
Madison-twelve hundred dollars;
Mathews-one thousand two hundred forty dollars;
Mecklenburg-twelve hundred dollars;
Middlesex-eight hundred dollars;
Montgomery-twelve hundred dollars;

Nelson-twelve hundred dollars;

New Kent-six hundred dollars;

Northampton-eighteen hundred dollars;

Nottoway-twelve hundred dollars;

Page-nine hundred dollars;

Patrick-twelve hundred dollars;

Powhatan-fifteen hundred dollars;

Prince Edward-twelve hundred dollars;

Prince George-twelve hundred dollars;

Prince William-four thousand dollars;

Pulaski-twelve hundred dollars;

Richmond-fifteen hundred dollars;

Roanoke-twelve hundred dollars;

Spotsylvania-twelve hundred dollars;

Stafford-two thousand four hundred dollars;

Surry-twelve hundred dollars;

Warren nine hundred dollars;

Washington-three thousand dollars;

Westmoreland-twelve hundred dollars;

Wise-eighteen hundred dollars;

Wythe-fourteen hundred dollars;

York-twelve hundred dollars.

B. The school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Alexandria-five thousand dollars;

Charlottesville-ten dollars per diem, not to exceed twenty-four days per year;

Chesapeake-two thousand dollars;

Colonial Beach-fifteen hundred dollars;

Danville-six hundred dollars;

Lexington-six hundred dollars;

Manassas Park-six hundred dollars;

Martinsville-one hundred dollars;

Poquoson-six hundred dollars ;

Radford-ten dollars per diem, not to exceed twenty-four days per year;

Newport News-twelve hundred dollars;

South Boston-six hundred dollars;

Williamsburg-six hundred dollars;

Hopewell-six hundred dollars;

Fairfax-three hundred dollars;

Town of Fries-two hundred forty dollars;

Waynesboro-one thousand dollars;

Richmond-three thousand dollars;

Roanoke-eighteen hundred dollars;

Emporia-two hundred forty dollars.

C. Any school board may in its discretion, after passage of an appropriate resolution by the governing body of the appropriate county, city or town, pay the chairman of the school board an additional salary not exceeding five hundred dollars per year.

D. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. Such mileage shall be paid at the same rate as is paid to employees of the school

board.

Source: §§ 22-67.2 and 14.1-5.

REVISER'S NOTE: All school boards are authorized to pay their chairmen \$500 additional compensation. Presently some may pay \$100 and some \$500. The discrepancy between the provisions of this section and § 14.1-5 as to the mileage rate is eliminated. Language authorizing additional salaries for members of committees for control of joint schools is covered by regulation of the Board of Education and is, therefore, deleted.

§ 22.1-33. Special districts continued.—Special town school districts which now exist for the purposes of representation on division school boards shall continue.

Source: § 22-43.

REVISER'S NOTE: No change.

Article 2.

Method of Selecting School Boards in School Divisions

Composed of a Single County.

§ 22.1-34. Application of article.—The school board in each county constituting a school division, except a county to which the provisions of § 15.1-609, § 15.1-644, § 15.1-708, § 15.1-770 or § 22.1-44 are applicable, shall be selected as provided in this article.

Source: New.

§ 22.1-35. School board selection commission.—In each county to which the provisions of this article are applicable there shall be a school board selection commission composed of three members appointed from the county at large or, upon the request of the county governing body, one member appointed from each election district of such county. Members shall be qualified voters, shall reside in the county and shall not be county or State officers. Members shall be appointed by the circuit court of the county within thirty days after the first day of July, nineteen hundred fifty, and every four years thereafter. Any vacancy occurring other than by expiration of term shall be filled by the circuit court within thirty days after the vacancy occurs. Each member shall receive twenty-five dollars for each day actually engaged in the performance of duties as such member, to be paid out of the funds of the school board. No person regularly employed by the school board of the division shall be eligible to serve on or as clerk of such school board selection commission.

Source: § 22-60

REVISER'S NOTE: Since the term "school trustee" has been changed to school board member in the Constitution, the name of the school trustee electoral board is changed accordingly. Persons regularly employed by a school board rather than employed by a school board or paid from public school funds are made ineligible to be clerk of a school board selection commission.

§ 22.1-36. How school board appointed.—The county school board shall consist of the same number of members from each magisterial district or, if the provisions of subsection C. of § 15.1-571.1 are applicable, election district in the county as there are members of the board of supervisors from each such district in the county. Each school board member shall be appointed by the school board selection commission. In addition to the members selected by districts, the governing body may authorize the school board selection commission to appoint no more than two members from the county at large.

Source: §§ 22-61 and 22-42

REVISER'S NOTE: The provisions of § 15.1-571.1 providing for appointment by election districts are cross-referenced in the revised section.

§ 22.1-37. Notice by commission of meeting for appointment.—Before any appointment is made by the school board selection commission, it shall give notice, by publication once a week for two successive weeks in a newspaper having general circulation in such county, of the time and place of any meeting for the purpose of appointing the members of the county school board. Such notice shall be given whether the appointment is of a member or members of the county school board for the full term of office as provided by law or of a member to fill a vacancy occurring in the membership of the county school board or of a member from a new school district.

Source: § 22-62

REVISER'S NOTE: It is specified that publication of the notice need only be made once a week.

§ 22.1-38. Terms of members of school board.—Within sixty days prior to the first day of July in each and every year, the school board selection commission shall appoint, for terms of four years beginning the first day of July next following their appointment, successors to the members of the county school board whose terms of office expire on the thirtieth day of June of such year.

In any county having five or more districts in which it is found by the school board selection commission that it is not in the best interest of the schools for the terms of the school board members from two certain districts to expire simultaneously and such terms have been so expiring, the commission may, on the next occasion thereafter for appointing successors to the school board members from such two districts, appoint the member from one of such districts for a term of one year with appointments thereafter to be made for terms of four years.

Source: § 22-64

REVISER'S NOTE: Provisions relating to the initial appointment of school boards under this section have been deleted as obsolete.

§ 22.1-39. Vacancies in school board.—Vacancies occurring in the membership of the county school board shall be filled for the unexpired term by the school board selection commission.

Source: § 22-65

REVISER'S NOTE: Other than changing the name of the school trustee electoral board, no material change.

§ 22.1-40. Appointment of tie breaker.—The school board selection commission shall appoint a qualified voter who is a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The term of office of each tie breaker so appointed shall be four years whether the appointment is to fill a vacancy caused by expiration of term or otherwise. The commission shall give the notice required by § 22.1-37 before appointing any tie breaker.

Source: New

Article 3.

Alternate Method of Selecting School Boards in

School Divisions Comprised of a Single County.

§ 22.1-41. Application of article.—The provisions of this article shall be applicable in any county constituting a school division except a county to which the provisions of § 15.1-609, § 15.1-644, § 15.1-708 or § 15.1-770 are applicable.

Source: New

§ 22.1-42. Referendum on changing method of selection of members.—Upon a petition filed with the circuit court of any county to which the provisions of this article are applicable signed by a number of registered voters of the county equal to fifteen per centum of the number of votes cast in the county in the preceding presidential election asking that a referendum be held on the question of changing the method of selection of members of the county school board, the court shall, by order entered of record, require the regular election officials on the day fixed in such order to open the polls and take the sense of the qualified voters of the county on the question printed on the ballot as herein provided. The clerk of the county shall cause a notice of such referendum to be published in some newspaper published or having a general circulation in the county once a week for three successive weeks prior to such referendum and shall post a copy of such notice during the same time at the front door of the courthouse of the county.

In lieu of such petition, the Board of Supervisors of Roanoke County may cause to be passed a resolution requesting that such referendum be held; provided that prior to the passage of such resolution the Board of Supervisors shall hold a public hearing on the question of such referendum. The resolution shall be filed with the circuit court and upon receipt thereof, the court shall proceed as in the case of a petition.

The ballots used in the referendum shall be printed as follows:

“Shall the present method of selecting the members of the county school board be changed from appointment by the School Board Selection Commission to appointment by the governing body of the county?

Yes

No ' '

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the State Board of Elections, the clerk of the county and the circuit court; and the court shall enter of record the results of such referendum.

Source: § 22-79.4

REVISER'S NOTE: Procedural details of the election are deleted to be governed by general law.

§ 22.1-43. Abolition of school board selection commission.—If the majority of votes cast in the referendum held as provided in § 22.1-42 shall be for the proposition, the school board selection commission of the county shall be abolished. If the majority of the votes cast shall be against the proposition, the school board selection commission shall be retained.

Source: § 22-79.5

REVISER'S NOTE: No material change.

§ 22.1-44. Appointment of school board members and tie-breaker by county governing body; terms; vacancies.—If, in a referendum held as provided in § 22.1-42, it shall be determined that the members of the county school board shall be appointed by the governing body of the county, such governing body shall, by majority vote, thereafter appoint all members of the school board and the tie breaker. Members of the school board and the tie breaker in office at the time of the referendum shall complete their terms and their successors shall be appointed by the governing body. Appointments of school board members and tie breakers shall be made at public meetings. The terms of office of the members of the county school board shall continue to be four years. Vacancies in the office of members of the county school board occurring other than by expiration of term shall be filled by appointment by the governing body for the unexpired terms. The term of office of the tie breaker shall continue to be four-years. Any appointment to fill a vacancy in the office of tie breaker, whether or not by expiration of term, shall be for a four-year term.

The school board shall consist of the same number of members from each magisterial or election district as is provided in § 22.1-36. The governing body of the county may appoint no more than two additional members from the county at large.

Source: §§ 22-79.1, 22-79.3 and 22-61

REVISER'S NOTE: The provisions specifying the number of members on school boards appointed pursuant to this section is made the same as the number on school boards appointed by the school board selection commission. Provision for appointment of a tie-breaker specifically for the school board is added.

§ 22.1-45. Referendum to revert to appointment by school board selection commission.—A. Upon a petition (i) filed with the circuit court of any county which has changed the method of appointment of the members of the school board to appointment by the governing body as a result of a referendum as provided in this article or former §§ 22-79.1 through 22-79.6 of the Code of Virginia, (ii) signed by a number of registered voters of the county equal to fifteen per centum of the number of votes cast in the county in the preceding presidential election and (iii) asking that a referendum be held on the question of changing the method of selection of members of the county school board, the court shall, by order entered of record, require the regular election officials on the day fixed in such order to open the polls and take the sense of the qualified voters of the county on the question printed on the ballot as herein provided. The clerk of the county shall cause a notice of such referendum to be published in some newspaper published or having a general circulation in the county once a week for three successive weeks prior to such referendum and shall post a copy of such notice during the same time at the front door of the courthouse of the county. The ballots used in such referendum shall be printed as follows:

“Shall the present method of selecting the members of the county school board be changed from appointment by the governing body of the county to appointment by a school board selection commission?”

YES

NO ”

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the State Board of Elections, the clerk of the county and the circuit court; and the court shall enter of record the results of such referendum.

B. If the majority of the votes cast in such referendum shall be for the proposition, a school board selection commission shall be appointed as provided in § 22.1-35 and the commission shall appoint the members of the county school board and the tie breaker as provided in Article 2 of this chapter as the terms of the incumbents expire or as vacancies otherwise occur.

If a majority of the votes cast in such referendum are against the proposition, the members of the school board and the tie breaker shall continue to be appointed by the governing body as provided in this article.

Source: New

§ 22.1-46. Limitation on time of holding subsequent referendum.—Regardless of its results, following any referendum provided for in this article, no further such referendum shall be held within four years thereafter.

Source: § 22-79.6

REVISER'S NOTE: Revised to take into account the new referendum on reverting to appointment by a school board selection commission added in the preceding section.

Article 4.

Selection of School Boards in School Divisions Comprised

of Counties Having a Certain Form of Government.

§ 22.1-47. How composed.—The school board of a school division composed of a county having a county manager plan form of government provided for in Article 3 of Chapter 14 of Title 15.1 of this Code shall be composed of not less than three nor more than seven members who shall be chosen by the board of county supervisors. The exact number of members shall be determined by the board of county supervisors. Each member shall be appointed for a term of four years provided that initial appointments may be for such terms as will stagger the expiration of terms and that appointments to fill vacancies other than by expiration of term shall be for the unexpired term. The governing body of the county shall also appoint a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. Each tie breaker shall be appointed for a four-year term whether the appointment is to fill a vacancy caused by expiration of term or otherwise.

Source: § 22-80 and 22-83.1

REVISER'S NOTE: The provisions of §§ 15.1-609, 15.1-644, 15.1-708 and 15.1-770 cover most of the original provisions of this section. The revision is limited to those special forms of county government which are not provided for elsewhere in the Code so as to eliminate duplication and conflict. Appointment of a tie-breaker is provided for.

Article 5.

Selection of School Boards in Cities and Towns

Constituting School Divisions.

§ 22.1-48. Application of article.—The provisions of this article shall be applicable in each city and town which constitutes a school division unless otherwise provided by its charter.

Source: new

§ 22.1-49. City school districts.—As used in this article, "district" shall mean a school district. The school board of a city to which the provisions of this article are applicable shall have power, subject to the approval of the governing body of the city, to prescribe the number and boundaries of the school districts; but until such provision is made every such city which is not divided into wards shall constitute a single school district, and in every city which is divided into wards, each ward shall be a school district. The number and boundaries of districts shall be duly reported to the Superintendent of Public Instruction and recorded in his office and also in that of the clerk of the circuit court of the city.

Source: § 22-44

REVISER'S NOTE: No material change.

§ 22.1-50. Appointment and term.—The school board of a school division composed of the city or town to which the provisions of this article are applicable shall be appointed by the governing body of such city or town and shall consist of three members for each district in such city or town. Members shall be appointed for three-year terms except that initial appointments shall be for such terms that the term of one member from each district expires each year. Terms shall commence on July one. A vacancy occurring on the school board at any time other than by expiration of term shall be filled by the governing body for the unexpired term. Within thirty days preceding July one of each year, the governing body shall appoint a successor to each member whose term expires on June thirtieth of that year, provided the office of any that member has not been abolished in redistricting the city or town.

Source: § 22-89

REVISER'S NOTE: Obsolete provisions relating to the city of Winchester are deleted. The term "trustee" is changed to "member".

§ 22.1-51. Appointment and term in City of Norfolk.— Notwithstanding the provisions of the charter of the City of Norfolk, the school board of the City of Norfolk shall consist of seven members to be appointed by the city council from the city at large. Members shall be appointed to serve for terms of two years beginning on July one except that initial appointments shall be staggered so that the terms of four members expire in odd-numbered years and the terms of three members expire in even-numbered years. Any vacancy occurring on the school board other than by expiration of term shall be filled by the council for the unexpired term.

Source: § 22-89.1

REVISER'S NOTE: Obsolete provisions deleted.

Article 6.

School Boards in Other School Divisions.

§ 22.1-52. Application of article; single school board required.—The provisions of this article shall be applicable to each school division which is composed of less than one county or city or part or all of more than one county or city. The supervision of schools in each such school division shall be vested in a single school board.

Source: § 22-100.1

REVISER'S NOTE: Under the 1971 Constitution and present § 22-30.1, it is possible that counties and cities can be divided in forming school divisions. The application of this article is extended to those school divisions as well as school divisions composed of more than one county or city.

§ 22.1-53. How composed; appointment and terms of members; vacancies.—A. The school board of each school division to which the provisions of this article are applicable shall be composed of no fewer than six nor more than nine members, the exact number to be determined by the governing body of the county or city if the school division is composed of less than one county or city or by agreement of the governing bodies of the counties and cities in the school division if composed of part or all of more than one county or city. Unless the governing bodies of the counties and cities in a school division composed of part or all of more than one county or city agree upon some other equitable and reasonable criteria, the number of members of the school board from each county and city or part thereof in the division shall be apportioned according to the population in the school division of each such county or city or part thereof, provided that each county or city shall have at least one member.

B. Within sixty days prior to the effective date for the formation of the division school board, the governing body of each county and city or part thereof in the school division shall appoint the required number of members of the division school board from such county or city as follows: if there be one member, he shall be appointed for a term of four years; if there be two members, one shall be appointed for a term of two years and one for a term of four years; if there be three members, one shall be appointed for a term of two years, one for a term of three years, and one for a term of four years; if there be four members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years; if there be five members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years and two for terms of four years; if there be six members one shall be appointed for a term of one year, one for a term of two years, two for terms of three years and two for terms of four years. Within sixty days prior to the first day of July in each and every year thereafter there shall be appointed by such governing body for a term of four years beginning the first day of July next following their appointment, successors to the members of the division school board appointed by it whose terms expire on the thirtieth day of June in each such year. Any vacancy occurring in the membership of the division school board shall be filled for the unexpired term by the governing body appointing such member.

C. If each county or city in a division composed of part or all of more than one county or city has an equal number of members, the governing bodies concerned shall jointly select for a term of four years one person who shall be a member of the division school board only for the purpose of

voting in case of an equal division of the regular members of the board on any question requiring the action of such board. Such person shall be known as the tie breaker. If the governing bodies are not able to agree as to the person who shall be the tie breaker, then upon application by any of the governing bodies involved to a circuit court having jurisdiction in such school division, the judge thereof shall name the tie breaker and his decision shall be final.

Source: § 22-100.3

REVISER'S NOTE: Language regarding temporary appointments is deleted as unnecessary in view of the provisions for the effective date for the formation of the school division in § 22.1-57.

§ 22.1-54. Members need not be appointed by district.—Members of a school board in a school division to which the provisions of this article are applicable need not be appointed by districts, if deemed advisable by the governing body making the appointments.

Source: § 22-100.4

REVISER'S NOTE: Language as to qualifications is deleted as covered by § 22.1-29. Language as to the duties of members is deleted as covered by § 22.1-71. Language prohibiting the board's employing its members is deleted as covered by the Conflict of Interests Act.

§ 22.1-55. Compensation of members.—A school board of a school division to which the provisions of this article are applicable may pay each of its members an annual salary not to exceed the amount authorized by § 22.1-22, if any, for the county or city from which such member was appointed.

Source: § 22-100.6

REVISER'S NOTE: Revised for clarity.

§ 22.1-56. Transfer of title to school property; adjudication of ownership.—The title to all school property in the school division shall be vested in the division school board. The school board of every county or part thereof included in such school division and the city council or the school board, whichever holds title to the school property included in such school division, shall transfer title to the school property included in such school division to the division school board.

If, at the time a school division to which the provisions of this article are applicable is formed, the ownership of school property, real or personal, has not been determined or the title thereto is in question or there is a dispute as to the ownership or title, then such question of ownership or title may be determined before the formation of the school division either by a written agreement between the participating divisions with the approval of the respective governing bodies thereof or by any participating division petitioning a circuit court in the jurisdiction where the property or any part thereof lies to determine the title to the property, and such adjudication of ownership or title shall be conclusive thereafter.

Source: § 22-100.7

REVISER'S NOTE: No material change.

§ 22.1-57. Effective date for formation of board.—The effective date for the formation of any school division to which the provisions of this article are applicable and the school board thereof and the supervision and operation of the schools in the school division by such school board shall be as of the first day of July of a school year, and the school board or boards as then constituted in the school division shall cease to exist in such school division as of such effective date.

Source: § 22-100.11

REVISER'S NOTE: No material change.

Chapter 6.

Division Superintendents.

§ 22.1-58. Division superintendent required.—For each school division there shall be a division superintendent of schools.

Source: New

§ 22.1-59. Qualifications of division superintendent.—The Board of Education shall prescribe by regulation the minimum qualifications for the position of division superintendent of schools and a copy of such regulations shall be furnished to all applicants.

Source: 22-31

REVISER'S NOTE: Deleted is a requirement that the Board of Education publish the qualifications on February 1 of every year in which a superintendent is to be selected.

§ 22.1-60. Appointment and term of superintendent.—The division superintendent of schools shall be appointed by the school board of the division from the entire list of eligibles certified by the State Board and shall hold office for four years from the first day of July following his appointment or for the unexpired term if appointed to fill a vacancy other than by expiration of term.

The division superintendent shall be appointed by the school board within sixty days (i) before March first of the year in which the term of the incumbent division superintendent expires or (ii) after a vacancy occurs other than by expiration of term. In the event a school board appoints a division superintendent in accordance with the provisions of this section and the appointee seeks and is granted release from such appointment prior to assuming office, the school board shall be granted a sixty-day period from the time of release within which to make another appointment.

The Board of Education may, in its discretion, extend the time limits prescribed in this section by not in excess of sixty days before acting pursuant to § 22.1-61.

Source: §§ 22-32 and 22-33

REVISER'S NOTE: The date by which the division superintendent must be appointed is changed from May 1 to March 1. Obsolete language relating to the appointment of superintendents in 1945 and 1946 is deleted. A provision permitting two or more divisions to appoint the same superintendent is moved to § 22.1-62.

§ 22.1-61. When Board to appoint superintendent.—In the event that a school board fails to appoint a division superintendent within the time prescribed by § 22.1-60, the State Board shall appoint such division superintendent.

Source: § 22-33

REVISER'S NOTE: Much of § 22-33 has been moved to the preceding section.

§ 22.1-62. Appointment of same person by two or more school divisions; approval of part-time superintendent by State Board.—A. Any two or more school divisions may appoint the same person to be division superintendent.

B. No person may be employed as a part-time division superintendent without the approval of the Board of Education.

Source: §§ 22-32 and 22-37

REVISER'S NOTE: No material change.

§ 22.1-63. Certain officers ineligible for or to hold office of superintendent.—A. No member of the governing body of a county, city or town and no member of a school board shall be eligible for the office of division superintendent of schools in the school division in which he serves.

B. No federal officer or employee, no State officer, except an officer appointed by the Governor,

no State employee, no deputy of such officers, no officer or employee or the deputy of an officer of a city, county or town, no member of the governing body of a county, city or town, and no chairman of any political party shall be eligible to hold the office of division superintendent of schools.

Source: § 22-35

REVISER'S NOTE: Members of county governing bodies are made ineligible to be division superintendents. An obsolete provision exempting a political party chairman in 1954 is deleted. Members of local governing bodies and of school boards are made ineligible to be appointed to and hold the office of division superintendent in the school division which they serve. Other enumerated officers and employees are made ineligible only to hold the office of division superintendent.

§ 22.1-64. Oath of superintendent.—Every division superintendent, before entering upon the discharge of his office, shall take and subscribe the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 of Title 49 of this Code, and a certificate of the clerk of the court in which the oath is administered setting forth the qualification and its record shall be furnished the Superintendent of Public Instruction.

Source: § 22-39

REVISER'S NOTE: Provisions specifying the procedure for taking the oath are deleted to be governed by general law.

§ 22.1-65. Punishment of division superintendents.—A division superintendent may be assessed a reasonable fine, suspended from office for a limited period or removed from office by either the Board of Education or the school board of the division for sufficient cause. A division superintendent may appeal to the appropriate circuit court any decision of the Board of Education or school board to assess a fine against him or to suspend or remove him from office and shall be entitled to a trial de novo on such appeal of whether there was sufficient cause therefor.

Source: § 22-40

REVISER'S NOTE: School boards are authorized to punish and remove division superintendents. The grounds for punishment or removal are changed from neglect of duty and official misconduct to sufficient cause. Superintendents are given the right to a trial de novo in a circuit court if they are punished or removed.

§ 22.1-66. Vacancy in office.—The office of any division superintendent, whether full-time or part-time, shall be deemed vacant upon his engaging in any other business or employment during his term of office as such superintendent unless such superintendent was granted prior approval by the school board or school boards appointing him, or upon his resignation or his removal from office.

Source: § 22-38

REVISER'S NOTE: Provisions relating to vacancies and referencing the authority removing a superintendent are deleted as covered elsewhere in the chapter.

§ 22.1-67. Salary and expenses of superintendent; State and local contributions.—The Board of Education shall prescribe the minimum salaries of division superintendents. Of such minimum salaries the State shall pay sixty per centum.

A school board may, out of local funds, supplement the minimum salary prescribed by the Board of Education. Each school board shall provide for the necessary traveling and office expenses of the division superintendent. Detailed records of all such expenses shall be kept by the division superintendent.

Source: § 22-37

REVISER'S NOTE: The revision provides that the Board of Education is to prescribe the minimum salaries of division superintendents. The minimums set forth in present § 22-37 are

deleted. A provision relating to the appointment of part-time superintendents is moved to § 22.1-62. Procedures for paying the salaries are deleted.

§ 22.1-68. Records.—Each division superintendent shall ensure that an accurate record of all receipts and disbursements of school funds and all statistical information which may be required by the State Board is kept

Source: § 22-36.1

REVISER'S NOTE: A requirement that the superintendent keep the records in his office is deleted.

§ 22.1-69. Superintendent to attend meetings.—The division superintendent or, in his absence or inability to attend, a person designated by him and approved by the school board shall be present at all meetings of the school board except that on affirmative vote of a majority of the members of the school board, attendance of the division superintendent or his designee may be dispensed with at a special meeting of the school board. If matters pertaining to the division superintendent personally are under discussion at any such meeting, he shall remain subject to the call of the school board.

Source: § 22-49

REVISER'S NOTE: A provision for the superintendent's designee to attend in his stead is added. For procedure for school board approval of the designee, see § 22.1-76.

§ 22.1-70. Powers and duties of superintendent.—A division superintendent shall perform such other duties as may be prescribed by law, by the school board and by the State Board.

Source: § 22-36

REVISER'S NOTE: Revised to take into account that duties of superintendents may be prescribed by law as well as by the State Board.

Chapter 7.

General Powers and Duties of School Boards.

§ 22.1-71. School board constitutes body corporate; powers generally.—The duly appointed members shall constitute the school board. Every such school board is declared a body corporate and, in its corporate capacity, is vested with all the powers and charged with all the duties, obligations and responsibilities imposed upon school boards by law and may sue, be sued, contract, be contracted with and purchase, take, hold, lease and convey school property, both real and personal. School board members appointed by district or otherwise shall have no organization or duties except such as may be assigned to them by the school board as a whole.

Source: §§ 22-63 and 22-94

REVISER'S NOTE: The designation of the name and style of school boards is deleted.

§ 22.1-72. Meetings.—Each school board shall meet annually in July at which time the board shall fix the time for holding regular meetings for the ensuing year.

A school board may also hold special meetings when necessary. Each school board shall fix its own procedure for calling and holding any special meeting.

Source: §§ 22-45, 22-46 and 22-97(8)

REVISER'S NOTE: Unnecessary language deleted.

§ 22.1-73. Quorum.—At any meeting of a school board a majority of such board shall constitute

a quorum.

Source: § 22-51

REVISER'S NOTE: No change

§ 22.1-74. Minutes of meetings.—The minutes of all school board meetings shall be signed by the chairman and clerk.

Source: § 22-52

REVISER'S NOTE: Since the Freedom of Information Act requires the keeping of minutes, that requirement is deleted from this section.

§ 22.1-75. Procedure in case of tie vote.—In any case in which there shall be a tie vote of the school board of any school division in a county or if such tie vote occur at a meeting when all the members are not present, the proceedings thereon shall be in conformity with the proceedings prescribed by § 15.1-540, except that the tie breaker appointed pursuant to § 22.1-40, § 22.1-44, § 22.1-47, § 15.1-609, § 15.1-644, § 15.1-708 or § 15.1-770, whichever is applicable, shall cast the deciding vote.

Source: § 22-70

REVISER'S NOTE: The revision provides for appointment of a tie breaker specifically for county school boards. Under present law, the tie breaker appointed for the board of supervisors is utilized.

§ 22.1-76. Chairman; clerk; vice-chairman; deputy clerk; terms; compensation and bonds of clerk and deputy clerk; offices ineligible to serve as clerk and deputy clerk; approval of division superintendent's designee.—A. At its annual meeting each school board shall elect one of its members as chairman, shall approve a designee of the division superintendent to attend meetings of the school board in the absence or inability to attend of the superintendent and on recommendation of the division superintendent shall appoint a clerk of the school board. The school board may also elect one of its members as vice-chairman and may appoint a deputy clerk who shall be empowered to act in all matters in case of the absence or inability to act of the chairman or clerk, respectively, or as otherwise provided by resolution of the school board. The term of the chairman, clerk and any vice-chairman and deputy clerk shall be one year.

B. The school board shall fix the compensation of the clerk and any deputy clerk.

C. The school board shall require the clerk and any deputy clerk each to furnish a corporate surety bond conditioned upon the faithful performance and discharge of his duties as such. The school board shall fix the amount of each bond which shall not be less than ten thousand dollars. The premium for each bond shall be paid by the school board.

D. No mayor, member of the governing body, other officer or deputy officer of a city, town or county, other than the division superintendent, shall be eligible for appointment as clerk or deputy clerk of a school board in such city, town or county.

Source: §§ 22-48, 22-48.1, 22-48.2, 22-71 and 22-98

REVISER'S NOTE: An exception permitting a school board member to serve as clerk or deputy clerk of the school board is deleted.

§ 22.1-77. Duties of clerk of board.—The clerk of the school board shall keep in a separate volume the minutes of the meetings of the school board, including all bids submitted on any building, material, supplies, work, or project to be let to contract by such school board, and in another volume a receipt and disbursement record as prescribed by the Board of Education and shall keep on file vouchers, contracts and other official papers. They shall be subject to such periodical examinations as shall be prescribed or approved by the Board of Education. The clerk shall discharge, under the general direction of the division superintendent, such other duties in connection with the business of the school division as may be required of him by the school board or the Board of Education.

Source: § 22-53

REVISER'S NOTE: Requirements that the clerk's records be accessible to the division superintendent and the public are deleted because covered by the Freedom of Information Act.

§ 22.1-78. Bylaws and regulations.—A school board may adopt bylaws and regulations, not inconsistent with State statutes and regulations of the Board of Education, for its own government, for the management of its official business and for the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school.

Source §§ 22-72(2), 22-97(1) and 22-96

REVISER'S NOTE: School boards are authorized to adopt regulations for the supervision of schools rather than the conduct of schools.

§ 22.1-79. Powers and duties.—A school board shall:

1. See that the school laws are properly explained, enforced and observed;

Source: §§ 22-72(1)

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

Source: §§ 22-72(3) and (4) and 22-97(11)

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, and equipping of necessary school buildings and appurtenances and the maintenance thereof;

Source: §§ 22-72(6) and 22-97(10)

4. Provide for the consolidation of schools whenever such procedure will contribute to the efficiency of the school division;

Source: § 22-72(10) and 22-97(17)

5. Insofar as not inconsistent with State statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

Source: §§ 22-97(2) and 22-5

6. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law.

Source: §§ 22-72(11) and 22-97(15)

REVISER'S NOTE: The provisions of §§ 22-72 and 22-97, setting forth the powers of county and city school boards, respectively, are combined. Much of the two sections has, however, been moved to chapters or articles of this revision dealing with the subject of the power.

§ 22.1-80. Development of park areas adjacent to public schools.—Whenever an undeveloped or unused public park area owned by the Commonwealth or any of its political subdivisions exists adjacent to any public school, the school board is authorized and encouraged to develop or improve such area in extension of such school's programs or facilities, subject to the approval and cooperation of the Commonwealth or political subdivision, as the case may be. In the case of an undeveloped or unused public park area owned by a park authority created by more than one political subdivision, a school board in any such political subdivision is authorized and encouraged

to develop or improve such area in extension of its school program or facilities, subject to approval and cooperation of the park authority.

Source: § 22-72.2

REVISER'S NOTE: No material change.

§ 22.1-81. Annual report.—Unless for good cause shown an extension of time not to exceed fifteen days is granted by the Superintendent of Public Instruction, each school board, with the assistance of the division superintendent, shall, on or before the first day of August of each year, make a report covering the work of the schools for the year ending the thirtieth day of the preceding June to the Board of Education on forms supplied by the Superintendent of Public Instruction.

Source: § 22-54

REVISER'S NOTE: The Superintendent of Public Instruction is authorized to extend for good cause to no later than August 16 the deadline by which a school board must submit its annual report.

§ 22.1-82. Employment of counsel to advise or defend school boards and officials; payment of costs, expenses and liabilities.—A. Notwithstanding any other provision of law, the attorney for the Commonwealth or other counsel may be employed by a school board to advise it concerning any legal matter or to represent it, any member thereof or any school official in any legal proceeding to which the school board, member or official may be a party, when such proceeding is instituted by or against it or against the member or official by virtue of his actions in connection with his duties as such member or official.

B. All costs and expenses of such advice and all costs, expenses and liabilities of such proceedings shall be paid out of funds appropriated to the school board.

C. A school board shall, prior to instituting any legal action or proceeding against any other governmental agency in Virginia or expending any funds therefor, first secure the authorization of the governing body of the county, city or town constituting the school division or the governing bodies of the counties or cities in the school division if the division is composed of more than one county or city except as to legal actions or proceedings arising between the school board and the governing body or bodies.

Source §§ 22-56.1 and 22-72(10a)

REVISER'S NOTE: Revised to permit a school board to employ an attorney when it is the plaintiff in a legal proceeding. Language regarding payment of the costs, expenses and liabilities involved is revised to clarify that they are paid out of school board funds.

§ 22.1-83. Payment of employee's legal fees and expenses.—If an employee of a school board is arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his duties as such employee and such charge is subsequently dismissed or a verdict of not guilty is rendered or if an employee of a school board is made a defendant in any civil action arising out of his actions in connection with his duties as such employee, the school board may pay the legal fees and expenses of such employee.

Source: § 22-56.1:1

REVISER'S NOTE: A distinction is made between civil and criminal actions against an employee. In criminal cases, the employee's legal fees and expenses may only be paid if the charge is dismissed or the verdict is not guilty.

§ 22.1-84. Insurance.—A school board may provide for insurance on school properties against loss by fire and against such other losses as it deems necessary and may provide liability insurance, or may provide self-insurance, for certain or all of its officers and employees and for student teachers and other persons performing functions or services for any school in the school division, even though any such student teacher or other person performs such functions or services

without payment therefor, to cover the costs and expenses incident to liability, including those for settlement, suit or satisfaction of judgment, arising from their conduct in discharging their duties or in performing functions or services for a school. The liability insurance coverage shall be placed with insurance companies authorized to do business in this Commonwealth.

Source: §§ 22-56.2 and 22-72(6a)

REVISER'S NOTE: The language of this section is conformed to that in § 15.1-506.1 and an amendment is suggested to § 15.1-506.1 deleting from it provisions covered by this section. The requirement that liability insurance coverage be placed on a competitive bidding basis is deleted.

§ 22.1-95. Fund for payment of hospital, medical, etc. services provided officers, employees and dependents.—Any school board may establish a fund for the payment of hospital, medical, surgical and related services provided any of its officers, employees and their dependents out of funds appropriated to the school board or by payroll deductions, or both, or by any other mode not prohibited by law.

Source: § 22-56.3

REVISER'S NOTE: No change.

§ 22.1-96. Meetings of people and local committees.—It shall be the duty of each school board to call meetings of the people of the school division for consultation in regard to the school interests thereof when deemed necessary by the school board. The chairman, if present, or, if not, some other member of the school board shall preside at such meetings.

Each school board is authorized to appoint a committee of not less than three nor more than seven members for each public school in the school division. The committee's duty shall be to advise the members of the school board with reference to matters pertaining to the school and to cooperate with the school board in the care of the school property and in the successful operation of the school. Such committee shall serve without compensation.

Source: §§ 22-79 and 22-97(9)

REVISER'S NOTE: No material change.

§ 22.1-97. Judicial review.—Any interested parent, custodian or legal guardian of a pupil attending the public schools in a school division who may feel aggrieved by an action of the school board may, within thirty days after such action, petition the circuit court having jurisdiction in the school division to review the action of the school board. Such review shall proceed upon the petition, the minutes of the meeting at which the school board's action was taken, the orders, if any, of the school board, an attested copy of the transcript, if any, of any hearing before the school board, and such other evidence as the court may deem appropriate. The action of the school board shall be final unless the school board exceeded its authority or abused its discretion.

Source: § 22-57

REVISER'S NOTE: The procedure for judicial review of school board actions is revised to delete an appeal to the division superintendent. The evidence on which the review is to be based is specified. A part of the scope of review is changed from whether the school board acted corruptly to whether the school board abused its discretion. A provision relating to joint schools is deleted as unnecessary.

Chapter 8.

Public School Funds.

Article 1.

State and Local Funds.

§ 22.1-88. Of what school fund to consist.—The funds available to the school board of a school division for the establishment, support and maintenance of the public schools in the school division shall consist of State funds appropriated for public school purposes and apportioned to the school board, local funds appropriated to the school board by a local governing body or such funds as shall be raised by local levy as authorized by law, donations or the income arising therefrom, and any other funds that may be set apart for public school purposes.

Source: § 22-116

REVISER'S NOTE: No material change.

§ 22.1-89. Costs and expenses.—Each school board shall manage and control the funds made available to the school board for public schools and may incur costs and expenses. If funds are appropriated to the school board by major classification as provided in § 22.1-94, no funds shall be expended by the school board except in accordance with such classifications without the consent of the governing body appropriating the funds.

Source: §§ 22-72(9), 22-97(12), and 22-127.

REVISER'S NOTE: No material change.

§ 22.1-90. Annual report of expenditures.—Every school board shall submit at least once each year to the governing body or bodies appropriating funds to the school board a report of all its expenditures.

Source: § 22-97(14).

REVISER'S NOTE: Revised to apply to all school boards rather than city school boards only.

§ 22.1-91. Limitation on expenditures; penalty.—No school board shall expend or contract to expend, in any fiscal year, any sum of money in excess of the funds available for school purposes for that fiscal year without the consent of the tax levying body. Any member of a school board or any division superintendent or other school officer violating, causing to be violated or voting to violate any provision of this section shall be guilty of malfeasance in office.

Source: § 22-120

REVISER'S NOTE: No material change.

§ 22.1-92. Estimate of moneys needed for public schools.—It shall be the duty of each division superintendent to prepare, with the approval of the school board, and submit to the governing body or bodies appropriating funds for the school division, by the date specified in § 15.1-160, the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division. The estimate shall set up the amount of money deemed to be needed for each major classification prescribed by the Board of Education and such other headings or items as may be necessary.

Source: §§ 22-120.3 and 22-120.5

REVISER'S NOTE: Provisions for an alternative estimate based on the amount of money deemed to be needed for educational purposes is deleted so that only one estimate is called for. The estimate prepared by the division superintendent must be approved by the school board.

§ 22.1-93. Approval of annual budget for school purposes.—Notwithstanding any other provision of law, including but not limited to Chapter 4 (§ 15.1-160 et seq.) of Title 15.1 of the Code of Virginia, the governing body of a county shall prepare and approve an annual budget for educational purposes by May first or within thirty days of the receipt by the county of the estimates of State funds, whichever shall later occur, and the governing body of a municipality shall prepare and approve an annual budget for educational purposes by May fifteen or within thirty days of the receipt by the municipality of the estimates of State funds, whichever shall later

occur.

The Superintendent of Public Instruction shall, no later than the fifteenth day following final adjournment of the Virginia General Assembly in each session, submit estimates to be used for budgetary purposes relative to the Basic School Aid Formula to each school division. Such estimates shall be for each year of the next biennium or for the then next fiscal year.

Source: § 22-127

REVISER'S NOTE: No material change.

§ 22.1-94. Appropriations by county, city or town governing body for public schools.—A governing body may make appropriations to a school board from the funds derived from local levies and from any other funds available, for operation, capital outlay and debt service in the public schools. Such appropriations shall be not less than the cost apportioned to the governing body for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law. The amount appropriated by the governing body for public schools shall relate to its total only or to such major classifications as may be prescribed by the Board of Education. The appropriations may be made on the same periodic basis as the governing body makes appropriations to other departments and agencies.

Source: § 22-127

REVISER'S NOTE: A provision is added requiring local appropriations to be not less than the cost apportioned to the governing body for the cost of maintaining an educational program meeting the standards of quality.

§ 22.1-95. Duty to levy school tax.—Each county, city and town is authorized, directed and required to raise money by a tax on all property subject to local taxation at such rate as will insure a sum which, together with other available funds, will provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law.

Source: § 22-126.1

REVISER'S NOTE: No material change.

§ 22.1-96. Proration of operating cost, expenditures for capital outlay purposes and indebtedness for construction of buildings in certain school divisions.— In a school division composed of part or all of more than one county or city, the operating cost as well as the expenditures for capital outlay purposes and indebtedness for the construction of school buildings shall be on a pro rata basis on enrollment of pupils unless some other basis is agreed upon by the division school board and the governing bodies of the participating counties and cities.

Source: § 22-100.9

REVISER'S NOTE: This section is moved to this chapter from the article relating to school boards of divisions not composed of a single county or city and is revised to recognize that counties and cities can be divided in the formation of school divisions.

§ 22.1-97. Procedure if county, city or town fails to appropriate sufficient educational funds.—Whenever the governing body of a county, city or town fails or refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law, the Board of Education shall notify the Attorney General of such failure or refusal in writing signed by the president of the Board. Upon receipt of such notification, it shall be the duty of the Attorney General to file in the circuit court for the county, city or town a petition for a writ of mandamus directing and requiring such governing body to make forthwith such appropriation as is required by law.

The petition shall be in the name of the Board of Education, and the governing body shall be made a party defendant thereto. The court may, in its discretion, cause such other officers or

persons to be made parties defendant as it may deem proper. The court may make such order as may be appropriate respecting the employment and compensation of an attorney or attorneys for any party defendant not otherwise represented by counsel. The petition shall be given first priority on the docket of such court and shall be heard expeditiously in accordance with the procedures prescribed in Article 2 of Chapter 25 (§ 8.01-644 et seq.) of Title 8.01 of the Code of Virginia and the writ of mandamus shall be awarded or denied according to the law and facts of the case and with or without cost, as the court may determine. The order of the court shall be final upon entry. Any appeal therefrom shall be heard and disposed of promptly by the Supreme Court next after habeas corpus cases already on the docket.

Source: § 22-21.2

REVISER'S NOTE: Revised to include town school divisions.

§ 22.1-98. *Reduction of State aid when length of school term below one hundred eighty days.*—If the length of the term of any school in a school division is less than one hundred eighty teaching days in any school year, the amount paid by the State from the Basic School Aid Fund shall, except as hereinafter provided or as otherwise provided by law, be reduced in the same proportion as the length of the term has been reduced from one-hundred-eighty teaching days. The Board of Education may authorize any school in a school division which is operated on a year-round basis on a forty-five/ fifteen-day schedule and which is unable to meet the one-hundred-eighty-day requirement because severe weather conditions, energy shortages or power failures have required the closing of such school to make up the teaching days lost by making up the number of instructional hours equivalent to such teaching days without a proportionate reduction in the amount of basic school aid paid by the State. The Superintendent of Public Instruction, with the approval of the Board of Education, shall authorize such reduction as may be necessary in the length of the term for any school or school division without a proportionate reduction in the Basic School Aid Fund when severe weather conditions, energy shortages or power failures have required, as determined in accordance with regulations of the Board of Education, the closing of such school or the schools in such school division in excess of fifteen days in any school year if at least fifteen teaching days are made up; provided that if the professional personnel of any such school division actually render service for less than the contracted period for such school year and if their compensation is reduced because of insufficient funds or other reason, the proportionate amount paid by the State for the personnel component of basic school aid for such school year shall be reduced pro rata. Notwithstanding any provision of law to the contrary, the school board of any school division in which the length of term for any school or for the school division is reduced as provided in this section may pay its professional personnel such salary as they would have received if the term had not been so reduced. The Board of Education shall approve for each school division the closing date for the school year beyond which days would not be required to be made up.

With the exception of the Basic School Aid Fund as provided for above, the State may not distribute funds to a locality for costs not incurred when the school term is reduced below one hundred eighty days.

Source: § 22-5

REVISER'S NOTE: No material change. Power of school boards to determine the length of the school term is included in § 22.1-79.

§ 22.1-99. *Approval and certification of apportionment of school funds.*—Subject to approval or amendment by the Board of Education, the Superintendent of Public Instruction shall apportion the State funds appropriated for public school purposes among the several school divisions and, when approved, the Superintendent of Public Instruction shall certify to the Comptroller such apportionment for the payment of the same.

Source: § 22-140

REVISER'S NOTE: No material change.

§ 22.1-100. *Unexpended school and educational funds.*—All sums of money derived from the State which are unexpended in any year in any school division shall revert to the fund of the State from which derived unless the Board of Education directs otherwise. All sums derived from local funds

unexpended in any year shall remain a part of the funds of the governing body appropriating the funds for use the next year, but no local funds shall be subject to redivision outside of the locality in which they were raised.

Source: § 22-138

REVISER'S NOTE: No material change.

§ 22.1-101. Increase of funds when certain nonresident pupils attend schools; how increase computed and paid.—State school funds to be distributed to any school division in which any child not a resident of such school division attends its public schools, when such child has been placed in foster or other such care within the geographical boundaries of the school division by any State or local agency authorized so to do under the laws of Virginia or has been placed in an orphanage or children's home which exercises legal guardianship rights, shall be increased proportionately to reimburse such school division for the cost of attendance on the part of such child . This increase for such reimbursement shall be made from school funds distributable to the school division of the residence of the child if it was a resident of this Commonwealth at the time of such placement.

This reimbursement shall be computed and paid as follows: The school division in which any such child so placed attends public school shall keep an accurate record of the child's attendance and shall certify by July first following the end of the school year to the State Board: (i) the number of days which such child attended school, (ii) the amount per child, exclusive of the children herein referred to, spent from local funds in educating children, (iii) the school division of residence of such child if a resident of the Commonwealth at time of placement or that it was not a resident of the Commonwealth at time of placement if such was the case, (iv) the school division from which such child was sent and (v) the official, agency or person by whom or which the child was so placed. The State Board shall then, from State school funds available for the succeeding year, deduct from the amount for distribution to the school division of residence of such child an amount necessary to reimburse the school division in which the child attended school for the cost to such school division of his attendance.

When any such child so placed under authority of any law of Virginia was not a resident of this Commonwealth and the circumstances were such that there was no obligation as to education of such child upon any school division in this Commonwealth at the time it was so sent and placed in the school division where it so attends public school, the school division in which the child was so placed and so attends public school shall be reimbursed out of the general State funds appropriated for public education and distributable to the school divisions, and the State Board is authorized to determine finally whether this proviso or the principal provisions of this section shall be applied in any case in which any question is raised.

Source: § 22-142

REVISER'S NOTE: Revised to refer to school divisions rather than counties and cities.

Article 2.

Special Taxes; Uniform Levies.

§ 22.1-102. Special tax for capital expenditures or payment of indebtedness or rent.—For capital expenditures and for the payment of indebtedness or rent, a governing body may, in addition to the levy and appropriation required under the provisions of §§ 22.1-94 and 22.1-95, levy a special county tax, a special district tax, a special city tax or a special town tax, as the case may be, on all property subject to local taxation. Such levy or levies shall be at such rate or rates as the governing body levying the tax may deem necessary for the purpose or purposes for which levied, except that where the tax is for raising funds for capital expenditures the rate shall not be more than two dollars and fifty cents on each one hundred dollars of the assessed value of such property in any one year.

Source: § 22-128

REVISER'S NOTE: No material change.

§ 22.1-103. Uniform county levy in lieu of district levies; request by school board; petition for referendum.—In any county in which the governing body imposes district levies for school purposes, the school board may, by resolution, request the governing body to impose a uniform county levy for school purposes with the proceeds to be expended as provided by law and such expenditures shall include the repayment of district school obligations. Upon the receipt of any such resolution the governing body shall petition the circuit court of the county to fix a date for a referendum to obtain the sense of the qualified voters upon such change.

Source: § 22-130.1

REVISER'S NOTE: No material change.

§ 22.1-104. Same; order for referendum; notice.—Upon receiving such petition, the court shall enter an order setting a date for the referendum in accordance with § 24.1-165. A certified copy of the order shall be served upon the election officials of the county. Notice of the date of the referendum and the purpose thereof shall be posted on the front door of the courthouse.

Source: § 22-130.2

REVISER'S NOTE: No material change.

§ 22.1-105. Same; conduct of referendum; certification of results.—On the day named in the order the election officials of the county shall open a poll and take the sense of the voters upon the question set forth in the order. The referendum shall be conducted in accordance with § 24.1-165 of the Code and the results thereof ascertained and certified in accordance therewith.

Source: § 22-130.3

REVISER'S NOTE: No change.

§ 22.1-106. Same; levy in accordance with results of referendum.—If a majority of those voting in the referendum vote against a uniform county school levy the governing body may levy such taxes as it deems best, subject to law. But if a majority of those voting vote for a uniform county school levy the governing body of the county thereafter shall, for each succeeding tax year, lay a uniform county school levy and the proceeds thereof shall be expended as provided by law for school purposes including the repayment of district school obligations.

Source: § 22-130.4

REVISER'S NOTE: No material change.

Article 3.

Other Funds; Temporary Loans; Trust Funds.

§ 22.1-107. Glebe lands and church property; revenue and income therefrom.—All glebe lands and church property, or the proceeds thereof, which may be appropriated under § 57-3 for education shall be vested in the school board of the school division within whose boundaries the property lies and shall be managed and applied by the school board according to the wishes of the donor. The revenue or income therefrom shall be applied as that portion of the Literary Fund which is allotted to such school division, subject to the same laws and penalties.

Source: § 22-118

REVISER'S NOTE: No material change.

§ 22.1-108. Money derived from "forest reserve act".—All federal funds paid to the Commonwealth arising from the forest reserve shall be paid to the State Treasurer to be distributed

and disposed of as provided in this section.

The treasurer of each school division within whose boundaries there is located any land owned by the United States government and held as a forest reserve shall ascertain the area of such land so situated in the school division and the reserve in which the same is located and make a report thereof to the Comptroller. Upon receipt of such information from the treasurer, the Comptroller shall apportion all federal funds arising from such forest reserve among the school divisions in which such forest reserve is located according to the area in each school division. The Comptroller shall keep separate accounts of all federal forest reserve funds received by him.

Source: § 22-119

REVISER'S NOTE: Provisions relating to the procedure for paying the funds out of the State treasury and exempting these funds from appropriation by local governing bodies are deleted as unnecessary.

§ 22.1-109. Federal funds apportioned to school divisions containing lands leased for flood control purposes.—All funds paid to the State Treasurer by the Secretary of the Treasury of the United States under the provisions of § 5 of Public Law 526 of the 79th Congress, end session, shall be apportioned by the State Comptroller among the school divisions in which lands acquired by the United States for flood control purposes were leased, according to the amounts derived from each school division as stated by the Secretary of the Treasury of the United States.

Source: § 22-119.1

REVISER'S NOTE: This section is made applicable to all school divisions.

§ 22.1-110. Temporary loans to school boards.—No school board shall borrow any money in any manner for any purpose without express authority of law. Any loan negotiated in violation of this section shall be void. Subject to the approval of the governing body or bodies appropriating funds to the school board, any school board is authorized to borrow money, when necessary, not to exceed in the aggregate one half of the amount produced by the school levy for the school division for the year in which such money is so borrowed or one half of the amount of the cash appropriation made to such school board for the preceding year or, on school divisions for which there is both a school levy and appropriation, one half of the amount of each. Such loans shall be evidenced by notes or bonds negotiable or nonnegotiable, as the school board determines, and shall be repaid within one year of their date; provided that loans made to purchase new school buses to replace obsolete or worn out equipment shall be repaid within not less than five years of their dates.

Source: § 22-120

REVISER'S NOTE: A six percent limitation on the interest rate payable on these loans is deleted. The aggregate amount a school board that is funded through both a school levy and appropriation may borrow is made one half of both the levy and appropriation. A prohibition on spending funds in excess of those available for school purposes is moved to § 22.1-91.

§ 22.1-111. Trust funds.—In cases where funds or other property are held by trustees for purposes of public school education, a school board shall have the power and duty to examine into the manner in which such trusts are administered. All such trustees shall render reports to the school board whenever called on and afford every facility needed by the school board to obtain a full understanding of all the points connected with such administration. If such examination reveals any defect or irregularity in the administration of such trust funds or other property, it shall be the duty of the school board to institute prompt proceedings for carrying the matter before the courts. In cases where donations or other funds have been set apart for the education of the poor, a school board is authorized to receive and apply the same in connection with the public schools in obedience to the will of the donor. Nothing in this section shall be construed to apply to the twenty-fifth clause of the will of Samuel Miller, deceased, or in anywise to affect or impair any rights or interests whatsoever, either public or private, arising under such clause.

Source: § 22-144

REVISER'S NOTE: Provisions for school boards' employing counsel and paying attorney's fees with court approval are deleted. Employment of counsel is governed by § 22.1-82.

§ 22.1-112. Deposit and disbursement of donations.—Any donations made to the Board of Education or to any member thereof for the benefit of any public school or schools in the Commonwealth shall, upon acceptance, be paid into the State treasury and kept in a separate account on the books of the Comptroller. Such donations shall be expended by the Board in accordance with the wishes of the donor.

Source: § 22-145

REVISER'S NOTE: Procedures for paying donations into and out of the treasury are deleted as unnecessary. A condition that donations be accepted is added.

Article 4.

Town School Division Funds.

§ 22.1-113. Town school division's share of school funds.—A. Funds to be paid by county treasurer to town treasurer. - For the benefit of each school division composed of a town, the treasurer of the county in which the town is located shall pay over to the town treasurer, if and when properly bonded, the following funds to be used for public school purposes within such town school division:

1. From the amount derived from a county school levy for public school purposes, a sum equal to the pro rata amount from such levy derived from such town;

2. From federal funds allocated to and received by the county on the basis of federally connected pupils for operations or capital outlay purposes, to be apportioned between the county and the town on the same basis of distribution as used in making the allotment of such federal funds to the county and in the ratio that such federally connected pupils residing in the town bear to the total of such federally connected pupils residing in the county including the town and which were included in the county's application for such federal funds.

B. Division located in adjoining counties. - Where a town school division is located partly in each of two adjoining counties and operated by a town school board created or constituted by the charter of such town, each county treasurer shall pay over to the town treasurer, if and when properly bonded, from the amount derived from a county school levy or appropriations in each respective county for public school purposes, a sum equal to the pro rata amount from such levy or appropriations derived from such town to be used for public school purposes within the town school division.

C. State funds from special sources. - None of the provisions of this section shall require the county treasurer to pay over to the town treasurer of a town school division any funds received from the State from special sources, including funds distributed to the localities from the profit realized from the operation of the State alcoholic beverage control system, when the town has received direct appropriations or allocations from the State from the same special sources.

Source: § 22-140.1

REVISER'S NOTE: Provisions relating to the town school division's share of State funds are deleted as such funds are paid directly to the town school divisions.

§ 22.1-114. Town school division's share of county school funds.—For the benefit of each school division composed of a town, the governing body of the county in which such town is located shall require the county treasurer to pay over to the town treasurer, if and when properly bonded, the following funds to be placed in the general fund of the town, subject to appropriation by the governing body of the town as it may deem necessary:

From the amount derived from a general or unit levy for all county purposes, a sum equal to

such town's pro rata share of the general or unit levy receipts derived from the taxable property within the town, including real estate, tangible personal property, merchants' capital and machinery and tools. The pro rata share of the town shall be determined by allocating to the town the same percentage of general or unit levy receipts as is appropriated by the county governing body for the support of public schools.

Source: § 22-141.2

REVISER'S NOTE: No material change.

Article 5.

Treasurers; Accounts.

§ 22.1-115. Statements of funds available.—The State Board, in conjunction with the Comptroller, shall establish and require of each school division a modern system of accounting for all school funds, State and local, and the treasurer or other fiscal agent of each school division shall render each month to the school board a statement of the funds in his hands available for school purposes.

Source: § 22-143

REVISER'S NOTE: No material change.

§ 22.1-116. How and by whom funds for school division kept and disbursed.—The treasurer or comparable officer of each county, city or part thereof constituting a school division or town, if the town constitutes the school division shall be charged with the responsibility for the receipt, custody and disbursement of the funds of the school board and shall keep such funds in an account or accounts separate and distinct from all other funds.

Source: §§ 22-132 and 22-133

REVISER'S NOTE: No material change.

§ 22.1-117. Fiscal agent of certain school divisions.—The fiscal agent for the school board of a school division composed of part or all of more than one county or city shall be the treasurer of one of the participating counties or cities, as agreed upon by the division school board and the governing bodies. In the event agreement on the selection of a fiscal agent cannot be reached, the Board of Education shall designate such fiscal agent. For his services as fiscal agent, the treasurer shall be paid such salary as the school board and treasurer may agree upon. In the event the school board and the treasurer so designated cannot agree on such compensation, the amount of salary to be paid shall be determined by a court of competent jurisdiction. The amount so fixed by the court shall be binding upon both the treasurer and the school board. Nothing contained in this section shall affect the regular salary or expense allowance of the treasurer as fixed annually by the State Compensation Board.

Source: § 22-100.10

REVISER'S NOTE: The fact that counties and cities can be divided in the formation of school divisions is taken into account. See Article 6 of Chapter 5 of this revision.

§ 22.1-118. Handling of funds for joint school; county or city treasurer as fiscal agent.—The treasurer of a county or city in which a joint school is located shall be the fiscal agent of such school and shall receive and disburse the funds thereof. All disbursements shall be by warrant signed by the chairman and clerk of the committee for control of such school and countersigned by such treasurer as fiscal agent.

For his services as fiscal agent, the treasurer shall be paid such salary as may be agreed upon by the committee for control of the joint school and treasurer. In the event they cannot agree, then the amount of salary to be paid shall be submitted to the circuit court of the county or city in

which the school is located for hearing and determination, and the amount so fixed by the court shall be binding upon both the treasurer and the committee. Nothing contained in this section shall affect the regular salary allowance of the treasurer as fixed annually by the State Compensation Board.

The provisions of this section shall not apply to the property and school known as New London Academy leased under the provisions of chapter 174 of the Acts of Assembly of 1887, approved May 10, 1887, and acts amendatory thereof, nor shall they apply in any county having a population of more than thirty thousand nine hundred but less than thirty-one thousand.

Source: § 22-133.1

REVISER'S NOTE: No material change.

§ 22.1-119. No commission for treasurers.—No treasurer shall receive any commission upon any money loaned from the Literary Fund, upon donations by individuals or foundations, upon funds from insurance on any school building destroyed by fire, upon money derived from the sale of school property or upon funds derived from loans or bond issues.

Source: § 22-134

REVISER'S NOTE: No material change.

§ 22.1-120. Settlement by local treasurer.—Treasurers or other fiscal agents shall settle with school boards for the school funds as of June thirtieth of each year not later than August fifteenth of each year.

Source: § 22-135

REVISER'S NOTE: No material change.

§ 22.1-121. Proceedings against officers, etc., to compel settlements of accounts.—The school board shall have the power and duty, in the event of any delinquency or any irregularity in the acts of any treasurer, officer, agent or employee handling school funds or of any member of such school board, to take such steps and institute such legal proceedings as may be necessary and proper in order to secure complete settlement of the accounts of such treasurer, officer, agent, employee or member of such school board and a full and clear exhibit of the transactions of such treasurer, officer, agent, employee or member of such school board in connection with the receipts and disbursements of any funds for public school purposes and to compel the payment of any balances that may be in the hands of such treasurer or other person. The school board shall have the power and duty to take such steps and institute such legal proceedings as may be necessary and proper to secure a complete settlement of the accounts of any trustees to whom any funds or other property for the purposes of public school education shall have been entrusted and to secure a full and proper administration of such trusts; and to this end it may institute suit for the removal, for good cause shown, of such trustee or trustees and for the appointment of new trustees either to replace those removed or to fill vacancies and may institute such suits or actions as may be necessary to compel the payment of any balances in the hands of the old trustee or trustees so removed or to correct any defect or irregularity whatever in the administration of such trust fund or other property.

Source: § 22-136

REVISER'S NOTE: A provision relating to the Commonwealth's attorney acting as attorney for the school board is deleted. See § 22.1-82.

Article 6.

Payment of Claims.

§ 22.1-122. Approval and payment of claims; warrants; prohibited acts.—A. A school board shall

examine all claims against it and, when approved, shall order or authorize the payment thereof. A record of such approval and order or authorization shall be made in the minutes of the school board. Payment of each claim shall be ordered or authorized by a warrant drawn on the treasurer or other officer charged by law with the responsibility for the receipt, custody and disbursement of the funds of the school board. The warrant shall be signed by the chairman or vice-chairman of the school board, countersigned by the clerk or deputy clerk thereof, made payable to the person or persons, firm or corporation entitled to receive such payment and recorded in the form and manner prescribed by the Board of Education. There shall be stated on the face of the warrant the purpose or service for which such payment is drawn and the date of the order entered or authority granted by the school board.

Source: § 22-97(13) and 22-75

B. A school board may, in its discretion by resolution, appoint an agent, and a deputy agent to act for the agent in his absence or inability to perform this duty, to examine and approve such claims and, when approved by him or his deputy, to order or authorize the payment thereof. A record of such approval and order or authorization shall be made and kept with the records of the school board. Payment of each such claim so examined and approved by such agent or his deputy shall be ordered or authorized by a warrant drawn on the treasurer or other officer charged by law with the responsibility for the receipt, custody, and disbursement of the funds made available to the school board. The warrant shall be signed by such agent or his deputy and countersigned by the clerk or deputy clerk of the school board, payable to the person or persons, firm or corporation entitled to receive such payments; provided, however, that when the agent appointed by the school board is the division superintendent and the division superintendent and clerk is one and the same person, all such warrants shall be countersigned by the chairman or vice-chairman of the school board and when the deputy agent and deputy clerk is one and the same person, the warrant shall be countersigned by either the clerk or the agent of the school board. There shall be stated on the face of the warrant the purpose or service for which such payment is made and also that such warrant is drawn pursuant to authority delegated to such agent or his deputy by the school board on the day of The school board shall require such agent and his deputy to furnish a corporate surety bond conditioned upon the faithful performance and discharge of the duties herein assigned to each such official. The school board shall fix the amount of such bond or bonds and the premium therefor shall be paid out of the funds made available to the school board.

Source: §§ 22-97(13) and 22-73

C. The school board of any school division composed of a county may provide, by resolution, for the drawing of special warrants in payment of compensation, when such compensation has been earned and is due, for (i) all employees and school bus operators under written contract, (ii) upon receipt of certified time sheets or other evidence of service performed, the payment of all other employees whose rates of pay have been established by the school board or its properly delegated agent, and (iii) for payment on contracts for school construction projects according to the terms of such contracts. All such special warrants so authorized shall be signed by the clerk or deputy clerk of the school board and countersigned by the division superintendent or the chairman or vice-chairman of the school board. When the division superintendent and clerk is one and the same person, such special warrants shall be countersigned by such chairman or vice-chairman. Such payrolls and contracts so paid shall be reviewed and approved by the school board at its next regular meeting.

Source: §§ 22-78

D. Any warrant provided for in this section may be converted into a negotiable check when the name of the bank upon which the funds stated in the warrant are drawn or by which the check is to be paid is designated upon its face and is signed by the treasurer or other officer charged by law with the responsibility for the receipt, custody and disbursement of the funds of the school board.

Source: 22-97(13) and 22-76

E. The acts prohibited by § 15.1-549 with respect to the ordering of the issuance of warrants by a board of supervisors and the signing and countersigning of such warrants by the clerk, deputy clerk, chairman, and vice-chairman of such board shall apply to the ordering of the issuance of

warrants by a school board and to the signing and countersigning thereof by the chairman, vice-chairman, clerk, deputy clerk, agent and deputy agent of the school board. Any clerk, deputy clerk, agent, deputy agent or member of any school board who violates any provision of this section shall be guilty of both a Class 3 misdemeanor and malfeasance in office.

Source: § 22-77

REVISER'S NOTE: Subsection B. is made applicable to all school boards not just those of cities and Arlington and Fairfax counties. Subsection E. is made applicable to the warrants of all school boards not just those of county school boards.

§ 22.1-123. *Petty cash for payment of claims.*—Any school board may by resolution establish one or more petty cash funds, not exceeding five hundred dollars each, for the payment of claims arising from commitments made pursuant to provisions of law.

Any person into whose hands any such fund is placed may pay such claims therefrom without necessity of prior receipt and audit of the claims by the school board and without approval and issuance of the warrant of the school board.

The clerk of the school board at the meeting of the school board in the month following the month in which any claim has been paid shall report this action to the school board for approval and reimbursement.

Each such person shall give bond with surety in the amount of one thousand dollars, provided that additional bond shall not be required of any person already bonded in the required amount.

Source: § 22-74

REVISER'S NOTE: No material change.

§ 22.1-124. *Officers may not purchase warrants for less than face value.*—It shall be unlawful for any county, municipal or State officer to acquire by purchase, directly or indirectly, at less than its face value any warrant or other evidence of indebtedness issued for any school purpose whatsoever by the governing body of any county, city or town or by any school board. Any violation of the provisions of this section shall be a Class 3 misdemeanor. Upon the conviction of any such officer of a violation of this section, his office shall be deemed vacant.

Source: § 22-212

REVISER'S NOTE: A reference to district officers is deleted. Warrants of towns for school purposes are included.

Chapter 9.

School Property.

Article 1.

General Provisions.

§ 22.1-125. *Title to property vested in school board; exception; extent of authority.*—A. The title to all school property, both real and personal, within a school division shall be vested in the school board, except that by mutual consent of the school board of a school division composed solely of part or all of a city and the governing body of the city, the title to property may vest in the city.

B. The official care and authority of a school board shall cover all territory included in the geographical boundaries of the school division and all school property located without and contiguous to the boundaries of such school division when the title to such property is vested

either in the school board or a city; provided, however, that school property lying without the corporate limits of a city but not adjacent thereto on January one, nineteen hundred sixty-eight, shall be subject to the official care and authority of the school board of such city or the city.

Source: §§ 22-94 and 22-95.

REVISER'S NOTE: The provisions of both subsections have been extended from city school divisions to all school divisions.

§ 22.1-126. Property given, devised or bequeathed to school board.—When any real or personal property is given, devised or bequeathed to any school board or for public school purposes, it shall be vested in the school board unless inconsistent with the terms of the gift, devise or bequest and shall be managed and applied by the school board according to the wishes of the donor or testator. The school board shall, in addition to the regular settlement which it is required to make of all school funds, settle annually before the commissioner of accounts so far as the management of the property so bequeathed or devised is concerned, and the court having jurisdiction shall have the right to compel such a settlement, as is provided for in § 26-18.

In the case of any change in the boundaries of any school division, the school board shall make provision for continuing the fulfillment of the purposes of such donor or testator as far as practicable and settlement shall be made as provided for above.

Source: § 22-148

REVISER'S NOTE: Extended to cover town school boards and property given for public school purposes.

§ 22.1-127. Condemnation of land for school purposes; right of entry.—A school board shall have the power to exercise the right of eminent domain and may condemn land or other property or any interest or estate therein, including dwellings, yards, gardens or orchards, necessary for public school purposes pursuant to the provisions of Chapter 1.1 of Title 25 of this Code. To determine the suitability of the land for school purposes, a school board shall have the same right of entry under the same conditions as the State Highway and Transportation Commissioner under § 33.1-94. A school board shall have no authority to locate any school which was not begun prior to January one, nineteen hundred seventy-eight, on property outside the boundaries of the school division unless the school board first obtains the approval of the governing body of the county, city or town in which a proposed school will be located.

Source: §§ 22-97 and 22-149.

REVISER'S NOTE: Condemnation procedures to be followed are deleted and a cross reference to the applicable provisions of general law inserted. The last sentence is extended from city school boards to all school boards.

§ 22.1-128. Title to real estate for public uses to be approved by attorney-at-law.—Whenever any school board purchases real estate or acquires title thereto, the title to such real estate shall be examined and approved in writing by a competent and discreet attorney-at-law selected by the school board. Such approval shall be filed with the clerk of the school board along with the recorded deed or other papers by which the title is conveyed. No contract for any such purchase shall bind the school board unless and until the title to such real estate is thus approved.

The school board shall pay to such attorney a reasonable compensation for his services.

Source: § 22-150

REVISER'S NOTE: Provisions providing for an appeal of the attorney's decision are deleted.

§ 22.1-129. Surplus real property; sale or exchange of personal property; lease of property.—A. Whenever a school board determines that it has no use for some of its real property, the title to such real property shall be conveyed to the county or city or town comprising the school division or, if the school division is composed of more than one county or city, to the county or city in which the property is located. To convey the title, the school board shall adopt a resolution that

such real property is surplus and shall file such resolution with the clerk of the circuit court where the deed to such property is recorded who shall record the resolution with the deed. Upon the filing of the resolution, the title shall vest in the appropriate county, city or town.

B. A school board shall have the power to lease, either as lessor or lessee, real and personal property and the power to sell or exchange personal property in such manner and upon such terms as it deems proper. As lessee of real property, a school board shall have the power to expend funds for capital repairs and improvements on such property, provided that the lease is for a term equal to or longer than the useful life of such repairs or improvements.

Source: § 22-161

REVISER'S NOTE: Because the funds recieved from the sale of a school board's real property are subject to appropriation by the appropriate governing body, the revision proposes that title to surplus property be transferred to the county, city or town for disposal by it and a procedure is prescribed. The revision permits a school board to dispose of personal property as it sees fit without regard to the value of the property.

§ 22.1-130. Authority to acquire property from United States or any agency thereof.—A. Notwithstanding the provisions of any other law or of any charter or any ordinance, any school board may, by resolution, authorize the acquisition and purchase from the United States or any agency thereof of any equipment, supplies, materials, or other property, real or personal, in such manner as such school board may determine.

B. It is the purpose of this section to enable school boards to secure from time to time promptly the benefits of acquisitions and purchases as authorized by this section, to aid them in securing advantageous purchases, to prevent unemployment and thereby to assist in promotion of public welfare and to these ends school boards shall have power to do all things necessary or convenient to carry out such purpose, in addition to the expressed power conferred by this section. This section is remedial in nature and the powers hereby granted shall be liberally construed.

Source: § 22-151

REVISER'S NOTE: No material change.

§ 22.1-131. Boards may permit use of school property; general conditions.—A school board may permit the use, upon such terms and conditions as it deems proper, of such school property as will not impair the efficiency of the schools. The school board may authorize the division superintendent to permit use of the school property under such conditions as it deems proper. The division superintendent shall report to the school board at the end of each month his actions under this section. Permitted uses may include use as voting places in any primary, regular or special election and operation of a local or regional library pursuant to an agreement between the school board and a library board created as provided in § 42.1-35 of this Code.

Source: §§ 22-164 and 22-164.1

REVISER'S NOTE: No material change.

§ 22.1-132. Boards may impose certain specific conditions.—Permits for the use of school property may contain, among other matters, (i) provisions limiting the use of the property while classes are in session and (ii) an undertaking by the lessee to return the property so used in a good condition as when leased, normal wear and tear excepted.

Source: § 22-164.2

REVISER'S NOTE: No material change.

§ 22.1-133. Flags.—The flags of the United States of America and of the Commonwealth shall be flown in accordance with protocol and in an appropriate place at every public school. A flag of the Commonwealth shall be furnished by the Commonwealth for each new public school upon request of the school board directed to the Governor.

Source: §§ 7.1-36 and 22-165

REVISER'S NOTE: Clarified to require the flying of both flags. Specific directions as to the display of the flags are deleted.

§ 22.1-134. Maintenance, etc., of school buildings and buses by county department of public works.—Insofar as permitted by Article VIII, § 5, and Article VIII, § 7, of the Constitution of Virginia, in any county operating under an optional form of organization and government provided for in Article 3 (§ 15.1-622 et seq.) of Chapter 13 of Title 15.1 of the Code of Virginia, the board of supervisors of such county, at the request of the county school board, may transfer the maintenance of school buildings and grounds and operation and maintenance of school buses from the department of education to the department of public works; and such board of supervisors, at the request of the county school board, may authorize the construction of new school buildings and additions to existing school buildings under direction of its department of public works.

Source: § 22-151.1

REVISER'S NOTE: No material change. A ratifying provision is deleted but covered under clause 8 of the proposed bill.

Article 2.

School Buildings.

§ 22.1-135. Health and decency.—No public school shall be allowed in any building which is not in such condition and provided with such conveniences as are required by a due regard for decency and health.

Source: §§ 22-157 and 22-97(10).

REVISER'S NOTE: No change.

§ 22.1-136. Duty of division superintendent to close buildings.—When a public school building appears to the division superintendent to be unfit for occupancy, it shall be his duty to close the same and immediately to give notice thereof in writing to the members of the school board. No public school shall be held therein nor shall any State or local funds be applied to support any school in such building until the division superintendent shall certify in writing to the school board that he is satisfied with the condition of such building and with the appliances pertaining thereto.

Source: §§ 22-158 and 22-97(10).

REVISER'S NOTE: No material change.

§ 22.1-137. Fire drills.—In every public school there shall be a fire drill at least once every week during the first month of each school session, and oftener if necessary, in order that pupils may be thoroughly practiced in such drills. During the remainder of the school session fire drills shall be held at least monthly.

Source: § 22-156

REVISER'S NOTE: The remainder of § 22-156 is deleted as superceded by the Uniform Statewide Building Code and other laws.

§ 22.1-138. Minimum standards for public school buildings.—The Board of Education shall prescribe by regulation minimum standards for the erection of or addition to public school buildings governing instructional, operational, health and maintenance facilities where these are not specified in the Uniform Statewide Building Code.

Source: New

REVISER'S NOTE: State Board's authority to prescribe standards for school buildings is limited to that not covered by the Uniform Statewide Building Code.

§ 22.1-139. Notification of Superintendent of Public Instruction.—A school board, before entering into any contract or obligation to expend any funds for school construction, shall notify the Superintendent of Public Instruction, who shall advise the school board of the services which he can render in connection therewith.

Source: § 22-166.2

REVISER'S NOTE: Provisions relating to the preparation of plans and other specific services provided by the Board of Education have been deleted and the application of the section extended to all school construction whether or not financed from State funds.

§ 22.1-140. Plans for buildings to be approved by division superintendent and State Superintendent.—No public school building or addition or alteration thereto, for either permanent or temporary use, shall be advertised for bid, contracted for, erected, or otherwise acquired until the plans and specifications therefor have been approved in writing by the division superintendent and submitted to and approved by the Superintendent of Public Instruction.

No such plans and specifications shall be approved unless they are in compliance with the regulations of the Board of Education and the Uniform Statewide Building Code.

Source: §§ 22-97(10), 22-152 and 22-153

REVISER'S NOTE: Revised to be internally consistent and to take into account the Uniform Statewide Building Code.

§ 22.1-141. Competitive bidding on State-aid projects.—No contract for the construction of any building for school purposes or for a substantial addition to such a building for which State funds, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding. The procedure for the advertising for bids and letting of the contract shall conform, mutatis mutandis, to Chapter 4 (§ 11-17 et seq.) of Title 11 of the Code of Virginia. No person or firm shall be eligible to bid on any such contract nor to have the same awarded to him or it who has been engaged as architect or engineer for the same project.

Source: § 22-166.8 and § 22-166.12

REVISER'S NOTE: No material change.

Chapter 10.

§ 22.1-142. How fund constituted; management.—There shall be set apart as a permanent and perpetual fund, to be known as the "Literary Fund", the present Literary Fund of the Commonwealth, donations to the Literary Fund, sums appropriated to the Literary Fund, all funds received by the State Treasurer and required to be deposited in the Literary Fund pursuant to Chapter 11.1 of Title 55 of this Code and the proceeds of (i) all public lands donated by Congress for public school purposes, (ii) all escheated property, (iii) all waste and unappropriated lands, (iv) all property accruing to the Commonwealth by forfeiture, (v) all fines collected for offenses committed against the Commonwealth, and (vi) the annual interest on the Literary Fund. The Literary Fund shall be invested and managed by the Board of Education as prescribed by § 22.1-145.

Source: § 22-101

REVISER'S NOTE: A provision relating to the payment of fines into the Literary Fund is deleted as covered by § 22.1-143.

§ 22.1-143. Money belonging to Fund received in treasury; accountant.—All monies belonging to the Literary Fund shall be paid into the State treasury to the credit of the Literary Fund and shall be used for no other purpose whatsoever. The State Treasurer shall be the accountant of the Fund.

Source: §§ 22-101 and 22-103

REVISER'S NOTE: No material change.

§ 22.1-144. Recovery of funds due Literary Fund.—Any funds which ought to be paid into the State treasury to the credit of the Literary Fund shall, unless otherwise provided, be recoverable with interest. Proceedings to recover such funds shall be instituted by the Board of Education in the name of the Commonwealth in the appropriate circuit court.

The Board may appoint agents for the collection of its debts or claims and authorize them to secure payment thereof on such terms as it may approve.

When the estate of any person that is taken under execution or that is for sale under any decree or deed of trust for any debt or claim due the Literary Fund or for any fine will not sell for the amount of such debt, claim or fine, such agent may, under the direction of the Board as to the price, purchase such estate for the Board. He shall immediately report to it every such purchase and the terms thereof. The Board may sell, or appoint an agent to sell, any estate so purchased. Such agent shall sell at such time and on such terms as the Board may authorize. The Board shall take bond from such agent if any money is to come into his hands. Any agent selling land under this section shall, when directed so to do by the Board, execute a deed, with the resolution giving such direction thereto annexed, conveying to the purchaser all the interest which the Board may have in such land. For the service of any agent under this section, the Board may allow compensation, not exceeding in any case ten per centum of the money actually paid into the State treasury.

Source: § 22-104

REVISER'S NOTE: Venue is changed from the Richmond circuit court to the circuit court appropriate under general law. The Board of Education rather than the Comptroller is to institute proceedings to recover funds.

§ 22.1-145. Investment of Literary Fund.—The Board of Education shall invest the Literary Fund in securities that are legal investments under the laws of the Commonwealth for public sinking funds. The Board may call in any such investment and reinvest the same whenever it deems proper for the preservation, security or improvement of the Literary Fund. Whenever the Board shall invest in bonds of this Commonwealth, no premium shall be required or paid on such investment. All securities for money belonging to the Literary Fund shall be deposited with the State Treasurer for safekeeping, who shall return with his annual report a list thereof with a statement of their value.

Source: § 22-102

REVISER'S NOTE: A provision creating a lien is deleted and transferred to § 22.1-161.

§ 22.1-146. Power of Board to loan Fund to erect school buildings.—The Board of Education is authorized to make loans from the Literary Fund to the school boards of the several school divisions making application therefor in the manner prescribed by law for the purpose of erecting, altering or enlarging school buildings in such school divisions.

Source: § 22-105

REVISER'S NOTE: Authority of the State Board to promulgate regulations is deleted as covered by the general authority granted in Chapter 2 of this revision.

§ 22.1-147. Distribution of funds.—The Board of Education shall provide for an equitable distribution of the funds loaned from the Literary Fund among the several school divisions. In providing for such equitable distribution, the Board may impose a maximum limit of not more than five million dollars on the amount of any loan from the Literary Fund.

Source: § 22-106

REVISER'S NOTE: The limit on the amount of a loan from the Literary Fund is raised from one to five million dollars.

§ 22.1-148. Restrictions upon making loans; retirement of previous loans.—No loan from the Literary Fund shall exceed one hundred percent of the cost of the building, addition thereto, and site on account of which such loan is made. No loan shall be made from the Literary Fund to aid in the erection of a building or addition to cost less than five hundred dollars. Whenever a loan is made from the Literary Fund for the purpose of enlarging a building, any part of the proceeds of such loan may, in the discretion of the Board, be used to retire any previous loan or loans on such building although not matured at the time of such additional loan. No loan shall be made from the Literary Fund in any case in which the payment of same with interest would, in the judgment of the Board of Education, entail too heavy a charge upon the revenues of the county, city or town comprising the school division to which such loan is granted. The Board may refuse to make any loan from the Literary Fund to any school board which is in default in the payment of any part of the principal of any previous loan from the Literary Fund or which for the two years next preceding the loan has been more than six months in default in the payment of interest due on any loan from the Literary Fund.

Source: § 22-111

REVISER'S NOTE: School divisions composed of towns are taken into account.

§ 22.1-149. Additional funds for loans.— When loans have been approved by the Board from time to time in such amounts that no sufficient balance is left in the Literary Fund from which to make additional loans, the Board is authorized to sell the bonds, notes or other evidences of debt of the school boards for which such loans are approved for investment of the trust funds of the Virginia Supplemental Retirement System in such amount as may be approved by the Board of Trustees of the Virginia Supplemental Retirement System in accordance with the provisions of § 51-111.24, in order to make such additional loans.

Source: § 22-112

REVISER'S NOTE: Provisions on interest rates are deleted as covered by the next section.

§ 22.1-150. Rate of interest.—The Board of Education is authorized in its discretion to fix the interest rate on all loans made from the Literary Fund at not less than two per centum per annum and not more than six per centum per annum, payable annually. Every loan made under the provisions of this chapter by selling the bonds, notes or other evidences of debt of school boards for investment of the trust funds of the Virginia Supplemental Retirement System shall bear interest at a rate not to exceed six per centum per year.

Source: § 22-112

REVISER'S NOTE: The limitation on the interest rate payable on loans is raised from three to six percent.

§ 22.1-151. Evidence of loan.—A loan from the Literary Fund shall be evidenced by bonds or notes payable to the Commonwealth of Virginia for the benefit of the Literary Fund, executed or signed by the chairman of the school board and attested by the clerk thereof. Evidence of debt taken for such loans and a certificate of recordation of a memorandum of lien in the appropriate circuit court shall be deposited with the State Treasurer and kept by him.

Source: § 22-112

REVISER'S NOTE: Provision is made in § 22.1-157 for recording the lien created by the Literary Fund Loan. This section requires that evidence of the recordation be deposited with the State Treasurer

§ 22.1-152. Payments of principal and interest.—Payments of interest and principal shall be made to the State Treasurer. A loan from the Literary Fund shall be repayable in annual installments

from five to thirty years. The time of payment may be extended in the discretion of the Board of Education; but if the Board of Education has assigned any of the bonds, notes or other evidences of the loan to the Board of Trustees of the Virginia Supplemental Retirement System under the provisions of § 51-111.24 and the same are held by the Board of Trustees of the Virginia Supplemental Retirement System, the time of payment thereof may not be extended by the Board of Education but may be extended by the Board of Trustees of the Virginia Supplemental Retirement System, in its discretion.

Source: § 22-112

REVISER'S NOTE: No material change.

§ 22.1-153. Boards authorized to borrow from Fund; form of application.—The school boards of the several school divisions are authorized to borrow money belonging to the Literary Fund, and any school board desiring to borrow from the Fund shall make written application to the Board of Education for such loan on a form to be prescribed by the Board.

Source: § 22-107

REVISER'S NOTE: No material change.

§ 22.1-154. Examination of title of property on application for loan.—Whenever application is made by a school board for a loan from the Literary Fund, the title to the real estate on which the building has been or is to be erected shall be examined and approved by the appropriate Commonwealth's attorney or city or county attorney or by other competent attorney. The abstract shall be filed with the clerk of the circuit court having jurisdiction in the school division, and a certificate from the attorney making the abstract showing the school board has a fee simple title to such lot or parcel of ground shall accompany the application. The certificate of the examining attorney shall contain a brief synopsis of the encumbrances, if any, on the property.

Source: § 22-110

REVISER'S NOTE: Provision as to compensating the attorney is deleted as unnecessary. The abstract is to be filed with the clerk of the circuit court having jurisdiction in the school division.

§ 22.1-155. Certificate of clerk of court on application for loan from Fund.—On the application for a loan from the Literary Fund, the following certificate shall be made by the clerk of the circuit court having jurisdiction in the school division making application for such loan:

CERTIFICATE OF THE CLERK OF COURT

Whereas, the school board of owns acres of real estate in county or city at, Virginia, on which to erect the school building described in this application. The title deed to this property is recorded in the clerk's office for county, or city, in deed book number, page

One. That the title to the real estate has been examined and approved in writing by the attorney for the Commonwealth, the county or city attorney or other competent attorney and his report filed with the clerk of the court.

Two. That the certificate of the attorney examining the title shows that the school board of.....has a good and sufficient title in fee simple to the real estate subject to the (following) (no) encumbrances.

Given under my hand this the day of, nineteen hundred and

..... Clerk of the Circuit Court of County or City.

Source: § 22-106

REVISER'S NOTE: No material change.

§ 22.1-156. Submission of application and certificate of title to Attorney General.—The application for a loan from the Literary Fund and the attorney's certificate of title to the property on which is to be erected the school building for which the loan is to be made shall be submitted to the Attorney General for his approval before the Board of Education makes such loan.

Source: § 22-109

REVISER'S NOTE: No material change.

§ 22.1-157. Loans to be a lien on buildings; insurance.—A. The loans made under this chapter, including interest thereon, shall constitute a specific lien on the building and addition thereto for which such loan was made as well as the lots where the buildings are situated. A memorandum of lien shall be duly recorded in the appropriate circuit court. No recordation tax shall be assessable.

B. The school board shall keep all such buildings fully and adequately insured for the benefit of the Literary Fund, and the policy or policies of insurance shall be kept in the office of the State Treasurer.

Source: §§ 22-114 and 22-102

REVISER'S NOTE: A requirement that the lien be recorded is added.

§ 22.1-158. Provisions for payment.—The governing body of any county, city or town if the town constitutes the school division, in which the school board has borrowed money from the Literary Fund shall include in its levies and appropriate to the school board a fund sufficient to meet the liabilities of the school board on such loan. The governing body of any county in which the school board thereof has borrowed money from the Literary Fund for construction of school facilities located in a town in such county constituting a separate school division shall have authority to include in its levies for such town, a levy sufficient to meet the liabilities of the school board on such loan and shall levy a separate tax in the rest of the county to meet its liabilities on any contract for school facilities constructed outside such town. In the event that such school board shall fail to pay any installment of interest or principal promptly, upon notice in writing to that effect from the State Treasurer, the county, city or town treasurer shall pay to the State Treasurer any such past-due installment of interest or principal, out of the funds in his hands belonging to such county, city or town. The failure of such governing body to provide for the payment of such loan or the interest thereon when and as due shall be deemed a cause for removal of the members thereof from office on motion before the circuit court having jurisdiction in such county, city or town, instituted by the attorney for the Commonwealth of such county or city or by the Attorney General where the attorney for the Commonwealth refuses or neglects to act after demand is made on him to proceed.

Source: § 22-113

REVISER'S NOTE: No material change.

§ 22.1-159. Loans for construction of school facilities to serve portions of counties; levy of taxes for purpose of repaying such loans.—Notwithstanding any other provision of law to the contrary, the school board of any school division composed of part or all of a county, with the approval of the governing body of the county, is authorized to borrow from the Literary Fund for the purpose of constructing school facilities in such county to serve a portion of such county. Taxes on property in the magisterial districts served by such facilities shall be levied by the governing body of the county and collected for the purpose of repaying such loan; provided that, for the purposes of this section, a magisterial district shall not include a town constituting a separate school division but the governing body of the county may levy a separate tax on property in a town in such county constituting a separate school division to repay money borrowed by such county from the Literary Fund for the purpose of constructing school facilities in such town. Except as otherwise provided by this section all other provisions of law relating to Literary Fund loans shall apply to a loan authorized by this section.

Source: § 22-107.3

REVISER'S NOTE: The possibility that a county can be divided in forming a school division is

taken into account.

§ 22.1-160. School boards of counties authorized to anticipate payment of loans from Literary Fund.—Any school board which is indebted for any money borrowed from the Literary Fund may anticipate the payment of the principal amount of any such loan or loans, or any part thereof, by the payment of such principal amount with interest thereon to the date of such anticipated payment and may borrow money and issue bonds for the purpose of raising funds to pay any notes or other obligations of the school board now and hereafter held by the Literary Fund.

Source: § 22-115

REVISER'S NOTE: Extended from county school boards to all school boards.

§ 22.1-161. Loan declared indebtedness of the county, city or town; lien on localities' funds created.—Any bonds or notes of a school board held by the Literary Fund are hereby declared to be valid and legally binding indebtedness of the county, city or combination thereof constituting the school division or of the town if the town constitutes the school division. There shall be lien in favor of the Literary Fund on all funds and income of the county, city or town for the amount of such bonds and notes.

Source: §§ 22-115 and 22-102

REVISER'S NOTE: This section is made applicable to city and town school boards as well as county school boards. Provisions referencing obsolete sections in Title 15 are deleted.

Chapter 11.

Virginia Public School Authority.

§ 22.1-162. Definitions.—As used in this chapter:

- 1. "Authority" means the Virginia Public School Authority.*
- 2. "Board of Commissioners" means the Board of Commissioners of the Authority.*
- 3. "Bonds of the Authority" includes notes and other obligations issued by the Authority for any of its purposes.*
- 4. "Local school bonds" means bonds or other obligations issued by counties, cities and towns under the provisions of Chapter 5 of Title 15.1 of the Code of Virginia solely for the purpose of financing capital projects for public schools.*

Source: §§ 22-29.3, 22-29.4, 22-29.6 and 22-29.11

REVISER'S NOTE: No material change.

§ 22.1-163. Authority created; public body corporate and agency of State.—The Virginia Public School Authority is created as a public body corporate and as a political subdivision and an agency and instrumentality of the Commonwealth.

Source: § 22-29.3

REVISER'S NOTE: No material change.

§ 22.1-164. Board of Commissioners; membership; terms; compensation and expenses; chairman and vice-chairman; quorum; employees, agents, etc.—All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Commissioners of the Virginia Public School Authority. The Board of Commissioners shall consist of the State Treasurer, the State Comptroller, the Superintendent of Public Instruction or his designee, and five additional members to be appointed by the Governor, subject to confirmation by the

General Assembly, who shall serve at the pleasure of the Governor for terms of six years each. Appointments to fill vacancies other than by expiration of term shall be made for the unexpired terms. The members of the Board of Commissioners shall be paid their necessary travelling and other expenses incurred in attendance upon meetings or while otherwise engaged in the discharge of their duties and , with the exception of the chairman, the State Treasurer, the State Comptroller and the Superintendent of Public Instruction or his designee, the sum of twenty-five dollars a day for each day or portion thereof in which they are engaged in the performance of their duties.

The Governor shall designate one member of the Board of Commissioners as chairman. The chairman shall be the chief executive officer of the Authority and shall receive such compensation as the Governor shall fix. The State Treasurer, the State Comptroller, the Superintendent of Public Instruction and his designee shall be ineligible to serve as chairman. The chairman shall sign and execute all vouchers for the disbursement of funds belonging to the Authority upon authorization by the Board. Five members of the Board of Commissioners shall constitute a quorum for the transaction of all business of the Authority. The Board of Commissioners shall elect one of its members as vice-chairman, who shall exercise the powers of the chairman when so directed by the chairman.

The Board of Commissioners may employ or retain such employees, agents, financial advisers and attorneys as it may deem necessary and fix their compensation.

Source: § 22-29.4

REVISER'S NOTE: Obsolete provisions relating to initial appointments are deleted.

§ 22.1-165. Management and administration of moneys, etc., transferred from Literary Fund.—The Authority shall manage and administer as provided in this chapter all monies or obligations that may be set aside and transferred to it from the principal of the Literary Fund by the General Assembly for public school purposes pursuant to Article VIII, § 8, of the Constitution of Virginia.

Source: § 22-29.5

REVISER'S NOTE: No material change.

§ 22.1-166. Purchase and sale of local school bonds.—The Authority is authorized to purchase local school bonds with any funds of the Authority available for such purpose, at public or private sale and for such price and on such terms as it shall determine. The Authority may pledge to the payment of the interest on and the principal of any bonds of the Authority all or any part of the local school bonds so purchased, including payments of principal and interest thereon as they shall become due. The Authority may also, subject to any such pledge, sell any such local school bonds so purchased and apply the proceeds of such sale in the purchase of other like local school bonds or for such purpose and in such manner as shall be provided by any resolution authorizing the issuance of bonds of the Authority, or the Authority may transfer such proceeds to the Literary Fund. For the purpose of Article VII, § 10 (b), of the Constitution of Virginia, the Authority shall be deemed a State agency authorized to purchase bonds issued with the consent of the school board and the governing body of the county by or on behalf of a county or district thereof for capital projects for school purposes.

The proceeds of all local school bonds issued pursuant to this chapter prior to July one, nineteen hundred seventy-five, may be used for any capital project for public schools as provided in the resolution by which their issuance was authorized.

Source: § 22-29.6

REVISER'S NOTE: No material change.

§ 22.1-167. Issuance of bonds of Authority.—In order to provide funds for the purchase of local school bonds as authorized by § 22.1-166, the Board of Commissioners is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of the Authority in such amount or amounts as the Board of Commissioners shall determine. Such bonds of the Authority shall be payable solely from funds of the Authority, including, without limitation, (i) payments of principal of and interest on local school bonds purchased by the Authority, (ii) the

proceeds of the sale of any such local school bonds, (iii) payments of principal of and interest on obligations transferred to the Authority from the Literary Fund, (iv) the proceeds of the sale of any such obligations, and (v) any monies transferred to the Authority from the Literary Fund, as shall be provided by the resolution of the Board of Commissioners authorizing any such bonds. Bonds of the Authority issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith or credit of the Commonwealth, and all bonds of the Authority shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is or shall be pledged to the payment of the principal of or the interest on such bonds.

The bonds of each issue shall be dated, shall bear interest and shall mature at such time or times, not exceeding thirty years from their date or dates, as may be determined by the Board of Commissioners and may be made redeemable before maturity, at the option of the Board of Commissioners, at such price or prices and under such terms and conditions as may be fixed by the Board of Commissioners prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The Board of Commissioners shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at the office of the State Treasurer or at any bank or trust company within or without the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form or both, as the Board of Commissioners may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion of any bonds registered as to both principal and interest into coupon bonds. The Board of Commissioners may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be for the best interests of the Authority. The proceeds of such bonds shall be disbursed for the purposes for which such bonds were issued under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture provided for in § 22.1-171 may provide. Prior to the preparation of definitive bonds, the Board of Commissioners may under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board of Commissioners may also provide for the replacement of any bond which shall become mutilated or shall be destroyed or lost. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than the proceedings, conditions, and things which are specified and required by this chapter.

Source: § 22-29.7

REVISER'S NOTE: No material change.

§ 22.1-168. Security for payment and bonds; provisions of trust indenture or resolution of Board. —In the discretion of the Board of Commissioners any bonds issued under the provisions of this chapter may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth . Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign all or any part of the funds of the Authority available for such purpose including, but without limitation, (i) payments of principal of and interest on local school bonds purchased by the Authority, (ii) the proceeds of the sale of any such local school bonds, (iii) payments of principal of and interest on obligations transferred to the Authority from the Literary Fund, (iv) the proceeds of the sale of any such obligations, and (v) any monies transferred to the Authority from the Literary Fund. Such trust indenture or resolution providing for the issuance of such bonds may provide for the creation and maintenance of such reserves as the Board of Commissioners shall determine to be proper and may include covenants setting forth the duties of the Board of Commissioners in relation to the acquisition of any local school bonds, the substitution of any local school bonds as security for payment of the bonds of the Authority, and the collection of payments of principal and interest on any local school bonds and on any obligations transferred to the Authority from the Literary Fund. Such trust indenture or resolution may include provisions

requiring the Authority or the trustee under such trust indenture or any depository to file a petition with the Governor and to take any and all other action required under § 15.1-225 of the Code of Virginia to secure payment of all sums necessary to cover any default as to any bonds or the interest thereon held by the Authority or by such trustee or depository to which § 15.1-225 shall be applicable. Such trust indenture or resolution may contain provisions respecting the custody, safeguarding and application of all monies and securities including local school bonds purchased by the Authority and obligations transferred to the Authority from the Literary Fund and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of any other funds or obligations received on behalf of the Authority to furnish such indemnifying bonds or to pledge such securities as may be required by the Board of Commissioners. Any such trust indenture or resolution may contain such other provisions as the Board may deem reasonable and proper for the security of the bondholders. Any reference in this chapter to a resolution of the Board of Commissioners shall include any trust indenture authorized thereby.

Source: § 22-29.8

REVISER'S NOTE: No material change.

§ 22.1-169. *Investment of funds.*—Any funds held by the Authority or by the trustee under any trust indenture under the provisions of this chapter may be invested and reinvested in securities that are legal investments under the laws of the Commonwealth for funds held by fiduciaries.

Source: § 22-29.9

REVISER'S NOTE: No change.

§ 22.1-170. *Repayments to Literary Fund.*—All assets heretofore or hereafter transferred to the Authority from the Literary Fund pursuant to § 22.1-175 shall remain assets of the Literary Fund and shall be repaid to the Literary Fund pursuant to this section but, until so repaid, may be used for all purposes by the Authority to the same extent as if such assets were the sole property of the Authority.

On or before the tenth day of January in each year the Authority shall set aside and repay to the Literary Fund an amount equal to the excess of the principal and interest collected by the Authority in the preceding year on account of obligations transferred to the Authority from the Literary Fund over such portion of such principal and interest as shall have been pledged by any trust indenture or resolution authorizing bonds of the Authority.

The principal collected by the Authority on account of obligations transferred to the Authority from the Literary Fund shall remain part of the principal of the Literary Fund subject to the provisions of Article VIII, § 8, of the Constitution of Virginia and of this chapter, and the interest collected by the Authority on account of such obligations shall be deemed to be interest on the Literary Fund subject to the provisions of Article VIII, § 8, of the Constitution of Virginia and of this chapter; provided, however, that any such collected principal and interest pledged by any trust indenture or resolution authorizing bonds of the Authority shall continue to be held by the Authority until no longer so required by the terms of such trust indenture or resolution; and further provided that, on the next succeeding tenth day of January, any amount of such collected principal and interest no longer required to be held by the Authority shall be set aside and repaid to the Literary Fund as if it had been collected at the time it became no longer required to be held.

Source: § 22-29.10

REVISER'S NOTE: No material change.

§ 22.1-171. *Powers of Authority enumerated.*—A. In order to enable the Authority to carry out the purposes for which it is established, the Authority is vested with the powers of a body corporate including the power to sue and be sued, to make contracts, to adopt and use a common seal and to alter the same and is authorized and empowered:

1. To collect, or to authorize the trustee under any trust indenture securing any bonds of the Authority to collect, as the same shall become due, the principal of and the interest on all obligations transferred to the Authority from the Literary Fund;

2. To collect, or to authorize the trustee under any trust indenture securing any bonds of the Authority to collect, as the same shall become due, the principal of and the interest on all local school bonds purchased by the Authority;

3. To pay the compensation of the chief executive officer of the Authority and all such employees, agents, financial advisers and attorneys as may be employed by the Authority either from monies received by the Authority under the provisions of this chapter or from appropriations made by the General Assembly for such purpose;

4. To issue bonds of the Authority as authorized by this chapter and to refund any of such bonds;

5. To adopt or alter or repeal any bylaws, rules or regulations as the Authority may deem necessary or expedient; and

6. To do any and all other acts and things necessary, appropriate or incidental in carrying out the purposes of this chapter.

B. The Authority is further authorized and empowered to issue notes and other obligations for any of its purposes in such form as may be authorized by resolution of the Authority. The issuance of such notes or other obligations shall be governed by the provisions of this chapter insofar as the same may be applicable.

Source: § 22-29.11

REVISER'S NOTE: No material change.

§ 22.1-172. *Bonds exempt from taxation.*—The bonds issued by the Authority under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or any other political subdivision thereof.

Source: § 22-29.12

REVISER'S NOTE: No change.

§ 22.1-173. *Bonds legal investments.*—All bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and bodies of the Commonwealth, counties, cities, towns, municipal subdivisions, insurance companies and associations, savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

Source: § 22-29.13

REVISER'S NOTE: No material change.

§ 22.1-174. *Jurisdiction of suits against Authority; service of process.*—The Circuit Court of the City of Richmond shall have exclusive jurisdiction of any suit brought in Virginia against the Authority, and process in such suit shall be served either on the State Comptroller or the chairman of the Board of Commissioners.

Source: § 22-29.14

REVISER'S NOTE: No material change.

§ 22.1-175. *Semiannual transfers from Literary Fund to Authority.*—On January first and July first of each year, there shall be set aside and transferred from the Literary Fund to the Virginia

Public School Authority for public school purposes all notes bearing fixed maturity dates and representing amounts loaned by the Literary Fund to local school boards pursuant to Chapter 10 of this title, to be held and administered by the Virginia Public School Authority as provided by law. The Board of Education, the State Treasurer and the State Comptroller are hereby authorized and directed to take all necessary steps to accomplish such transfer.

Source: § 22-29.15

REVISER'S NOTE: No material change.

Chapter 12.

Pupil Transportation.

Article 1.

General Provisions.

§ 22.1-176. Transportation of pupils authorized; when fee may be charged; contributions; regulations of Board of Education.—A. School boards may provide for the transportation of pupils, but nothing herein contained shall be construed as requiring such transportation except as provided in § 22.1-221.

B. When a school board provides transportation to pupils for extracurricular activities, other than those covered by an activity fund, which are sponsored by the pupils' school apart from the regular instructional program and which the pupils are not required to attend or participate in, the school board may accept contributions for such transportation or charge each pupil utilizing such transportation a reasonable fee not to exceed his pro rata share of the cost of providing such transportation. A school board may waive such fees for any pupil whose parent or guardian is financially unable to pay them.

C. When a school board provides transportation to pupils for field trips which are a part of the program of the pupils' school or are sponsored by such school, the school board may accept contributions for such transportation.

D. The Board of Education shall promulgate such regulations as shall be in the public interest to effect the intent of this section.

Source: §§ 22-72.1 and 22-97.1.

REVISER'S NOTE: No material change.

§ 22.1-177. Regulations.—The Board may make regulations relating to the construction, design, operation, equipment, and color of public school buses and shall have the authority to issue an order prohibiting the operation on public streets and highways of any public school bus which does not comply with such regulations. Any such order shall be enforced by the Department of State Police.

Source: § 22-276

REVISER'S NOTE: Application of this section to public school buses only is specifically stated.

§ 22.1-178. Requirements for persons employed to drive school bus.—A. No school board shall hire, employ, or enter into any agreement with any person for the purposes of operating a school bus transporting pupils unless the person proposed to so operate such school bus shall:

1. Have a physical examination of a scope prescribed by the Board of Education with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board of Education

showing the results of such examination.

2. Furnish a statement or copy of records from the Division of Motor Vehicles showing that the records of such Division do not disclose that the person, within the preceding five years, has been convicted upon a charge of driving under the influence of intoxicating liquors or drugs, convicted of a felony or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to §18.2-271.1 of the Code or, within the preceding twelve months, has been convicted of two or more moving traffic violations or required to attend a driver improvement clinic by the Commissioner of the Division of Motor Vehicles pursuant to § 46.1-514.11 of the Code.

3. Furnish a statement signed by two reputable residents of the school division that the person is of good moral character.

4. Exhibit a license showing the person has successfully undertaken the examination prescribed by § 46.1-370.

5. Have reached the age of sixteen and not have reached the age of seventy on the first day of the school year.

B. Any school board may require successful completion of the American National Red Cross first aid course as a condition to employment to operate a school bus transporting pupils.

C. The documents required pursuant to paragraphs A.1. and A.2. shall be furnished annually within thirty days prior to the anniversary date of the employment agreement as a condition to continuing employment to operate a school bus. A school board may require the statement set forth in paragraph A.3. to be furnished periodically.

D. The documents required pursuant to this section shall be filed with, and made a part of, the records of the school board employing such person as a school bus operator.

E. The State Department of Education shall furnish to the several division superintendents the necessary forms to be used by applicants in furnishing the information required by this section. Insofar as practicable, such forms shall be designed to limit paperwork, avoid the possibility of mistake, and furnish all parties involved with a complete and accurate record of the information required.

Source: § 22-276.1

REVISER'S NOTE: The revision requires a physical examination of a scope to be prescribed by the Board of Education rather than prescribing in the statute what is necessary to be physically capable of operating a school bus safely. The advice of the Medical Society of Virginia is limited to the scope of this examination rather than all forms required by this section. The birthdate for reaching age sixteen or seventy is changed from the date of signing the contract of employment to the first day of the school year.

§ 22.1-179. Completion of contract upon reaching age seventy.—If any person employed by a school board to operate a school bus reaches the age of seventy during the school year, he may continue his employment pursuant to his contract for such school year.

Source: § 22-276.1(e)

REVISER'S NOTE: No material change.

§ 22.1-180. Requirements for persons employed to transport pupils attending parochial or private schools.—No person, partnership, association or corporation operating any parochial or private school shall hire, employ or enter into any agreement with any person for the purpose of transporting pupils by motor vehicle unless such person shall present the documents and meet the qualifications required of operators of public school buses by subsection A. of § 22.1-178. The State Department of Education shall furnish the forms prescribed for the purposes of § 22.1-178 to any person, partnership, association or corporation who shall request such forms for the purpose of compliance with this section.

Source: § 22-276.2

REVISER'S NOTE: No material change.

§ 22.1-181. Training program for school bus operators.—The Board of Education shall develop a training program for persons applying for employment, and employed, to operate school buses and shall promote its implementation.

Source: § 22-276.3

REVISER'S NOTE: No change.

§ 22.1-182. Use of school buses for public purposes.—The school board of any school division may enter into agreements with the governing body of any county, city or town in the school division, any State agency or any agency established or identified pursuant to United States Public Law 89-73 or any law amendatory or supplemental thereto providing for the use of the school buses of such school division by such agency or by departments, boards, commissions or officers of such county, city or town for public purposes, including transportation for the elderly. Each such agreement shall provide for reimbursing the school board in full for the proportionate share of any and all costs, both fixed and variable, of such buses incurred by such school board attributable to the use of such buses pursuant to such agreement. The governing body, State agency or agency established or identified pursuant to United States Public Law 89-73 or any law amendatory or supplemental thereto shall indemnify and hold harmless the school board from any and all liability of the school board by virtue of use of such buses pursuant to an agreement authorized herein.

Source: § 22-151.2

REVISER'S NOTE: A provision relating to use of flashing lights and "School Bus" inscriptions is deleted as covered by §§ 22.1-183, 46.1-190 and 46.1-287.

§ 22.1-183. When warning lights and identification to be covered.—It shall be unlawful for a school bus licensed in this Commonwealth to be operated on the public highways of this Commonwealth for the purpose of transporting persons or commodities other than school personnel, school children or elderly or mentally or physically handicapped persons unless the lettered identification and school bus traffic warning lights on the front and rear of such bus are covered with some opaque detachable material. This section shall not apply to any such bus when operated by a salesman or demonstrator in connection with a prospective sale or delivery of a bus.

Source: §§ 22-280.1 and 22-151.2

REVISER'S NOTE: No material change.

§ 22.1-184. School bus emergency drills.—At every public school having public school buses there shall be held, at least once during the first ninety calendar days of each school session and oftener if necessary, a drill in leaving school buses under emergency circumstances.

Source: § 22-280.2

REVISER'S NOTE: No material change.

§ 22.1-185. Shelters on bus routes.—The governing body of any county, city or town may expend funds for the construction and maintenance at points on school bus routes of such shelters, platforms or other structures as it may deem necessary or convenient for the protection and comfort of children of school age who go to such points to meet school buses.

Source: § 22-282

REVISER'S NOTE: Application of this section is extended to cities and towns.

§ 22.1-186. Payments for transportation of pupils.—The regulations of the Board of Education governing State payments for pupil transportation shall provide for payments to school divisions for pupil transportation provided by the school divisions both through systems operated by the school

divisions and through contracts with public transportation facilities.

Source: § 22-283.1

REVISER'S NOTE: Provisions relating to State payments for transportation are deleted as covered by regulation. The appropriation act grants authority to make regulations. The revision also permits payments to school divisions that both operate buses and use public transportation.

§ 22.1-187. Collection of toll unlawful.—It shall be unlawful to collect any toll for the use of any road, highway, bridge or ferry in this Commonwealth, except those financed under the State Revenue Bond Act or other act authorizing the construction by the State or a political subdivision thereof of projects financed by the issuance of bonds payable solely from tolls and other revenues of the project, (i) by any student or other person using the road, highway, bridge or ferry daily for going to or from immediate attendance upon any school, college, or other educational institution in this Commonwealth, or classes in water safety training conducted under the auspices of the American Red Cross or (ii) by the vehicle carrying the student or other person.

Any such student or other person or the parent or guardian of any such student may apply for and receive from the principal of any school, college, or other educational institution in this Commonwealth a card certifying that the student or other person uses such road, highway, bridge or ferry daily for regularly attending such school, college, educational institution or classes. Such card exhibited to the person in charge of any tollgate on any road, highway, bridge or ferry in this Commonwealth shall be accepted in lieu of all charges for the passage through such tollgate of any such student, person or the vehicle carrying him when using the road, highway, bridge or ferry daily for going to or from immediate attendance upon any such school, college, other educational institution, or classes.

Any person using any such card, except for the purpose herein specified, shall be guilty of a Class 4 misdemeanor.

Source: § 22-277

REVISER'S NOTE: Ferry tolls are included.

Article 2.

Insurance Provisions.

§ 22.1-188. Definitions.—As used in this article:

1. "Vehicle" means any vehicle owned or operated by, or owned or operated by any person under contract with, a county, city, town or school board in which any school pupils or personnel are transported at public expense to or from any public school.

2. "School pupils and personnel" includes school bus patrolmen when performing duties either in or outside a vehicle as prescribed by the Board of Education.

Source: New

§ 22.1-189. Compliance with article prerequisite to receiving State school funds.—No school division in which any school pupils or personnel are transported at public expense to or from any public school in any vehicle shall receive any State school funds unless it complies with all applicable requirements of this article and submits satisfactory evidence to the Superintendent of Public Instruction of the effectuation of all requisite insurance.

Source: § 22-284

REVISER'S NOTE: No material change.

§ 22.1-190. When insurance required and amount thereof.—A. Every vehicle shall be covered in a

policy of liability and property damage insurance issued by an insurance carrier authorized to transact business in this Commonwealth, in the amounts of at least fifty thousand dollars for injury, including death, to one person, two hundred thousand dollars for injury, including death, to all persons injured in any one accident, and ten thousand dollars for damage, including destruction, to the property of any person, other than the insured. In addition, the policy of insurance shall provide coverage for loss or damage caused by an uninsured motorist in accordance with the provisions of § 38.1-381 (b) and in the amounts required by this section. The policy shall also provide for medical expense payment coverage in the minimum amount of one thousand dollars.

B. The insurance so effected shall be subject to all laws of this Commonwealth regulating insurance.

C. This insurance shall not be required in cases when pupils are transported on a common carrier if such carrier is covered by a policy of insurance affording substantially the protection required by this article.

D. This insurance shall not be required in cases where pupils are transported in vehicles which are owned or operated by a county, city, town or school board which has qualified for and received a certificate of self-insurance from the Commissioner of the Division of Motor Vehicles, following a certification of financial responsibility equal to that required under subsection A. of this section. The Commissioner of the Division of Motor Vehicles may require posting of a bond by a locality or school board as a condition to issuance of a certificate of financial responsibility pursuant to this subsection.

Source: § 22-285

REVISER'S NOTE: Provision for self-insurance is extended to counties.

§ 22.1-191. When Superintendent of Public Instruction to obtain insurance.—In every case in which a locality or its school board fails to obtain, or to require vehicles operated under contract with it to be covered by, the requisite insurance by the twentieth of July of any year or fails to notify the Superintendent of Public Instruction of the effectuation of requisite insurance on or before the first of August, it shall be the duty of the Superintendent of Public Instruction, on or before the first of September, to obtain insurance complying with the requirements of this article on all vehicles, as far as known to or reasonably ascertainable by him, to be used in the school division for school pupil and personnel transportation in the ensuing session and to expend for this purpose the requisite amount out of any State school funds otherwise distributable, or becoming distributable, to the school division so in default.

Source: § 22-287

REVISER'S NOTE: Deadlines set forth in this section are changed because of trend to earlier school openings.

§ 22.1-192. Injury and damage covered by policy.—Every policy of insurance issued in pursuance of the provisions of this article, in addition to compliance with other requirements of this article and with the requirements of other applicable laws, shall cover:

1. Injury, including death, to school pupils and personnel, except the driver when not a pupil, riding as passengers on any of the vehicles so insured when used to transport such persons at public expense;

2. Injury, including death, to any persons not passengers on any such vehicle;

3. Damage, including destruction, to property of any person other than the insured.

Source: § 22-288

REVISER'S NOTE: A definition of "pupils and personnel" is moved to § 22.1-188 since the term appears throughout this article.

§ 22.1-193. Sufficiency of proof in action on policy; guest doctrine not applicable.—In case any

school pupil or personnel, except the driver when not a pupil, whether riding in a vehicle or not, or any other person suffers injury, including death, or property damage, including destruction, through the ownership, maintenance, use or operation of a vehicle, it shall be sufficient, in an action for recovery upon the policy, to prove such facts and circumstances as are required to be shown in order to recover damages for death or injury to person or property caused by the negligent operation of privately owned motor vehicles in Virginia; provided that such pupils and personnel shall not be considered as guests, and § 8.01-63 shall not apply to them.

Source: § 22-289

REVISER'S NOTE: No material change.

§ 22.1-194. Liability of locality or school board owning or operating vehicle.—In case the locality or the school board is the owner, or operator through medium of a driver, of, or otherwise is the insured under the policy upon, a vehicle involved in an accident, the locality or school board shall be subject to action up to, but not beyond, the limits of valid and collectible insurance in force to cover the injury complained of or, in cases set forth in subsection D. of § 22.1-190, up to but not beyond the amounts of insurance required under subsection A. of § 22.1-190 and the defense of governmental immunity shall not be a bar to action or recovery. In case of several claims for damages arising out of a single accident involving a vehicle, the claims of pupils and school personnel, excluding driver when not a pupil, shall be first satisfied. In no event, except where approved self-insurance has been provided pursuant to § 22.1-190 D., shall school funds be used to pay any claim or judgment or any person for any injury arising out of the operation of any such vehicle. The locality or school board may be sued alone or jointly with the driver, provided that in no case shall any member of a school board be liable personally in the capacity of school board member solely.

Source: § 22-25d

REVISER'S NOTE: No material change.

§ 22.1-195. Recovery where vehicle operated under contract.—In case a vehicle involved in an accident is not owned by the county, city, town or school board but is operated under contract with the locality or school board, recovery may be had as provided for in § 22.1-193.

Source: § 22-291

REVISER'S NOTE: No material change.

§ 22.1-196. Lapsed insurance.—If insurance is obtained but lapses while a vehicle is still being used or is proposed to be used to transport school pupils or personnel, no school funds remaining to be distributed to the school board so in default shall be distributed to it until the terms of this article in this regard have been fully complied with.

Source: § 22-292

REVISER'S NOTE: No material change.

§ 22.1-197. Distribution of funds when Superintendent effects insurance.—When the Superintendent of Public Instruction effects insurance as required by this article, he shall nevertheless not make any distribution of State school aid funds to the school board so in default until he has been furnished with satisfactory assurances that all vehicles required by this article to be covered by insurance have been duly insured.

Source: § 22-293

REVISER'S NOTE: No material change.

§ 22.1-198. Applicability of article not dependent upon approval of vehicles or allocability of State aid.—The provisions of this article apply to all vehicles whether or not the regulations of the Board of Education established pursuant to § 22.1-177 have been complied with and irrespective of whether or not any State aid for transporting school pupils and personnel in the particular vehicle

has been, is, or will be allocable.

Source: § 22-294

REVISER'S NOTE: No material change.

Chapter 13.

Programs, Courses of Instruction and Textbooks.

Article 1.

Programs and Courses of Instruction Generally.

§ 22.1-199. Kindergarten programs suitable for certain children.—A. The kindergarten program in each school division shall include a program suitable for children who will reach their fifth birthday after September thirtieth and on or before December thirty-first of the school year. The school board's plan for such program shall be acceptable to the Board of Education and shall include the following:

- 1. A statement of purpose and objectives of the kindergarten program that reflects consideration of the different readiness and maturity levels of children in the program;**
- 2. A description of the organization, scheduling and staffing of the program that reflects a responsiveness to the needs of the children of the age span to be served in the program;**
- 3. Evidence that the program plan was developed by a committee that included early childhood specialists, parents, teachers and administrators;**
- 4. Scheduling and an agenda of in-service activities for kindergarten teachers to insure adequate preparation for the program;**
- 5. A plan for the interface of the kindergarten program with the primary program to allow for continuous progress within the kindergarten program until such time as the children meet basic entry level expectations for the primary program;**
- 6. A description of the counseling program required by subsection B. of this section.**

B. A parent or guardian enrolling any child who will reach the age of five after September thirtieth and on or before December thirty-first of the school year in the public schools of the school division where the child resides shall be counseled by the school division concerning the advisability of such child attending school. Upon request of the parent or guardian after such counseling, the child shall be admitted to the public schools.

C. The Superintendent of Public Instruction shall disseminate to the school divisions information concerning the advisability of school attendance by children between the ages prescribed in subsection A. of this section and concerning ages when children are required or eligible to attend school. Each school division shall disseminate such information to parents of children of such ages upon or prior to enrollment of such children in the public schools of the division.

Source: § 22-218.1:1

REVISER'S NOTE: No material change.

§ 22.1-200. Subjects taught in elementary grades.—In the elementary grades of every public school the following subjects shall be taught: Spelling, reading, writing, arithmetic, grammar, geography, health and physical education, drawing, civil government, history of the United States and history of Virginia.

Source: § 22-233

REVISER'S NOTE: No material change.

§ 22.1-201. Study of documents of Virginia history and United States Constitution.—The Declaration of American Independence, the general principles of the Constitution of the United States, the Virginia Statute of Religious Freedom, and the Virginia Declaration of Rights shall be thoroughly explained and taught by teachers to pupils in both public elementary and secondary schools. Written examinations as to each of such documents shall be given.

Source § 22-234

REVISER'S NOTE: Revised to delete references to the preparation of courses by the Board of Education.

§ 22.1-202. Instruction in history and principles of flags of United States and Virginia.—Instruction in the history of the flag of the United States and the flag of the Commonwealth shall be given in one or more grades in every school division.

Source: §§ 7.1-36 and 22-165

REVISER'S NOTE: This Instruction is required only in one or more grades rather than by every teacher in every public school.

§ 22.1-203. Daily observance of one minute of silence.—In order that the right of every pupil to the free exercise of religion be guaranteed within the schools and that the freedom of each individual pupil be subject to the least possible pressure from the State either to engage in, or to refrain from, religious observation on school grounds, the school board of each school division is authorized to establish the daily observance of one minute of silence in each classroom of the division.

Where such one minute period of silence is instituted, the teacher responsible for each classroom shall take care that all pupils remain seated and silent and make no distracting display to the end that each pupil may, in the exercise of his or her individual choice, meditate, pray, or engage in any other silent activity which does not interfere with, distract, or impede other pupils in the like exercise of individual choice.

Source: § 22-234.1

REVISER'S NOTE: No material change.

§ 22.1-204. Study of accident prevention.—In one or more of the elementary grades or in one or more of the secondary grades of every school division there shall be provided a course of study including elementary training in accident prevention, in proper conduct on streets and highways, in the operation of motor vehicles as required by the traffic laws of this Commonwealth, and in ways and means of preventing loss of lives and damage to property through preventable fires. Such course shall be required of every pupil completing the course of study in any such grade.

Source: § 22-235

REVISER'S NOTE: No material change.

§ 22.1-205. Driver education programs.—A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind the wheel driver training, provided, however, that no student in any such course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Division of Motor Vehicles.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to insure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. Only school divisions complying with the standardized program established by the Board of Education shall be entitled to participate in the distribution of State funds appropriated for driver education.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the State Highway and Transportation Commission shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the State Highway and Transportation Commission shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of twenty-five miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

Source: § 22-235.1

REVISER'S NOTE: References to payments from the driver education fund are deleted because inconsistent with the appropriation act. The equipment of vehicles used for instruction is left to Board regulation. Other changes are made for clarity.

§ 22.1-206. Instruction concerning drugs and drug abuse.—Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

Source: § 22-236.1

REVISER'S NOTE: No material change.

§ 22.1-207. Physical and health education.—Physical and health education shall be emphasized throughout the public school curriculum by lessons, drills and physical exercises, and all pupils in the public elementary and secondary schools shall receive as part of the educational program such health instruction and physical training as shall be prescribed by the Board of Education and approved by the State Board of Health.

Source: §§ 22-237 and 22-243

REVISER'S NOTE: No material change.

§ 22.1-208. Emphasis on moral education.—The entire scheme of instruction in the public schools shall emphasize moral education through lessons given by teachers and imparted by appropriate reading selections.

Source: § 22-238

REVISER'S NOTE: No material change.

§ 22.1-209. Employment counseling and placement services.—A. Each school board shall make available to secondary students employment counseling and placement services to furnish information relating to the employment opportunities available to students graduating from or leaving the public schools in the school division.

B. No fee, compensation or other consideration shall be charged to or received from any student utilizing such services.

C. In providing such services, the school board shall consult and cooperate with the Virginia Employment Commission.

D. The Board of Education may recommend methods for providing such services. The State Department of Education may provide assistance to school divisions in establishing and providing such services upon request.

Source: § 22-40.1

REVISER'S NOTE: No material change.

§ 22.1-210. Night schools.—Any school board may, in its discretion, establish and conduct night schools to which may be admitted pupils, regardless of age.

Source: § 22-222

REVISER'S NOTE: No material change.

§ 22.1-211. Operation of vacation schools and summer camps by school boards.—Any school board or any two or more school boards acting in conjunction may establish and operate or cause to be established and operated, for the benefit of persons of school age, vacation schools or camps for the advancement of education, physical training, health, nutrition, the prevention of communicable diseases, or for any other purpose deemed by such board or boards to be beneficial to persons of school age requiring special training or attention or which will promote the efficiency of their respective school systems. Such school board or boards may expend such sum or sums as may be reasonable and requisite for such purposes or may provide such sum or sums and permit the proper use of any school property, under reasonable safeguards, for the establishment and operation of a vacation school or camp conducted under the auspices and supervision of any other governmental agency approved by such school board or boards, for the benefit of persons of school age within the jurisdiction of such board or boards; provided, such activity shall have been included in the estimate of money deemed to be needed for public schools for the year in which such expenditure is made, and provided, further, that the establishment and operation of such school or camp shall be approved, as to conditions affecting sanitation and safety, by the health authorities having jurisdiction of the area in which such vacation school or camp is located and conducted. Any vacation school or camp operated by such school board or boards or any other local agency, department or board shall be available to persons of school age within the applicable jurisdiction on a nondiscriminatory basis regardless of whether they attend public or private schools.

Source: § 22-55

REVISER'S NOTE: No material change.

§ 22.1-212. Vacation schools and summer camps operated by Board or Department.—Any vacation school or summer camp operated by the Board of Education or the State Department of Education shall be made available to persons of school age within the Commonwealth on a nondiscriminatory basis regardless of whether they attend public or private schools during the regular school year.

Source: § 22-21.3

REVISER'S NOTE: No material change.

Article 2.

Special Education.

§ 22.1-213. Definitions.—As used in this article:

1. "Handicapped children" means those persons (i) who are aged two to twenty-one, inclusive, having reached the age of two by the date specified in § 22.1-254, (ii) who are mentally retarded, physically handicapped, seriously emotionally disturbed, speech impaired, hearing impaired, visually impaired, multiple handicapped or who have a specific learning disability or who are otherwise

handicapped as defined by the Board of Education and (iii) who because of such impairments need special education.

2. "Special education" means classroom, home, hospital, institutional or other instruction, including physical education and vocational education, to meet the reasonable educational needs of handicapped children, transportation, and corrective and supporting services required or appropriate to assist handicapped children in taking advantage of, or responding to, educational programs and opportunities commensurate with their abilities. The Board of Education shall determine by regulation standards for determining which instruction and services must be provided pursuant to an individualized education program.

3. "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. The term does not include children who have learning problems which are primarily the result of visual, hearing or motor handicaps, of mental retardation, or of environmental, cultural or economic disadvantage.

Source: § 22-10.3

REVISER'S NOTE: The definition of "handicapped children" is revised to conform the upper age limit to federal law, (P. L. 94-142).

§ 22.1-214. Board to prepare special education program for handicapped children.—A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train handicapped children between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all handicapped children have available to them a free and appropriate education, including special education designed to meet the reasonable educational needs of such children. The school boards of the several school divisions, the Commission for the Visually Handicapped, the Virginia Council for the Deaf and other State and local agencies which can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to handicapped children and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in State or federal statutes or regulations.

C. The Board of Education may provide for final decisions to be made by a hearing officer.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B. and C. of this section may bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education which comply with regulations established by the Board, the Board may withhold all special education monies from the school division and may use the payments which would have been available to such school division to provide special education, directly or by contract, to eligible handicapped children in such manner as the Board considers appropriate.

F. The Board of Education is authorized to supervise educational programs for handicapped children by other public agencies and to assure that placements of handicapped children by other public agencies are in an appropriate program consistent with the individualized education program.

Source: § 22-10.4

REVISER'S NOTE: Subsection E. of this section now provides the Board of Education with alternative courses of action. The revision changes the conjunction from "or" to "and" since the second alternative is dependent upon the first.

§ 22.1-215. School divisions to provide special education; plan to be submitted to Board.—Each school division shall provide free and appropriate education, including special education, for the handicapped children residing within its jurisdiction in accordance with regulations of the Board of Education. Each school division shall submit annually to the Board of Education by such date as the Board shall specify a plan acceptable to the Board for such education for the year following and a report indicating the extent to which the plan required by law for the preceding year has been implemented.

Source: § 22-10.5

REVISER'S NOTE: No material change.

§ 22.1-216. Use of public or private facilities and personnel under contract for special education.—A school board may provide special education for handicapped children either directly with its own facilities and personnel or under contract with another school division or divisions or any other public or private nonsectarian school, agency or institution approved by the Board of Education.

Source: § 22-10.6

REVISER'S NOTE: No material change.

§ 22.1-217. Visually impaired children.—A. Special education for visually impaired children provided by a school division shall be established, maintained and operated jointly by the school board and the Virginia Commission for the Visually Handicapped subject to the regulations of the Board of Education.

B. The Virginia Commission for the Visually Handicapped shall prepare and place in operation a program of special education services in addition to the special education provided in the public school system designed to meet the educational needs of visually impaired children between the ages of birth and twenty-one and may prepare and place in operation such programs for such individuals of other ages. In the development of such a program, the Virginia Commission for the Visually Handicapped shall cooperate with the Board of Education and the school boards of the several school divisions.

C. As used in this section:

1. "Visually impaired" shall be defined by the Board of Education and the Virginia Commission for the Visually Handicapped.

2. "Program" means a modified program which provides special materials or services and may include the employment of itinerant teachers or resource room teachers for the visually impaired.

Source: § 22-10.7

REVISER'S NOTE: No material change.

§ 22.1-218. Reimbursement of parents or guardian of handicapped children in private schools; reimbursement of school boards from State funds.—A. If a school division is unable to provide a free appropriate public education to a handicapped child and it is not appropriately available in a State facility, it shall offer to place the child in a nonsectarian private school for the handicapped approved by the Board of Education or such other licensing agency as may be designated by State law. The school board of such division shall pay to, or on behalf of, the parent or guardian of such child the reasonable tuition cost and other reasonable charges as may be determined by the Board of Education. The school board, from its own funds, is authorized to pay such additional tuition or charges as it may deem appropriate. Of the total payment approved by the Board of Education, the school board shall be reimbursed sixty per centum from such State funds as are appropriated for this purpose.

B. Where a school board enters into an agreement with another school division or divisions or a public or private nonsectarian school to pay the tuition cost of special education for handicapped children within its jurisdiction, the Board of Education is authorized to reimburse the school board sixty per centum of its reasonable costs as determined by the Board of Education.

C. The Board of Education is further authorized to reimburse each school board operating a preschool special education program for handicapped children aged two through four, sixty per centum of its costs.

Source: § 22-10.8

REVISER'S NOTE: No material change.

§ 22.1-219. Use of federal, State or local funds not restricted.—Nothing in this article shall be construed to restrict or prohibit the use of any federal, State or local funds made available under any federal, State or local appropriation or grant.

Source: § 22-10.9

REVISER'S NOTE: No material change.

§ 22.1-220. Power of counties, cities and towns to appropriate and expend funds for education of handicapped children.—The governing body of any county, city or town is hereby authorized and empowered to appropriate and expend funds of the county, city or town in furtherance of the education of handicapped children residing in such county, city or town who attend private, nonsectarian schools, whether within or without the county, city or town and whether within or without the Commonwealth.

Source: § 22-10.10

REVISER'S NOTE: Unnecessary language is deleted.

§ 22.1-221. Transportation of handicapped children attending public or private special education programs.—Each handicapped child enrolled in and attending a special education program provided by the school division pursuant to any of the provisions of § 22.1-216 or § 22.1-218 shall be entitled to transportation to and from such school or class at no cost if such transportation is necessary to enable such child to obtain the benefit of educational programs and opportunities. A school board may, in lieu of providing transportation, allot funds to pay the reasonable cost of transportation. The Board of Education shall reimburse the school board sixty per centum of such cost if funds therefor are available.

Source: § 22-10.11

REVISER'S NOTE: The last paragraph of the present section, relating to transportation of students at the Virginia Schools for the Deaf and the Blind, is moved in this revision to a more appropriate placement in Title 23.

§ 22.1-222. Overall Advisory Council on Needs of Handicapped Children and Adults.—The Overall Advisory Council on Needs of Handicapped Children and Adults previously created is continued in existence and shall be composed of twenty-two members to be appointed as follows: two members from the Senate to be appointed by the Committee on Privileges and Elections thereof; three members from the House of Delegates to be appointed by the Speaker; and one member from the Department of Education, one member from the Department of Health, one member from the Department of Mental Health and Mental Retardation, one member from the Virginia Commission for the Visually Handicapped, one member from the Health Sciences Division of Virginia Commonwealth University, one member from the School of Medicine of the University of Virginia, one member from the Eastern Virginia Medical School, one member from the Department of Welfare, one member from the Department of Rehabilitative Services, one member from the Virginia Council for the Deaf, one member from the Department of Corrections, one member from the Virginia Employment Commission and five members at large, all to be appointed by the Governor. All appointments shall be for terms of four years and the members appointed by the Governor shall be subject to reappointment for one additional term at the pleasure of the Governor.

The Council shall meet at least once a year. The Council shall continuously study the handicapping problems of children and the various phases of the programs for handicapped persons and make such recommendations to the several agencies represented on the Council as the Council deems appropriate and proper. The Council shall also make and submit to the Governor from time to time such reports and recommendations as it deems necessary and expedient. Members of the Council shall receive no compensation for their services but may be paid their necessary traveling expenses incurred in the performance of their duties.

Source: § 22-10.13

REVISER'S NOTE: Some obsolete language relating to terms of prior appointments is deleted.

Article 3.

Adult Education.

§ 22.1-223. Definitions.—As used in this article:

1. "Adult education programs" means instructional programs below the college credit level provided by public schools for persons over the age of compulsory school attendance specified in § 22.1-254 who are not enrolled in the regular public school program, including basic adult education, general adult education and general educational development programs.

2. "Basic adult education" means education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their real ability, which is designed to help eliminate such inability and raise the level of education of such adults so as to make them less likely to become dependent on others, improve their ability to benefit from occupational training and otherwise increase their opportunities for more productive and profitable employment, and make them better able to meet their adult responsibilities.

3. "General adult education" means academic, cultural, or avocational instruction.

4. "General educational development program" means a program whereby an adult who did not complete high school, by achieving satisfactory scores on tests of the program, may earn a high school equivalency certificate.

Source: § 22-360

REVISER'S NOTE: No material change.

§ 22.1-224. Duties of Board of Education.—The Board of Education shall:

1. Stimulate and encourage the development of adult education programs in every school division;

2. Stimulate and encourage coordination in the development and provision of adult education programs between school boards and other State, federal, local, public and private agencies;

3. Promulgate appropriate standards and guidelines for adult education programs;

4. Accept and administer grants, gifts, services, and funds from available sources for use in adult education programs.

Source: § 22-361

REVISER'S NOTE: No change.

§ 22.1-225. Authority of school boards.—Every school board is authorized to provide adult education programs and may, in its discretion, charge persons admitted to such programs fees therefor.

Source: § 22-362

REVISER'S NOTE: No change.

§ 22.1-226. Allocation of State funds.—State funds provided for adult education programs shall be allocated to school divisions for actual costs on fixed-cost-per-student or cost-per-class basis.

Source: § 22-363

REVISER'S NOTE: No change.

Article 4.

Vocational Education.

§ 22.1-227. State Board of Vocational Education.—The Board of Education is designated as the State Board of Vocational Education to carry out the provisions of the federal Vocational Education Act of 1963, as amended, and as such shall promote the provision of agriculture, business, distributive, home economics, health, industrial arts, trade and industrial education in the several school divisions.

Source § 22-319

REVISER'S NOTE: Most of present §§ 22-319 through 22-330 have been deleted in the revision as obsolete or unnecessary.

Article 5.

§ 22.1-228. Definitions.—As used in this article:

1. "Vocational education project" or "project" means a project which supplements the regular vocational education program in a school division, which is designed to provide effective practical training to students in the secondary schools of the school division and in which participation is optional and voluntary.

2. "Corporation" means a nonstock, nonprofit corporation or foundation established for the express purpose of promoting vocational education in a school division within the meaning of § 501 (c) (3) of the United States Internal Revenue Code.

Source: §§ 22-330.37 and 22-330.38

REVISER'S NOTE: No material change.

§ 22.1-229. Projects may be established directly or by contract with corporation.—Any school board may establish vocational education projects. A school board may establish any such project either directly with its own facilities and personnel or under contract with a corporation. A project may be conducted on school board property or other public or private property. A school board may acquire sites for projects.

Source: §§ 22-330.36, 22-330.37 and 22-330.38

REVISER'S NOTE: No material change.

§ 22.1-230. Approval of corporation articles and by laws.—No school board shall contract with a corporation for establishment of a project unless its articles of incorporation and bylaws have been approved by the Board of Education.

Source: § 22-330.39

REVISER'S NOTE: Restated for clarity.

§ 22.1-231. Review of projects by Board of Education.—No school board shall establish or contract to establish a project until such project has been reviewed and approved by the Board of Education. Such review by the Board shall be for the purpose of insuring that (i) where a school board undertakes a project by contract with a corporation, such contract meets the requirements of this article, (ii) in undertaking a project, the school board complies with all other requirements of law and (iii) public funds will be protected. If the Board fails to act on a project submitted for approval within sixty days, the project shall be deemed to be approved.

Source: § 22-330.40

REVISER'S NOTE: The revision of this section states the requirement that a project must be reviewed and approved by the Board of Education. The requirement is only implied in present law.

§ 22.1-232. Contracts.—A. Where a school board undertakes a project by contract with a corporation, the school board may advance, contribute and loan funds to the corporation. The contract shall contain:

- 1. a system of accounting;*
- 2. the terms upon which any profits from the sale of the project will be allocated between the school board and the corporation;*
- 3. conditions for the return with interest of any funds advanced by the school board;*
- 4. a provision that upon the dissolution of the corporation, any assets remaining after payment of just debts shall be transferred to and become the property of the school board;*
- 5. a provision that, upon the completion of any project, the school board may determine not to participate in further projects;*
- 6. a provision that the school board may at any time require the return of funds to which it is entitled.*

B. Where the school board contributes or loans funds to the corporation, such contract shall provide for the posting of a bond with surety by the officers of the corporation conditioned to protect the rights of the school board.

C. Such contract may provide for the establishment of an escrow fund for the purpose of funding future projects.

Source: §§ 22-330.41 and 22-330.42

REVISER'S NOTE: School boards are specifically authorized to advance, contribute and loan funds to corporations.

§ 22.1-233. Application of zoning laws and building codes; inspection of work; school boards to make no warranties.—Nothing herein shall exempt projects from compliance with State and local zoning laws and building codes, if applicable. Work done by students or other nonlicensed personnel shall be inspected by an appropriately licensed person to assure compliance with prescribed standards. No school board shall make any warranty, express or implied, as to the construction or as to the compliance of a project with zoning laws and building codes.

Source: § 22-330.43

REVISER'S NOTE: No material change.

§ 22.1-234. Acquisition of sites for projects; sale of completed projects.—A school board may expend funds for the purpose of acquiring the site for the construction of a project. At the

completion of a project not constructed on public property, the project shall be sold within a reasonable time. The power of eminent domain may not be used to acquire land as a site for a project. The school board shall make reasonable and good faith efforts to assure that the fair market value is received upon the sale of any building constructed as a project.

Source: § 22-330.44

REVISER'S NOTE: No material change.

§ 22.1-235. Transportation of students; insurance.—A school board may provide transportation for students to project sites.

A school board or corporation may provide insurance protecting its students and agents from loss as a result of physical injury or liability resulting from their work on the project.

Source: § 22-330.45

REVISER'S NOTE: No material change.

§ 22.1-236. Immunity of board members and officers and directors of corporations.—Neither the members of a school board nor the officers or directors of a corporation shall be personally liable for the negligence of any student or agent in connection with a project.

Source: § 22-330.46

REVISER'S NOTE: Revised for clarity.

§ 22.1-237. Academic credit.—The Board of Education may regulate the awarding of academic credit for participation in projects.

Source: § 22-330.47

REVISER'S NOTE: No change.

Article 6.

Textbooks.

§ 22.1-238. Approval of textbooks and appliances.—The Board of Education shall approve textbooks suitable for use in the public schools and shall have authority to approve instructional aids and materials for use in the public schools.

Any school board may use textbooks not approved by the Board provided the school board selects such books in accordance with regulations promulgated by the Board.

Source: §§ 22-296 and 22-318.1

REVISER'S NOTE: The Board of Education is to "approve" rather than "select" textbooks and is authorized to approve "instructional aids and materials" in conformity within § 5(d) of Article VIII of the Virginia Constitution.

§ 22.1-239. Change of textbooks.—No textbook approved by the Board for use in the public schools shall be changed until such book has been in use for a period of not less than six years, subject to renewal from one to four years, unless such book becomes obsolete or unless a change would result in a material decrease in price. Whenever such book is so changed, the Board of Education may permit the use of the old books for a period of at least three years from the date of such change.

Source: § 22-297

REVISER'S NOTE: No material change.

§ 22.1-240. Number of basal textbooks.—The Board of Education shall determine the number of basal textbooks required for instruction in classes of various sizes in the several subjects in schools with varying library facilities.

Source: § 22-298

REVISER'S NOTE: No material change.

§ 22.1-241. Contracts with publishers.—A. The Board of Education shall enter into written contracts with publishers of textbooks approved by it for use in the public schools.

B. The contract price shall not exceed the lowest wholesale price free on board publisher at which the book or books involved in the contract are currently bid under contract anywhere in the United States. The Board shall stipulate the price at which school boards may sell the book or books, which price shall in no case exceed fifteen per centum added to the wholesale price.

C. If, subsequent to the date of any contract entered into by the Board, the prices of books named in the contract are reduced or the terms of the contract are made more favorable to purchase anywhere in the United States or a special or other edition of any book named in the contract is sold outside of Virginia at a lower price than bid in this Commonwealth, the publisher shall, in the discretion of the Board of Education, grant the same reduction or terms to the Board and give the Board the option of using such special or other edition adapted for use in Virginia and at the lowest price at which such special edition is sold elsewhere and the contract shall so state.

D. The publisher shall furnish sample copies of all books mentioned in the contract with the Board of Education and shall guarantee that the books bid in the contract are equal in all respects to such sample copies.

Source: §§ 22-299, 22-300, 22-301 and 22-303

REVISER'S NOTE: No material change.

§ 22.1-242. Publisher to provide bond.—Each contract made by the Board with the publisher of textbooks shall be accompanied by a bond with good and sufficient surety in the penal sum of not less than one thousand dollars nor more than twenty thousand dollars. Such bond shall be approved by the Board and shall be conditioned upon the performance by the publisher of all of the terms and conditions of the contract and payment of liquidated damages as provided for in § 22.1-243 and any damage in excess thereof which may be proved to be sustained by reason of the violation of such terms and conditions.

Source: § 22-304

REVISER'S NOTE: No material change.

§ 22.1-243. Payment of damages on violation; contract may be voided.—In the case of any misrepresentation of fact in the contract or upon the violation of any of the terms and conditions required by the provisions of this article, the publisher shall, upon the demand of the Board, pay as liquidated damages the sum of one thousand dollars to the Commonwealth of Virginia to the credit of the Literary Fund; and, in the case of any such violation, the Board may, in addition, declare the contract null and void.

Source: § 22-305

REVISER'S NOTE: No material change.

§ 22.1-244. Proceeding on violation of contract.—The Superintendent of Public Instruction shall report to the Board any misrepresentation in or any violation of any contract by a publisher. The Board shall, if the public interest so require, institute such legal proceedings as may be proper.

Source: § 22-306

REVISER'S NOTE: Reworded to delete procedure of the Board instructing the Attorney General to institute proceedings.

§ 22.1-245. Process agent of publisher.—If the publisher is a foreign corporation or a nonresident of this Commonwealth, the Secretary of the Commonwealth is hereby appointed as agent upon whom process may be served against the publisher in any legal proceedings instituted in this Commonwealth to enforce any rights or claims under the contract.

Source: § 22-302

REVISER'S NOTE: The appointment of the Secretary of the Commonwealth as agent for a publisher is limited to legal proceedings instituted in Virginia.

§ 22.1-246. State Board to adopt regulations.—The Board of Education shall adopt regulations governing the purchase of textbooks approved by it for use in the public schools directly from the publishers by school boards and governing the distribution and care of such textbooks for the use of children attending public schools in Virginia.

Source: § 22-295

REVISER'S NOTE: The Board's authority to adopt regulations governing the care and distribution of textbooks is extended to those used by all public school children rather than only those used by elementary children.

§ 22.1-247. Boards to order from publishers.—Every school board shall order directly from the respective publishers the books needed for the supply of the public schools in the school division. The publishers shall ship the books to the school board. The purchase price of such books shall be paid directly to the publishers by the school board.

Source: § 22-309

REVISER'S NOTE: No material change.

§ 22.1-248. Procedure when orders not filled properly.—If such orders are not promptly and completely filled by publishers, reports shall be made by the division superintendent to the Superintendent of Public Instruction who shall investigate and report to the Board of Education whether any action under the contract may be proper. The division superintendent shall likewise report to the Superintendent of Public Instruction any irregularities or any failure of a publisher to comply with the conditions of the contract with the Board.

Source: § 22-310

REVISER'S NOTE: No material change.

§ 22.1-249. Central depository may be authorized by Board.—The Board of Education may, in its discretion, authorize a central depository to be operated under the general control of the Board. If such a depository is established or maintained, the Board may require that orders from school boards be filed with the depository rather than with the publisher, but nothing in this section shall prohibit special orders of books from being filled directly by the publishers.

Source: § 22-311

REVISER'S NOTE: No material change.

§ 22.1-250. Board to exercise supervisory powers necessary for proper distribution, care, etc.—The Board shall see (i) that the accounts of school boards with the publishers are accurately kept and payments made by such school boards for all books purchased on the due date, (ii) that a reasonable supply of textbooks is kept on hand and available to all pupils, (iii) that used books are rebound to prolong their usefulness, (iv) that the stock of textbooks is covered by fire insurance, (v) that every person handling textbook accounts is properly bonded with corporate surety, and (vi)

that all accounts are closed if and when any local school administration is changed. The Board shall exercise such other supervisory powers as shall be necessary to provide satisfactory distribution and proper care of free textbooks on a statewide basis as provided by law.

Source: § 22-315

REVISER'S NOTE: No material change.

§ 22.1-251. Textbooks, etc., for eligible children.—Each school board shall provide, free of charge, such textbooks and workbooks required for courses of instruction for each child attending public schools whose parent or guardian is financially unable to furnish them. Children who are receiving public assistance in the form of aid to dependent children, general relief, supplemental security income or foster care shall be deemed eligible for the purposes of this section. In systems providing free textbooks, the cost of furnishing such textbooks and workbooks may be paid from school operating funds or the textbook fund or such other funds as are available. In systems operating rental textbook systems, school boards shall waive rental fees or, in their discretion, may reimburse the rental textbook fund from school operating funds.

Source: §§ 22-72(8) and 22-97(5)

REVISER'S NOTE: No change.

§ 22.1-252. Free textbook and textbook rental systems.—Each school board is authorized and encouraged to establish a system of providing free textbooks or a textbook rental system in accordance with such regulations as may be promulgated by the Board of Education.

Source: § 22-307.1

REVISER'S NOTE: References to funding have been deleted because unclear and inconsistent with the appropriation act.

§ 22.1-253. Consumable material such as workbooks, writing books and drawing books.—Consumable material such as workbooks, writing books and drawing books may be purchased and donated by school boards or sold at a retail price not to exceed seven per centum added to the wholesale free on board publisher price.

Source: § 22-314

REVISER'S NOTE: A limitation on use of State funds deleted as unnecessary.

Chapter 14.

Pupils.

Article 1.

Compulsory School Attendance.

§ 22.1-254. Ages of children required to attend.—Every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before October thirty-first of the 1980-1981 school year and September thirtieth of any school year thereafter and who has not passed the seventeenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent.

Source: § 22-275.1

REVISER'S NOTE: A provision that tutoring be "in a home" is deleted. A requirement that children "regularly attend" is deleted as covered by §§ 22.1-262 and 22.1-267.

§ 22.1-255. Nonresident children.—Any person who has residing with him for a period of sixty days or more any child within the ages prescribed in § 22.1-254 whose parents or guardians reside in another state or the District of Columbia shall be subject to the provisions of § 22.1-254 and shall pay or cause to be paid any tuition charges for such child that may be required pursuant to § 22.1-5 or shall return such child to the home of his parents or legal guardians.

Source: § 22-220

REVISER'S NOTE: The section is made applicable to persons having children residing with them rather than persons having control or charge of any children since the latter are covered under § 22.1-254.

§ 22.1-256. Children exempted from article.—A. The provisions of this article shall not apply to:

- 1. Children suffering from contagious or infectious diseases while suffering from such diseases;*
- 2. Children under ten years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;*
- 3. Children between ten and seventeen years of age who live more than two and one-half miles from a public school unless public transportation is provided within one and one-half miles of the place where such children live;*
- 4. Children excused under § 22.1-257 of this article;*
- 5. Any child who will not have reached his sixth birthday on or before October thirty-first of the 1980-1981 school year and September thirtieth of each school year thereafter whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year;*
- 6. Any child withdrawn from kindergarten as provided in § 22.1-3.*

B. The distances specified in paragraphs A. 2. and A. 3. of this section shall be measured or determined from the entrance to the school grounds or the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

Source: § 22-275.3

REVISER'S NOTE: Obsolete references to the 1978-80 school year are deleted.

§ 22.1-257. Excusing children who cannot benefit from education or whose parents conscientiously object; excusing children for reasons of health or apprehension for personal safety.—A. A school board:

- 1. May, on recommendation of the principal and the division superintendent, with the written consent of the parent or guardian, excuse from attendance at school any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school;*
- 2. Shall excuse from attendance at school any pupil who, together with his parents, by reason of bona fide religious training or belief, is conscientiously opposed to attendance at school;*
- 3. Shall, on the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, excuse from attendance at school for such period of time as the court deems appropriate any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or*

apprehension in that pupil's specific case is determined by the court to be justified;

4. May, on recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, excuse from attendance at school any pupil who, in the judgment of such court, cannot benefit from education at such school.

B. The court in reaching its determination as to whether the concern or apprehension referred to in paragraph A. 3. of this section is justified shall take into consideration the recommendation of the principal and division superintendent.

C. As used in paragraph A. 2. of this section, the term "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code.

Source: §§ 22-275.4 and 22-275.4:1

REVISER'S NOTE: No material change.

§ 22.1-258. Appointment of attendance officers.—Every school board shall have power to appoint one or more attendance officers who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent shall act as attendance officer.

Source: § 22-275.16

REVISER'S NOTE: A provision requiring the division superintendent to approve the school board's appointments is deleted.

§ 22.1-259. Teachers to keep daily attendance records.—Every teacher in every school in the Commonwealth shall keep an accurate daily record of attendance of all children in accordance with regulations prescribed by the Board of Education. Such record shall, at all times, be open to any officer authorized to enforce the provisions of this article who may inspect or copy the same and shall be admissible in evidence in any prosecution for a violation of this article as prima facie evidence of the facts stated therein.

Source: §§ 22-209 and 22-275.15

REVISER'S NOTE: A provision presently in § 22-209 regarding regulations of the Board of Education governing attendance records is moved to this section.

§ 22.1-260. Report of children enrolled and not enrolled.—Within ten days after the opening of the school, each public school principal shall report to the division superintendent:

1. The name of each pupil enrolled in the school, the age and grade of the pupil and the name and address of the pupil's parent or guardian; and

2. To the best of the principal's information, the name of each child subject to the provisions of this article who is not enrolled in school with the name and address of the child's parent or guardian.

Source: §§ 22-275.8 and 22-275.9

REVISER'S NOTE: The term "principal teacher" is changed to "principal".

§ 22.1-261. Division superintendent to make list of children not enrolled; duties of attendance officer.—The division superintendent shall check the reports submitted pursuant to § 22.1-260 with the last school census and with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the division superintendent shall, within five days after receiving all reports submitted pursuant to § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having

control of the child to require the attendance of such child at the school within three days from the date of such notice.

Source: § 22-275.10

REVISER'S NOTE: No material change.

§ 22.1-262. *Complaint to court when parent fails to comply with law.*—A list of persons so notified shall be sent by or the attendance officer to the appropriate school principal. If the parent, guardian or other person having control of the child fails to comply with the law within the time specified in the notice, it shall be the duty of the attendance officer to make complaint in the name of the Commonwealth before the juvenile and domestic relations district court. In addition thereto, such child may be proceeded against as a child in need of services as provided in Chapter 11 of Title 16.1 of this Code.

Source: § 22-275.11

REVISER'S NOTE: No material change.

§ 22.1-263. *Violation constitutes misdemeanor.*—Any person violating the provisions of § 22.1-254 or § 22.1-255 shall be guilty of a Class 4 misdemeanor.

Source: § 22-275.7

REVISER'S NOTE: Specific section references are inserted.

§ 22.1-264. *Misdemeanor to make false statements as to age.*—Any person who makes a false statement concerning the age of a child between the ages set forth in § 22.1-254 for the purpose of evading the provisions of this article shall be guilty of a Class 4 misdemeanor.

Source § 22-275.18

REVISER'S NOTE: No material change.

§ 22.1-265. *Inducing children to absent themselves.*—Any person who induces or attempts to induce any child to be absent unlawfully from school or who knowingly employs or harbors, while school is in session, any child absent unlawfully shall be guilty of a Class 4 misdemeanor.

Source: § 22-275.19

REVISER'S NOTE: No material change.

§ 22.1-266. *Law-enforcement officers and truant children.*—Notwithstanding the provisions of § 16.1-246 of this Code, any law-enforcement officer as defined in § 9-108.1 of the Code or any attendance officer may pick up any child who is reported to be truant from school by a school principal or division superintendent or who the law-enforcement officer or attendance officers reasonably determines, by reason of the child's age and circumstances, is truant from school and may deliver such child to the appropriate school and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

Source: § 22-275.11:1

REVISER'S NOTE: Attendance officers are authorized to pick up truants and deliver them to school.

§ 22.1-267. *Proceedings against habitually absent child.*—Any child permitted by any parent, guardian or other person having control thereof to be habitually absent from school contrary to the provisions of this article may be proceeded against as a child in need of services as provided in Chapter 11 of Title 16.1 of this Code.

Source: § 22-275.20

REVISER'S NOTE: No material change.

§ 22.1-268. Duty of Commonwealth's attorneys to prosecute cases arising under article; jurisdiction of offenses.—It shall be the duty of the attorneys for the Commonwealth of the several counties and cities to prosecute all cases arising under this article. Juvenile and domestic relations district courts shall have exclusive original jurisdiction for the trial of such cases.

Source: § 22-275.21

REVISER'S NOTE: No material change.

§ 22.1-269. Board to enforce.—The Board of Education shall have the authority and it shall be its duty to see that the provisions of this article are properly enforced throughout the Commonwealth.

Source: § 22-275.23

REVISER'S NOTE: No material change.

Article 2.

Health Provisions.

§ 22.1-270. Preschool physical examinations.—A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed no earlier than twelve months prior to the date such pupil first enters such public kindergarten or elementary school and a certificate from a licensed physician that such pupil either has been successfully immunized against communicable diseases as required by § 32.1-46 of this Code or has received at least the first series of all vaccinations required by § 32.1-46 or (ii) records establishing that such pupil furnished such report and certificate upon prior admission to another school or school division and providing the information contained in such report and certificate.

B. The physician making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as handicapped.

C. Such physical examination report and immunization certificate shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent or guardian shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent or guardian shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease. The immunization certificate shall not be required for pupils to whom the provisions of paragraph D.1 of § 32.1-46 are applicable or for immunizations to which the provisions of paragraph D.2 of § 32.1-46 are applicable.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Every pupil shall, within ten days after entering a private school, furnish a certificate from a licensed physician certifying that such pupil has been successfully immunized against communicable diseases as required by § 32.1-46 of this Code.

G. By October fifteenth of each year each division superintendent and each principal of a private school shall submit to the local health director of the county or city where the school

division or school is located the name of each child for whom no certificate of successful immunization has been furnished or whose certificate indicates that the required immunizations were not completed and the name and address of the parents of such child.

H. The provisions of this section shall not apply to any child who was admitted to a public school prior to July one, nineteen hundred seventy-two.

Source: § 22-220.1

REVISER'S NOTE: The revision would permit the admission to public schools of pupils who have begun but not completed their immunizations. The following section specifies the consequences if the pupil fails to complete the immunizations.

§ 22.1-271. Failure to complete immunizations.—Upon the admission to any public school of any pupil who has furnished a certificate that indicates that the required immunizations were not completed, the school principal shall notify the parent, guardian or other person having custody or control of the pupil that the immunizations must be completed within sixty days of admission. If the pupil's immunizations are not completed within the sixty-day period, the parent, guardian or other person so notified shall be guilty of a Class 4 misdemeanor and the pupil shall not be included in the average daily membership of the school division for funding purposes.

Source: § 22-250

REVISER'S NOTE: Pupils who have not completed their immunizations upon admission to public schools are required to complete them within 60 days of admission. The penalty for a violation of this section imposed upon parents or guardians is made a Class 4 misdemeanor. In addition it is provided that pupils who do not complete their immunizations within 60 days of admission cannot be included in ADM computations for funding purposes.

§ 22.1-272. Contagious and infectious diseases.—Persons suffering with contagious or infectious disease shall be excluded from the public schools while in that condition.

Source: § 22-249

REVISER'S NOTE: A provision requiring teachers to require cleanliness and good behavior of pupils is deleted.

Provisions relating to tuberculosis certificates required of employees are transferred to Chapter 15 of this revision.

§ 22.1-273. Sight and hearing of pupil to be tested.—The Superintendent of Public Instruction shall prepare or cause to be prepared, with the advice and approval of the State Board of Health, suitable test cards, blanks, record books, and other appliances for testing the sight and hearing of the pupils in the public schools and necessary instructions for the use thereof. The State Department of Education shall furnish the same free of expense to all schools in a school division upon request of the school board of such division accompanied by a resolution of the school board directing the use of such test cards, blanks, record books and other appliances in the schools of the school division. Within fifteen days after the beginning of the term or the receipt of such material, the principal of each such school shall test the sight and hearing of all the pupils in the school and keep a record of such examinations in accordance with instructions furnished. Whenever a pupil is found to have any defect of vision or hearing or a disease of the eyes or ears, the principal shall forthwith notify the parent or guardian, in writing, of such defect or disease. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.

Source: § 22-248

REVISER'S NOTE: No material change.

§ 22.1-274. Expenditures for nurses, physicians and therapists.—A school board may employ school nurses, physicians, physical therapists, occupational therapists and speech therapists. No such personnel shall be employed unless they meet such standards as may be determined by the Board of Education. Subject to the approval of the appropriate local governing body, a local health

department may provide personnel for health services for the school division.

Source: § 22-241

REVISER'S NOTE: Unnecessary language authorizing appropriation of local funds for health examinations, physical education and special education is deleted. Standards for health personnel employed by school boards are to be set solely by the Board of Education. Local health departments are authorized to provide personnel. The term "physical director" is deleted.

§ 22.1-275. Protective eye devices.—Every student and teacher in any school, college, or university shall be required to wear industrial quality eye protective devices while participating in any of the following courses or laboratories:

1. Vocational or industrial arts shops or laboratories involving experience with:

- a. Hot molten metals,*
- b. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials,*
- c. Heat treatment, tempering, or kiln firing of any metal or other materials,*
- d. Gas or electric arc welding,*
- e. Repair of any vehicle,*
- f. Caustic or explosive materials;*

2. Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

The governing board or authority of any public or private school or the governing body of each institution of higher learning shall furnish the eye protective devices prescribed in this section free of charge or at cost to the students and teachers of the school participating in such courses or laboratories; provided, however, that such devices may be furnished by parents or guardians of such students. Eye protective devices shall be furnished to all visitors to such courses.

"Industrial quality eye protective devices," as used in this section, means devices providing side protection and meeting the standards of the American Standards Association Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc.

Source: § 22-10.2

REVISER'S NOTE: No material change.

Article 3.

Discipline.

§ 22.1-276. Liability of pupils for destruction of property.—Each pupil shall be required to reimburse the school board for any actual breakage or destruction of property owned by or under the control of the school board done by such pupil in pursuit of his studies.

Source: § 22-200

REVISER'S NOTE: Revised to specify that the property broken or destroyed must be the school board's.

§ 22.1-277. Suspension and expulsion of pupils.—A. Pupils may be suspended or expelled from attendance at school for sufficient cause.

B. A pupil may be suspended for not more than ten school days by either the school principal or in his absence any teacher. The principal or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred; provided that in the case of any pupil whose presence poses a continuing danger to persons or property or an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts and opportunity to present his version given as soon as practicable thereafter. Upon suspension of any pupil the principal or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent or person in loco parentis of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal or teacher upon a petition for such review by any party in interest and act so as to confirm or disapprove such action based on an examination of the record of the pupil's behavior. The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board.

C. Pupils may be suspended for in excess of ten school days or expelled from attendance at school after written notice to the pupil and his parent or guardian of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations school board. If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide for an appeal of the committee's decision to the full school board.

Source: §§ 22-230.1 and 22-230.2

REVISER'S NOTE: These sections are revised to conform the minimum required procedures to the standards set forth in *Goss v. Lopez*, 419 U.S. 565 (1975).

§ 22.1-278. Same; school board regulations.—School boards shall adopt regulations governing suspension and expulsion of pupils. Such regulations, which shall be consistent with the welfare and efficiency of the schools, their pupils and staff, shall set forth the grounds for suspension and expulsion from school and the procedures to be followed in such cases in the school division. The procedures set forth in § 22.1-277 shall be the minimum procedures that the school board may prescribe.

Source: §§ 22-230.1 and 22-230.2

REVISER'S NOTE: The authority of school boards to tailor procedures and policies to local needs is set forth.

§ 22.1-279. Local agencies may provide services to students expelled from public schools.—Whenever a student under the age of eighteen years is expelled by a school board from a public school, the school board shall notify the appropriate officer or employee of the school the student attended. Such officer or employee may develop a plan of services for such student and shall contact the welfare department of the county or city where such student resides, the court service unit of the juvenile and domestic relations district court for the county or city where such student resides, or any other public agency or agencies in the county or city where such student resides to determine if such agency can provide appropriate services to such student. Any such welfare department, court service unit, or other agency which provides counseling, treatment or other services to such student shall submit reports on the progress of the student to such officer or employee during the period in which it provides such services and such officer or employee shall thereafter promptly furnish such reports to the school board.

Source: § 22-230.3

REVISER'S NOTE: No material change.

§ 22.1-280. Reasonable corporal punishment of pupils permitted.—In the maintenance of order and discipline and in the exercise of a sound discretion, a principal or a teacher in a public school or a school maintained by the State may administer reasonable corporal punishment on a pupil under his authority, provided he acts in good faith and such punishment is not excessive.

Source: § 22-231.1

REVISER'S NOTE: No material change.

Article 4.

Triennial Census.

§ 22.1-281. Triennial census of school population.—At a time to be designated by the Superintendent of Public Instruction prior to September first, nineteen hundred eighty, and thereafter every three years, a census of (i) all persons residing within each school division who, on or before the December thirty-first next succeeding the census, will have reached their fifth birthday but not their twentieth birthday and (ii) all handicapped children as defined in § 22.1-213 by type of handicap residing in each school division who have been identified as handicapped children shall be taken on forms furnished by the Superintendent of Public Instruction. Such persons and handicapped children who are domiciled in orphanages or eleemosynary institutions or who are dependents living on any federal military or naval reservation or other federal property shall be included in the census for the school division within which the institution or federal military or naval reservation or other federal property is located. Such persons and handicapped children who are confined in State hospitals, State training schools or State training centers for the mentally retarded, each as defined in § 37.1-1, or mental institutions, State or federal correctional institutions, the Virginia School at Hampton or the Virginia School for the Deaf and Blind shall be included in the census for the school division within which the parents or guardians of such person or persons legally reside. If the legal residence of the parents or guardians of such person is not ascertainable, such parents or guardians shall be deemed to be legal residents of the school division from which such person was admitted or committed.

Source: §§ 22-223 and 22-228

REVISER'S NOTE: The separate census of deaf and blind children is eliminated. The one census is to include all handicapped children by type of handicap. The census is to be taken in each school division rather than in each county or city. An obsolete provision applicable prior to the 1977 census is deleted.

§ 22.1-282. Appointment and compensation of persons taking such census.—Such census shall be taken by agents appointed by each school board on the recommendation of the division superintendent. Each such agent shall receive as compensation for his services, to be paid out of the school board's funds, an amount to be fixed by the school board appointing him. In the discretion of such school board, a reasonable travel allowance may be allowed such agents.

Source: § 22-224

REVISER'S NOTE: The census is to be taken in each school division rather than each county and city.

§ 22.1-283. Agents to gather other statistics.—The agents taking the census shall also, at the time of taking the census, gather statistics relating to the interests of education according to forms furnished by the Superintendent of Public Instruction.

Source: § 22-225

REVISER'S NOTE: No material change.

§ 22.1-284. Census results.—The complete results of the census required by §§ 22.1-281 and 22.1-283 shall be submitted to the school board as soon as practicable. The division superintendent shall transmit such results, together with any other information required or deemed necessary, to the Superintendent of Public Instruction and shall transmit the results of the census of handicapped children who are visually impaired or hearing impaired, including the sex, age and residence of each, to the Board of Visitors of the Virginia Schools for the Deaf and the Blind, the Virginia Commission for the Visually Handicapped and the Virginia Council for the Deaf.

Source: §§ 22-226 and 22-228

REVISER'S NOTE: Provisions concerning the school board's revising the census lists are deleted. A provision that the census results are open to public inspection is deleted as covered by the Freedom of Information Act. Moved to this section is a provision from present § 22-228 regarding transmission of the census data on visually or hearing impaired children to interested State agencies.

§ 22.1-285. Board may require special census.—The Board of Education is authorized to require a special statewide census at any time it deems such census necessary for the equitable distribution of State school funds.

Source: § 22-227

REVISER'S NOTE: It is specified that any special census must be statewide in conformity with § 58-441.48.

§ 22.1-286. Duty of board to see that census is taken.—It shall be the duty of each school board to see that the census required by the provisions of this article is taken at the proper time and in the proper manner.

Source: §§ 22-229 and 22-97(7)

REVISER'S NOTE: No material change.

Article 5.

Pupil Records.

§ 22.1-287. Limitations on access to records.—No teacher, principal or employee of any public school nor any school board member shall permit access to any written records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

1. Either parent or a guardian of such pupil or such pupil; provided that a school board may require that such pupil, if he be less than eighteen years of age, as a condition precedent to access to such records, furnish written consent of his or her parent or guardian for such access;

2. A person designated in writing by such pupil if the pupil is eighteen years of age or older or by either parent or a guardian of such pupil if the pupil is less than eighteen years of age;

3. The principal, or someone designated by him, of a school where the pupil attends, has attended, or intends to enroll;

4. The current teachers of such pupil;

5. A State or local law-enforcement officer, including a probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties;

6. The Superintendent of Public Instruction, a member of his staff, the division superintendent of schools where the pupil attends, has attended, or intends to enroll or a member of his staff;

7. An officer or employee of a county or city agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

A parent, guardian or pupil entitled to see the records pursuant to paragraph 1. of this section shall have access to all written records relating to such pupil maintained by the school except as otherwise provided by law and need only appear in person during regular hours of the school day and request to see such records. No written material concerning such pupil shall be edited or withheld except as otherwise provided by law, and the parent, guardian or pupil shall be entitled

to read such material personally.

The restrictions imposed by this section shall not apply to the giving of information by school personnel concerning participation in athletics and other school activities, the winning of scholastic or other honors and awards, and other like information. Notwithstanding the restrictions imposed by this section, a division superintendent of schools may, in his discretion, provide information to the staff of a college, university, or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the college, university, or educational research and development organization or laboratory and if no pupil will be identified by name in the information submitted for research.

Notwithstanding the restrictions imposed by this section, the name and address of a pupil, the record of a pupil's daily attendance, a pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents or guardian, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States government seeking this information in the course of his duties when the pupil is a veteran of military service with the United States, an orphan or dependent of such veteran, or an alien.

Source: § 22-275.26

REVISER'S NOTE: No material change.

§ 22.1-288. Furnishing information to public or private school, college, or university, or private business or professional school or college.—Notwithstanding § 22.1-287, the principal of any public school may permit the furnishing of or may furnish the names and addresses of pupils presently enrolled or pupils who have terminated their enrollment to any officer or employee of a public or private school, college, or university or any official of a private business or professional school or college. No such public or private school, college, or university or private business or professional school or college shall use such information for purposes not directly related to the academic or professional goals of the institution. If any school, college or university violates the provisions of this section, the privilege of the school, college or university to receive the lists shall be suspended for a period of two years from the time of discovery of the misuse of such lists.

Source: § 22-275.27

REVISER'S NOTE: No material change.

§ 22.1-289. Transfer of cumulative records.—Whenever a pupil transfers from one school division to another, the cumulative record of the pupil, which may be available to the pupil's parent for inspection during consultation with a certificated employee of the school division from which the pupil is transferring, or a copy of the record shall be transferred to the school division to which the pupil transfers if a request for such cumulative record is received from the school division to which the transfer is made. The Board of Education may adopt regulations concerning the transfer of cumulative records from one school division to another.

Source: § 22-275.28

REVISER'S NOTE: The Board of Education rather than the Superintendent of Public Instruction is authorized to adopt regulations on the transfer of records.

Chapter 15.

Teachers, Officers and Employees.

Article 1.

General Provisions.

§ 22.1-290. Board authorized to award teaching scholarship loans.—The Board of Education may, out of such funds as may be appropriated for the purpose, provide for the awarding of teaching scholarship loans to students preparing to teach by attending nonprofit institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education. Such scholarship loans shall be apportioned and administered pursuant to regulations of the Board.

Source: § 22-21.4

REVISER'S NOTE: No material change.

§ 22.1-291. Duty-free Lunch Incentive Fund; duty-free lunch period for teachers.—A Duty-Free Lunch Incentive Fund shall be established from all funds appropriated to the Board of Education for funding the provision of duty-free lunch periods to teachers. Each school division shall be entitled to its proportionate share of the Fund based on the number of teachers in the school division whose duties require attendance at school five and one-half or more hours each school day and who have each day at a reasonable time a lunch period of the same duration as that afforded pupils during which no duties are assigned the teachers except in emergencies or when special events occur. The Fund shall be apportioned among the school divisions pursuant to regulations promulgated by the Board of Education.

Source: §§ 22-205.1 and 22-205.2

REVISER'S NOTE: Revised to make school divisions eligible to participate in the Fund only to the extent that their teachers have duty-free lunch periods.

§ 22.1-292. Penalties on officers and teachers.—Any division superintendent, member of a school board or other school officer or any principal or teacher in a public school violating any provision of this title shall be guilty of a Class 4 misdemeanor if no other penalty is prescribed.

Source: § 22-215

REVISER'S NOTE: A class of misdemeanor rather than the penalty therefor is specified.

Article 2.

Employment.

§ 22.1-293. School boards authorized to employ principals and assistant principals; certificate required; powers and duties.—A. A school board, upon recommendation of the division superintendent, may employ principals and assistant principals. Persons employed in these positions shall hold certificates as prescribed by the Board of Education.

B. A principal shall provide instructional leadership in, shall be responsible for the administration of and shall supervise the operation and management of the school or schools and property to which he has been assigned in accordance with the rules and regulations of the school board and under the supervision of the division superintendent.

C. A principal may submit recommendations to the division superintendent for the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to his supervision.

D. A principal shall perform such other duties as may be assigned by the division superintendent pursuant to the rules and regulations of the school board.

Source: § 22-217.9

REVISER'S NOTE: No material change.

§ 22.1-294. Probationary terms of service for principals and supervisors; reassigning principal or supervisor to teaching position.—A person employed as a principal or supervisor, including a person

who has previously achieved continuing contract status as a teacher, shall serve three years in such position in the same school division before acquiring continuing contract status as principal or supervisor. Continuing contract status acquired by a principal or supervisor shall not be construed (i) as prohibiting a school board from reassigning such principal or supervisor to a teaching position if notice of reassignment is given by the school board by April fifteenth of any year or (ii) as entitling any such principal or supervisor to the salary paid him as principal or supervisor in the case of any such reassignment to a teaching position; provided, however, that no such salary reduction and reassignment shall be made without first providing such principal or supervisor with written notice of the reason for such reduction and reassignment and an opportunity to present his or her position at an informal meeting with the division superintendent, the division superintendent's designee or the school board. The principal or supervisor shall elect whether such meeting shall be with the division superintendent, the division superintendent's designee or the school board. The school board, division superintendent or the division superintendent's designee shall determine what processes are to be followed at the meeting. The decision to reassign and reduce salary shall be at the sole discretion of the school board.

The intent of this section is to provide an opportunity for a principal or supervisor to discuss the reasons for such salary reduction and reassignment with the division superintendent, his designee or the school board, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause as defined in § 22.1-307 for the salary reduction and reassignment of a principal or supervisor.

As used in this section, "supervisor" means a person who holds a supervisory position as specified in the regulations of the Board of Education and who is required to hold a certificate as prescribed by the Board of Education.

Source: § 22-217.3

REVISER'S NOTE: Provisions relating to principals and supervisors have been separated out of present § 22-217.3 for clarity. It is specified that a meeting regarding reassignment of or reduction in salary of a principal or supervisor may be with the division superintendent's designee.

§ 22.1-295. *Employment of teachers.*—The teachers in the public schools of a school division shall be employed and placed in appropriate schools by the school board upon recommendation of the division superintendent.

Source: § 22-203

REVISER'S NOTE: Provisions regarding dismissal are deleted as covered by § 22.1-307.

§ 22.1-296. *Payment of employees.*—Each school board shall provide for the payment of teachers, principals, assistant principals and other employees monthly, semi-monthly or biweekly, as may be determined by the school board.

Source: §§ 22-72(5) and 22-57.2

REVISER'S NOTE: Most of the amplifying provisions in the source sections have been deleted.

§ 22.1-297. *Assignment of teachers, including principals, by superintendent.*—A division superintendent shall have authority to assign to their respective positions in the school wherein they have been placed by the school board all teachers, principals and assistant principals. If the school board adopts a resolution authorizing the division superintendent to reassign such teachers, principals and assistant principals, the division superintendent may reassign any such teacher, principal or assistant principal to any school within such division, provided no change or reassignment shall affect the salary of such teacher, principal or assistant principal.

Source: § 22-205

REVISER'S NOTE: Assistant principals are included. A provision requiring the division superintendent to make reports on reassignments to the school board on request is deleted as unnecessary.

§ 22.1-298. Certificate required of teachers.—No teacher shall be regularly employed by a school board or paid from public funds unless such teacher is certified by the Board of Education. In accordance with regulations prescribed by the Board, a person not meeting the requirements for such certification may be employed and paid from public funds by a school board temporarily as a substitute teacher to meet an emergency.

Source: § 22-204

REVISER'S NOTE: A provision qualifying teachers with certain experience for a collegiate professional certificate is deleted as the proper subject of Board regulation. Other provisions concerning certification requirements have been moved to the next section.

§ 22.1-299. Regulations governing certification.—The Board of Education shall, by regulation, prescribe the requirements for certification of teachers. Such regulations shall include a requirement that every teacher seeking initial certification take a professional teacher's examination prescribed by the Board.

Source: §§ 22-204

REVISER'S NOTE: No material change.

§ 22.1-300. Tuberculosis certificate.—As a condition to employment, every public school employee, including without limitation teachers, cafeteria workers, janitors and bus drivers, shall submit a certificate signed by a licensed physician stating that such employee appears free of communicable tuberculosis. Such certificate shall be based on recorded results of such skin tests, x-rays and other examinations, singly or in combination, as are deemed necessary by the physician that have been performed within the twelve months' period immediately preceding submission of the certificate. After consulting with the local health director, any school board may require the submission of such certificates annually, or at such intervals as it deems appropriate, as a condition to continued employment.

Source: § 22-249

REVISER'S NOTE: No material change.

§ 22.1-301. Costs of medical examinations and of furnishing medical records.—It shall be unlawful for any school board to require any instructional employee to pay the costs of a medical examination or the cost of furnishing medical records required as a condition to continued employment. Nothing in this section shall prohibit the immediate supervisor from requesting an employee to submit a physician's certificate verifying the illness of an employee at the employee's expense.

Source: § 22-249

REVISER'S NOTE: No material change.

§ 22.1-302. Written contracts required; execution of contracts; rules and regulations.—A written contract, in a form prescribed by the Board of Education, shall be made by the school board with each teacher employed by it, except those temporarily employed as substitute teachers, before such teacher enters upon his duties. Such contract shall be signed in duplicate, with a copy thereof furnished to both parties.

Source: § 22-217.2

REVISER'S NOTE: The Board of Education rather than the Superintendent of Public Instruction is to prescribe the contract form. A provision authorizing Board regulations is deleted as covered in Chapter 2 of this revision.

§ 22.1-303. Probationary terms of service for teachers.—A probationary term of service for three years in the same school division shall be required before a teacher is issued a continuing contract. Once a continuing contract status has been attained in a school division in the Commonwealth, another probationary period need not be served in any other school division unless such

probationary period, not to exceed one year, is made a part of the contract of employment.

Source: § 22-217.3

REVISER'S NOTE: An obsolete provision regarding service prior to 1969 is deleted and provisions relating to principals and supervisors have been placed in a separate section (§ 22.1-294).

§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.—If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within fifteen days of receipt of such notice. Except as provided in § 22.1-305, written notice of nonrenewal of the contract must be given by the school board on or before April fifteenth of each year. If no such notice is given a teacher by April fifteenth, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service and prior to the age at which they are eligible or required to retire except as hereinafter provided. Written notice of noncontinuation of the contract by either party must be given by April fifteenth of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

A teacher may resign after April fifteenth of any school year with the approval of the local school board. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

In the event that the board declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, the certificate of the teacher may be revoked under regulations prescribed by the Board of Education.

As soon after April fifteenth, as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

Source: § 22-217.4

REVISER'S NOTE: No material change.

§ 22.1-305. Nonrenewal of contract of probationary teacher.—A. Before a division superintendent recommends to the school board nonrenewal of the contract of a teacher who has not achieved continuing contract status, the division superintendent shall notify the teacher of the proposed recommendation. Upon written request of the teacher within five working days after receipt of such notice, the division superintendent or his designee shall orally provide the specific reasons, if any, for such recommendation, along with supporting documentation, if any, to the teacher and, if requested by the teacher, to his or her representative. Within ten days after receiving such reasons, the teacher may request, by notification in writing to the division superintendent, a conference before the division superintendent. Upon such request, the division superintendent shall set a date for the conference, which shall be within thirty days of the request, and shall give the teacher at least fifteen days' notice of the time and place of the conference.

B. The conference shall be before the division superintendent or his designee. No such designee shall have recommended to the division superintendent the nonrenewal of the teacher's contract. The teacher and the person or persons who recommended the nonrenewal of the teacher's contract to the division superintendent, or a representative of either or both, shall be allowed to participate

in the conference, but no such representative shall be an attorney.

C. If the conference is before a designee of the division superintendent, the designee shall communicate his recommendations to the division superintendent and to the teacher .

D. The division superintendent shall notify the teacher, in writing, of his intention with respect to the recommendation within ten days after the conference.

E. In any case in which a teacher requests a conference as provided in this section, written notice of nonrenewal of the contract by the school board must be given within thirty days after the division superintendent notifies the teacher of his intention with respect to the recommendation and the provisions of § 22.1-304 requiring such notice on or before April fifteenth shall not be applicable.

F. The conference shall be confidential and no written or oral communication of such conference shall be made to anyone other than the school board, in executive session, and employees of the school division having an interest therein; provided, however, that both the teacher and the division superintendent, upon request, may provide the reasons for the nonrenewal to a potential employer of the teacher.

G. The provisions of this section shall be inapplicable when a decrease in enrollment or the abolition of a particular subject or reduction in the number of classes offered in a particular subject causes a reduction in the number of teachers; provided, however, that a statement to that effect shall be placed in the personnel file of each teacher whose contract is nonrenewed for any such reason.

H. The intent of this section is to provide an opportunity for a probationary teacher to discuss the reasons for nonrenewal with the division superintendent or his designee, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause as defined in § 22.1-307 for the nonrenewal of the contract of a teacher who has not achieved continuing contract status nor shall the failure of the school board or the division superintendent to comply with any time requirement herein constitute a basis for continued employment of the teacher.

Source: § 22-217.4:1

REVISER'S NOTE: No material change.

Grievances.

1. "Grievance" means a complaint or dispute by a teacher relating to his or her employment including, but not necessarily limited to: (i) disciplinary action including dismissal or placing on probation, (ii) the application of: (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances and (e) statutes; (iii) acts of reprisal as the result of utilization of the grievance procedure; and (iv) complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin or sex. Each school board shall have the exclusive right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a teacher relating to (i) establishment and revision of wages or salaries, position classifications or general benefits, (ii) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status, (iii) the establishment or contents of ordinances, statutes or personnel policies, procedures, rules and regulations, (iv) failure to promote except where the teacher can show established promotional policies or procedures were not followed or applied fairly, or (v) discharge, layoff or suspension from duties because of decrease in enrollment, decrease in enrollment in or abolition of a particular subject or insufficient funding, (vi) hiring, transfer, assignment and retention of teachers within the school division, (vii) suspension from duties in emergencies, or (viii) the methods, means and personnel by which the school

division's operations are to be carried on.

2. "Dismissal" means the dismissal of any teacher during the term of such teacher's contract and the nonrenewal of the contract of a teacher on continuing contract.

Source: § 22-217.5:1

REVISER'S NOTE: No change.

§ 22.1-307. *Dismissal, etc., of teacher; grounds.*—Teachers may be dismissed or placed on probation for incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence, conviction of a felony or a crime of moral turpitude or other good and just cause.

Source: § 22-217.5

REVISER'S NOTE: Suspension is deleted from this section as covered by § 22.1-315. Conviction of a felony or a crime of moral turpitude is made grounds for dismissal or probation.

§ 22.1-308. *Grievance procedure.*—A. The Board of Education shall prescribe a grievance procedure which shall include the following:

1. Except in the case of dismissal or placing on probation, a first step which shall provide for an informal, initial processing of a grievance by the most immediate appropriate supervisor through a discussion;

2. A requirement that all stages of the grievance beyond the first step be in writing on forms prescribed by the Board of Education and supplied by the school board;

3. A requirement that in reducing the grievance to writing, the teacher shall specify the specific relief he expects to obtain through the use of the procedure;

4. The right of the grievant and the respondent to present appropriate witnesses and be represented by legal counsel or other representative;

5. Reasonable time limitations, prescribed by the Board, for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure which shall correspond generally or be equivalent to the time prescribed for response at each step;

6. Termination of the right of the grievant to further appeal upon failure of the grievant to comply with all substantial procedural requirements of the grievance procedure without just cause;

7. The right of the grievant, at his option, upon failure of the respondent to comply with all substantial procedural requirements without just cause, to advancement to the next step or, in the final step, to a decision in his favor;

8. A final step which shall provide for a final decision on the grievance by the school board;

9. The provisions of §§ 22.1-309 through 22.1-313.

B. Representatives referred to in subsection A.4. of this section may examine, cross-examine, question and present evidence on behalf of a grievant or respondent in the grievance procedure without being in violation of the provisions of § 54-44 of the Code of Virginia.

C. Nothing in the procedure shall be construed to restrict any teacher's right to seek or a school division administration's right to provide customary review of complaints that are not included within the definition of a grievance.

Source: § 22-217.5:2

REVISER'S NOTE: No change.

§ 22.1-309. Notice to teacher of recommendation of dismissal or placing on probation; school board not to consider merits during notice; superintendent required to provide reasons for recommendation upon request.—In the event a division superintendent determines to recommend dismissal of any teacher or the placing on probation of a teacher on continuing contract, written notice must be sent to the teacher notifying him of the proposed dismissal or placing on probation and informing him that within fifteen days after receiving the notice the teacher may request a hearing before the school board as provided in § 22.1-311 or before a fact-finding panel as provided in § 22.1-312. During such fifteen-day period and thereafter until a hearing is held in accordance with the provisions herein, if one is requested by the teacher, the merits of the recommendation of the division superintendent shall not be considered, discussed or acted upon by the school board except as provided for herein. At the request of the teacher, the division superintendent shall provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview.

Source: § 22-217.6

REVISER'S NOTE: No change.

§ 22.1-310. Election of hearing before fact-finding panel prior to decision of school board.—A. In the event a grievance, other than a grievance to which the provisions of § 22.1-309 are applicable, is not settled at a lower step, the teacher or the school board may elect to have a hearing by a fact-finding panel as provided in § 22.1-312 prior to a decision by the school board.

B. In the case of a grievance to which the provisions of § 22.1-309 are applicable, the teacher or the school board may elect, within fifteen days after the teacher receives the notice referred to in § 22.1-309, to have a hearing by a fact-finding panel as provided in § 22.1-312 prior to a decision by the school board.

C. In no grievance after a hearing by a fact-finding panel shall the teacher have a right to a further hearing by the school board as provided in subsection D. of § 22.1-313, except in the case of a grievance to which the provisions of § 22.1-309 are applicable where the school board elected to have a hearing by a fact-finding panel. A school board shall have the right to require a further hearing as provided in subsection D. of § 22.1-313 in any grievance.

Source: § 22-217.6:1

REVISER'S NOTE: No change.

§ 22.1-311. Hearing before school board.—The hearing before the school board, which shall be private unless the teacher requests a public one, must be set within thirty days of the request, and the teacher must be given at least fifteen days' written notice of the time and place. At the hearing the teacher may appear with or without a representative and be heard, presenting testimony of witnesses and other evidence.

Source: § 22-217.7

REVISER'S NOTE: No change.

§ 22.1-312. Hearing before fact-finding panel.—A. In the event that a hearing before a fact-finding panel is requested, a three-member panel shall be selected by the following method. The teacher shall select one panel member from among other employees of the school division. The division superintendent shall select one panel member from among employees of the school division. The teacher and the division superintendent shall select their respective panel members within five days of any request for a hearing before a fact-finding panel. The two panel members so selected shall select the third impartial panel member. If within five days after both panel members have been selected they are unable to agree upon a third panel member, the chief judge of the circuit court shall be requested by the two members of the panel to furnish a list of five qualified and impartial fact finders, one of whom shall then be selected by the two members of the panel as the third member. The persons comprising the list may reside within or without the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia and, in all cases, shall possess some knowledge and expertise in public education and education law and shall be deemed by the judge capable of presiding over an administrative hearing. Selection shall be made by the panel members

alternately deleting any name from the list until only one remains. The panel member selected by the teacher shall make the first deletion. This selection process shall be completed within five days after receipt of the list of fact finders from the chief judge. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member.

B. The panel shall set the time for a hearing, which shall be held within thirty days, and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by a representative or legal counsel.

C. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.

D. The panel may ask, at the beginning of the hearing, for statements from the division superintendent and the teacher clarifying the issues involved.

The parties shall then present their claims and evidence. Witnesses may be questioned by the panel members, the teacher and the division superintendent. The panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination.

The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.

E. Exhibits offered by the teacher or the division superintendent may be received in evidence by the panel and, when so received, shall be marked and made a part of the record.

F. The facts found and recommendations made by the panel shall be arrived at by a majority vote of the panel members.

G. The hearing may be reopened by the panel on its own motion or upon application of the teacher or the division superintendent for good cause shown to hear after-discovered evidence at any time before the panel's report is made.

H. The panel shall make a written report which shall include its findings of fact and recommendations and shall file it with the members of the school board, the division superintendent and the teacher, not later than thirty days after the completion of the hearing.

I. A stenographic record or tape recording of the proceedings shall be taken. However, in proceedings concerning grievances not related to dismissal or probation, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with, the two parties shall share the cost of the recording equally; if either party requests a transcript, that party shall bear the expense of its preparation.

For proceedings related to cases of dismissal or probation, the record or recording shall be transcribed and a copy of the transcript shall be provided to the teacher and to the school board. The school board shall bear the expense of the recording and the transcription.

J. The teacher shall bear his or her own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be borne one-half by the school board and one-half by the teacher.

K. The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the judge of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his normal work hours if he receives his normal salary for the period of such service.

L. The recommendations and findings of fact of the panel submitted to the school board shall be based exclusively upon the evidence presented to the panel at the hearing.

Source: § 22-217.7:1

REVISER'S NOTE: No material change.

§ 22.1-313. *Decision of school board.—A. The school board shall retain its exclusive final authority over matters concerning employment and supervision of its personnel, including dismissals, suspensions and placing on probation.*

B. In the case of a hearing before the school board, the school board shall give the teacher its written decision within thirty days after the hearing. A record of the proceedings shall be taken and made available as provided in subsection 1. of § 22.1-312. In the case of a hearing before a fact-finding panel, the school board shall give the teacher its written decision within thirty days after the school board receives both the transcript of such hearing, if any, and the panel's findings of fact and recommendations; provided, however, that should there be a further hearing before the school board, as hereafter provided, such decision shall be furnished the teacher within thirty days after such further hearing. The decision of the school board shall be reached after considering the transcript, if any, and the findings of fact and recommendations of the panel and such further evidence as the school board may receive at any further hearing.

C. A teacher may be dismissed, suspended or placed on probation by a majority of a quorum of the school board.

D. In any case in which a further hearing by a school board is held after a hearing before a fact-finding panel, the school board shall consider at such further hearing the transcript, if any, the findings and recommendations of the fact-finding panel and such further evidence, including that of witnesses having testified before the panel, as the school board deems appropriate or as may be offered on behalf of the grievant or the respondent. A school board may initiate any such hearing upon written notice of it to the teacher and the division superintendent within ten days after it receives the findings of fact and recommendations of the panel and any transcript of any panel hearing. Such notice shall specify each matter to be inquired into by the school board. In any case in which a teacher may initiate any such hearing, the teacher shall request such hearing in writing within ten days after receiving the findings of fact and recommendations of the panel and any transcript of the panel hearing. Any decision by the school board shall be based solely on the transcript, if any, the findings of fact and recommendations of the panel, and any evidence relevant to the issues of the original grievance adduced at the hearing in the presence of each party. Such hearing shall be conducted as a hearing by the school board as provided in § 22.1-311.

Source: § 22-217.8

REVISER'S NOTE: No change.

§ 22.1-314. *Same; issue of grievability; appeal.—Decisions regarding whether or not a matter is grievable shall be made by the school board at the request of the school division administration or grievant and such decision shall be made within ten days of such request. Decisions of the school board may be appealed to the circuit court having jurisdiction in the school division for a hearing on the issue of grievability.*

Proceedings for review of the decision of the school board shall be instituted by filing a notice of appeal with the school board within ten days after the date of the decision and giving a copy thereof to all other parties. Within ten days thereafter, the school board shall transmit to the clerk of the court to which the appeal is taken a copy of its decision, a copy of the notice of appeal, and the exhibits. The failure of the school board to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the school board to transmit the record on or before a certain date. Within ten days of receipt by the clerk of such record, the court, sitting without a jury, shall hear the appeal on the record transmitted by the school board and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the school board or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. Such determination of grievability shall be made subsequent to the reduction of the grievance to writing but prior to any panel or school board hearing or the right to such determination shall be deemed

to have been waived.

Source: § 22-217.8:01

REVISER'S NOTE: No change.

Article 4.

Suspension.

§ 22.1-315. *Suspension.*—A. A teacher may be suspended for good and just cause when the safety or welfare of the school division or the students therein is threatened or when the teacher has been charged by summons, warrant, indictment or information with the commission of a felony or a crime of moral turpitude. Except when a teacher is suspended because of being charged by summons, warrant, indictment or information with the commission of a felony or a crime of moral turpitude, a division superintendent or appropriate central office designee shall not suspend a teacher for longer than sixty days and shall not suspend a teacher for a period in excess of five days unless such teacher is advised in writing of the reason for the suspension and afforded an opportunity for a hearing before the school board in accordance with §§ 22.1-311 and 22.1-313. Any teacher so suspended shall continue to receive his or her then applicable salary unless and until the school board, after a hearing, determines otherwise.

B. Any teacher suspended because of being charged by summons, warrant, information or indictment with a felony or a crime of moral turpitude may be suspended with or without pay. In the event a teacher is suspended without pay, an amount equal to the teacher's salary while on suspended status shall be placed in an interest-bearing demand escrow account. Upon being found not guilty of a crime of moral turpitude or upon the dismissal or nolle prosequi of the charge, such teacher shall be reinstated with all unpaid salary and accrued interest from the escrow account, less any earnings received by the teacher during the period of suspension, but in no event shall such payment exceed one year's salary.

C. In the event a teacher is found guilty by an appropriate court of a felony or a crime of moral turpitude and, after all available appeals have been exhausted and such conviction is upheld, all funds in the escrow account shall be repaid to the school board.

D. No teacher shall have his or her insurance benefits suspended or terminated because of such suspension in accordance with this section.

E. Nothing in this section shall be construed to limit the authority of a school board to dismiss or place on probation a teacher pursuant to Article 3 of this chapter.

Source: §§ 22-217.8:1, 22-72(5) and 22-97(3)

REVISER'S NOTE: The grounds for suspension presently set forth in other Code sections have been moved to this section. Any felony, whether or not it involves moral turpitude, is made grounds for suspension.

Article 5.

Interstate Agreement on

Qualification of Educational Personnel.

§ 22.1-316. *Agreement entered into and enacted into law; form of agreement.*—The Interstate Agreement on Qualification of Educational Personnel is hereby enacted into law and entered into with all jurisdictions legally joined therein in the form substantially as follows:

INTERSTATE AGREEMENT ON QUALIFICATION

OF EDUCATIONAL PERSONNEL

Article I.

Purpose, Findings, and Policy

A. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it and to authorize specific interstate educational personnel contracts to achieve that end.

3. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel without reference to their states of origin can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II.

Definitions.

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the educational official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

3. "Accept" or any variant thereof means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating state" means a state or subdivision thereof whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving state" means a state or subdivision thereof which accepts educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III.

Interstate Educational Personnel Contracts

A. The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it and the subdivisions of those states with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable even though not identical to that prevailing in his own state.

B. Any such contract shall provide for:

1. Its duration.

2. The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

3. Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

4. Any other necessary matters.

C. No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

D. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January one, nineteen hundred fifty-four.

E. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. Any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

F. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV.

Approved and Accepted Programs.

A. Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

B. To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V.

Interstate Cooperation.

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI.

Agreement Evaluation.

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement and to formulate recommendations for changes.

Article VII.

Other Arrangements.

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII.

Effect and Withdrawal.

A. This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

B. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

C. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX.

Construction and Severability.

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable; and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States or if the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

Source: § 22-348

REVISER'S NOTE: No material change.

§ 22.1-317. Superintendent of Public Instruction to be "designated State official".—The "designated State official" for this Commonwealth for the purposes of the Interstate Agreement on Qualification of Educational Personnel shall be the Superintendent of Public Instruction. The Superintendent of Public Instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the Board of Education.

Source: § 22-349

REVISER'S NOTE: The Interstate Agreement on Qualification of Education Personnel is referenced.

§ 22.1-318. Filing and publication of contracts made pursuant to agreement.—True copies of all contracts made on behalf of this Commonwealth pursuant to the Interstate Agreement on Qualification of Educational Personnel shall be kept on file in the State Department of Education. The State Department of Education shall publish all such contracts in convenient form.

Source: § 22-350

REVISER'S NOTE: The Interstate Agreement on Qualification of Education Personnel is referenced.

Chapter 16.

Private Trade, Technical, Business and Correspondence

Schools; Schools for the Handicapped.

§ 22.1-319 Definitions.—As used in this chapter unless the context clearly requires otherwise:

1. *"Trade or technical school" means a privately owned and operated educational institution or educational organization maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to prepare an individual to pursue any occupation for profit in any skilled trade, electronics, data processing or industry, or to give occupational training, or to give training in public or other service occupations, or to give vocational training designed to prepare an individual for, or to upgrade an individual in, technical occupations and technical phases of other occupations.*

2. *"Business school" means a privately owned and operated educational institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to prepare individuals to pursue any occupation for profit in business administration, bookkeeping, accounting, data processing, stenography, clerical, secretarial, receptionist or other office occupations.*

3. *"Correspondence school" means a privately owned and operated educational institution or educational organization which, for a consideration, profit, or tuition, teaches or instructs in any subject through the medium of correspondence between the pupil and the school by which the school transmits printed or typewritten matter to the pupil.*

4. *"School for the handicapped" means a privately owned and operated preschool, school, industrial institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to mentally retarded, visually impaired, speech impaired, hearing impaired, learning disabled, physically handicapped, emotionally disturbed or multiple handicapped persons.*

5. *"School" or "schools" means any school defined in paragraphs one through four of this*

section.

6. "Agent" means a person who is employed by any school, whether such school is located within or outside this Commonwealth, to act as an agent, solicitor, procurer, broker or independent contractor to procure students or enrollees for any such school by solicitation in any form at any place in this Commonwealth other than the office or principal location of such school.

7. "Person" means any individual, group of individuals, partnership, association, business trust, corporation, or other similar business entity;

8. "Department" means the Department of Education.

Source: § 22-330.17

REVISER'S NOTE: Definitions of "Superintendent", "solicitor" and "Board" are deleted as unnecessary. The term "owner" is changed to "person". The definitions of the various types of schools are changed so as not to define a school as a school.

§ 22.1-320 Exemptions.—This chapter shall not apply to any of the following:

1. Any trade, technical, business or correspondence school which is licensed or approved under the laws of this Commonwealth or whose teachers are licensed or approved under the laws of this Commonwealth;

2. Any trade, technical, business or correspondence school conducted by any person, firm, corporation, or other organization solely for training its own employees;

3. Courses of instruction given by any fraternal organization, civic club, or benevolent order, for which courses no tuition or charge is made;

4. Any established university, professional or liberal arts college accredited as such and permitted to award undergraduate or graduate degrees by the State Council of Higher Education for Virginia or similar agency of the state in which its campus is located, any public high school or any private high school accredited by the Board of Education if the tuition, fees and charges, if any, made by such university, college or high school are collected by its regular officers in accordance with the rules and regulations prescribed by the board of trustees or governing body of such university, college or high school;

5. Tutorial instruction for five persons or less at one time given in a private home or elsewhere as a supplement to regular classes of education for students enrolled in any public or private school;

6. Schools in dance, art, song, musical instruments or fine arts which are conducted solely to increase or further artistic appreciation, talent or development;

7. Schools offering exclusively religious instruction;

8. A program through which handicapped persons are provided employment and training primarily in simple skills in a sheltered or protective environment.

Source: § 22-330.18

REVISER'S NOTE: No material change.

§ 22.1-321. Regulations.—A. The Board of Education shall make regulations not inconsistent with law for the management and conduct of schools. The regulations may include standards for schools.

B. In its regulations the Board may, among other things, provide that certification by other accrediting agencies may justify the issuance of a certificate to operate a school without the submission of the information otherwise required in this chapter, but in no event shall it dispense with the posting of the required bond. Such certification shall specifically exempt such school from inspection provisions of § 22.1-323 and from the provisions of paragraphs 4., 5., 6., 8. and 9. of §

22.1-324.

Source: §§ 22-330.19 and 22-330.20

REVISER'S NOTE: Unnecessary language as to the effect of regulations is deleted. The Board's authority to prescribe standards for schools is specifically stated since it is implied in existing law. Procedures for promulgating regulations are deleted as covered by the Administrative Process Act.

§ 22.1-322. Advisory committees.—The Board may appoint as many advisory committees as it may deem necessary, each to be composed of five persons who shall serve for terms of two years each, the majority of whom shall be representative of the types of schools subject to regulation under this chapter and the balance of whom shall be representative of the public and shall have no connection with any school. The advisory committees shall recommend to the Board regulations to carry out the purposes of this chapter including the development of new or expanded programs of instruction to be included in the curricula of such schools. No member of any advisory committee shall serve for more than two consecutive terms.

Source: § 22-330.20.

REVISER'S NOTE: No material change.

§ 22.1-323. Certificate generally.—No person shall open, operate or conduct any school in this Commonwealth without a certificate to operate such school issued by the Board of Education. A certificate shall be issued for a school if it is in compliance with the regulations of the Board issued pursuant to this chapter, the fee prescribed for such certificate has been paid and its facilities are approved by the Board after an inspection by the Department . No such certificate shall be transferable. Such certificate shall be prominently displayed on the premises of the school in a place open for inspection by any interested person during regular school hours.

Source: § 22-330.21

REVISER'S NOTE: The term "certificate of approval" is changed to "certificate to operate". Obsolete deadlines are deleted.

§ 22.1-324. Application for certificate; information required.—A. To obtain a certificate to operate a school, a verified application shall be filed with the Board upon forms prepared and furnished by it setting forth the following information:

- 1. The title or name of the school together with the names of its owners, controlling officials, and managing employees;*
- 2. The specific fields, subjects, and courses of instruction which will be offered and the specific purpose of such instruction;*
- 3. The location or locations where such instruction will be given, a description of the physical, safety and sanitary facilities thereof, and a copy of the deed, lease or other legal instrument authorizing the school to occupy such location or locations for the purpose of operating a school;*
- 4. A specific listing of the equipment available for instruction in each field;*
- 5. The maximum anticipated enrollment to be accommodated with the equipment available in each specified field and the ratio of students to instructors, as of the date of application;*
- 6. The educational and teaching qualifications of instructors and supervisors in each specified field;*
- 7. The financial resources available to equip, maintain and operate the school;*
- 8. The form and contents of the student enrollment agreement and the method of collecting and refunding tuition;*
- 9. Copies of all advertising currently used by such school;*

10. A surety bond acceptable to the Department; and

11. Such additional information as the Board may deem necessary.

B. The surety bond shall be payable to the Commonwealth of Virginia and conditioned to protect the contractual rights of students. The amount of such bond shall be as follows: for a total enrollment at any one time of fifty students or less, five thousand dollars; for a total enrollment at any one time of between fifty-one and one hundred students, ten thousand dollars; for a total enrollment at any one time of between one hundred one and one hundred fifty students, fifteen thousand dollars; for a total enrollment at any one time of between one hundred fifty-one and two hundred students, twenty thousand dollars; for a total enrollment at any one time of between one hundred fifty-one and two hundred fifty students, twenty-five thousand dollars; for a total enrollment at any one time of between two hundred fifty-one and three hundred students, thirty thousand dollars; for a total enrollment at any one time of between three hundred one and three hundred fifty students, thirty-five thousand dollars; for a total enrollment at any one time of between three hundred fifty-one and four hundred students, forty thousand dollars; for a total enrollment at any one time of between four hundred one and four hundred fifty students, forty-five thousand dollars; and for a total enrollment at any one time of over four hundred fifty students, fifty thousand dollars. The bonding requirement may be reduced, at the discretion of the Department, on a showing by the school that no course of study for which tuition is collected lasts longer than thirty days or that the school collects no advance tuition other than equal monthly installments based on the length of the course of study. The minimum bond for any school shall be one thousand dollars. The word "students" as used in this subsection shall mean full-time students, but the Board may establish the method of determining part-time student equivalents in determining the total student enrollment of the schools.

Source: § 22-330.22

REVISER'S NOTE: No material change.

§ 22.1-325. Same; to contain certain commitments.— Each application for a certificate to operate a school shall contain the following commitments:

- 1. To conduct the school in accordance with all applicable regulations of the Board;*
- 2. To permit the Board or Department to inspect the school or classes being conducted therein at any time and to make available to the Board or Department, when requested to do so, all information pertaining to the activities of the school required for the administration of this chapter, including its financial condition;*
- 3. To advertise the school at all times in a form and manner that will be free from misrepresentation, deception or fraud and to conform to regulations of the Board governing such advertising;*
- 4. To see that all representations made by an agent of the school shall be free from misrepresentation, deception or fraud and shall conform to regulations of the Board governing such misrepresentations;*
- 5. To display the current certificate prominently where it may be inspected by students, visitors and the Board or Department; and*
- 6. To maintain all premises, equipment and facilities of the school in an adequate, safe and sanitary condition.*

Source: § 22-330.23

REVISER'S NOTE: No material change.

§ 22.1-326. Certificate restricted to specific courses; supplementary application.—Any certificate issued for a school shall be restricted to courses specifically indicated thereon. A supplementary application for additional fields or courses of instruction may be submitted in such form as the Board may prescribe.

Source: § 22-330.24

REVISER'S NOTE: No material change.

§ 22.1-327. Fees.—Each original application for a certificate to operate a school shall be accompanied by a filing fee of fifty dollars, which fee shall not be refundable. There shall be an annual renewal fee of twenty-five dollars. No fee shall be charged for a supplementary application for additional fields or courses of instruction. All fees shall be paid on or before the thirtieth of June of each year. No fees shall be reimbursed in the event a certificate is refused or revoked.

Source: § 22-330.25

REVISER'S NOTE: A provision that the fees are to be applied to the cost of investigation and issuance of a certificate is deleted since the fees are paid into the general fund.

§ 22.1-328. Renewal of certificate.—The certificate of each school that continues to operate as such shall be renewed annually on or before the thirtieth of June. Every certificate which has not been renewed by the thirtieth of June of each year shall expire and a new certificate must be obtained from the Board before such school may continue to operate, for which an original application must be submitted together with the fee therefor.

Source: § 22-330.26

REVISER'S NOTE: Reference to the annual renewal fee is deleted as covered by the preceding section. An obsolete provision operative in 1978 is deleted.

§ 22.1-329. Revoking, suspending or refusing to renew certificate; grounds.—The Board may refuse to renew or may revoke or suspend any certificate to operate a school for any one or combination of the following causes:

- 1. Violation of any provision of this chapter or any regulation of the Board;*
- 2. Furnishing false, misleading or incomplete information to the Board or Department or failure to furnish any information requested by the Board or Department;*
- 3. Violation of any commitment made in an application for a certificate;*
- 4. Presenting, either by the school or by any agent of the school, to prospective students information relating to the school which is false, misleading or fraudulent regarding employment opportunities, amount of starting salaries, or the possibility of receiving academic credit from any institution of higher learning for training offered by the school securing the enrollment;*
- 5. Failing to provide or maintain premises or equipment in a safe and sanitary condition as required by law;*
- 6. Making any false promises through agents or by advertising or otherwise of a character likely to influence, persuade or induce enrollments;*
- 7. Paying commission or valuable consideration to any person for any act of service performed in willful violation of this chapter;*
- 8. Failing to maintain financial resources adequate for the satisfactory conduct of courses of instruction offered or to retain a sufficient or qualified instructional staff;*
- 9. Conducting instruction in a course or field not indicated on the certificate of the school;*
- 10. Demonstrating unworthiness or incompetency to conduct the school in a manner calculated to safeguard the interests of the public;*
- 11. Failing within a reasonable time to provide information requested by the Board or Department as a result of a formal or informal complaint to or by the Board or Department which would indicate a violation of this chapter;*

12. *Attempting to use or employ any enrolled students in any commercial activity whereby the school receives any compensation whatsoever without reasonable remuneration to the student, except to the extent that employment of students in such activities is necessary or essential to their training and is permitted and authorized by the Board;*

13. *Engaging in or authorizing any other conduct whether of the same or of a different character from that herein specified which constitutes fraudulent or dishonest dealings; or*

14. *Attempting to confer any degree on any student in violation of § 23-9 of the Code of Virginia.*

The provisions of Chapter 1.1:1 of Title 9 of this Code shall be applicable to proceedings under this section and the certificate holder shall be entitled to a hearing provided for in § 9-6.14:12.

Source: § 22-330.27

REVISER'S NOTE: Procedural requirements are deleted and the Administrative Process Act is made applicable to proceedings under this section.

§ 22.1-330. Same; investigation; time within which to correct unsatisfactory conditions.—The Board or Department may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proved, would constitute grounds for refusal, suspension or revocation of a certificate, investigate the actions of any applicant for or any person or persons holding or claiming to hold a certificate to operate a school.

Before refusing to renew, revoking or suspending any certificate, the Board may grant such period of time as it deems reasonable to correct any unsatisfactory condition.

Source: § 22-330.28

REVISER'S NOTE: No material change.

§ 22.1-331. Violations.—Any person who opens, operates or conducts any school without a certificate required by this chapter shall be guilty of a Class 2 misdemeanor. Each day such person permits the school to be open and operate without such a certificate shall constitute a separate offense.

Source: § 22-330.31

REVISER'S NOTE: The class of misdemeanor rather than the penalty is prescribed.

§ 22.1-332. List of schools holding valid certificates.—The Department shall maintain a list of schools holding valid certificates under the provisions of this chapter which shall be available for the information of the public and be published in the Virginia Educational Directory.

Source: § 22-330.32

REVISER'S NOTE: The Department rather than the Board is to maintain the list of schools.

§ 22.1-333. Permit required for agent or solicitor representing school.—Every agent shall make application for a permit to the Department in writing upon forms prepared and furnished by it. Each application shall state the name of each school which the applicant will represent, shall be verified under oath by him, and shall be accompanied by the recommendation of three reputable persons certifying that the applicant is truthful, honest and of good reputation and recommending that a permit as an agent be granted to the applicant. The fee for an original permit as an agent shall be five dollars. A separate permit shall be obtained for each school represented by an agent. No permit shall be required of an owner of a school or of any person soliciting students inside of and at the admission office of the school.

The Department, upon approval of an application for a permit, shall prepare and deliver to each agent a card containing, at a minimum, the name, address and picture of the agent and the name of the employing school and certifying that the person whose name appears thereon is an

authorized agent of the school or schools named thereon. The year for which a permit is issued shall be prominently displayed on the card.

Each agent that continues as such shall annually on or before the thirty-first of January renew his permit and pay a renewal fee of one dollar. Every permit which has not been renewed on or before January thirty-first of each year shall expire.

Source: § 22-330.33

REVISER'S NOTE: Obsolete deadlines have been deleted.

§ 22.1-334. *Suspension or revocation of permit of agent.*—The Department may suspend or revoke any permit issued to any agent for any one or combination of the following causes:

1. *Violation of any provision of this chapter or any regulation of the Board;*
2. *Presenting or giving to any prospective student, his parent or guardian information concerning any school which is false, misleading or fraudulent or which makes false or misleading representations concerning employment opportunities or the possibility of receiving credit for any courses offered by the school at any institution of higher learning;*
3. *Failing to display a current and valid permit upon request of any prospective student, his parent or guardian, or of any member of the Board or representative of the Department; or*
4. *Failing to provide any information requested by the Department as a result of any formal or informal complaint made to the Department.*

The provisions of Chapter 1.1:1 of this Code shall be applicable to proceedings under this section and the permit holder shall be entitled to a hearing provided for in § 9-6.14:12.

Source: § 22-330.34

REVISER'S NOTE: The Administrative Process Act is made applicable to proceedings under this section.

§ 22.1-335. *Unenforceability of contracts.*—At the option of the student, his parent or guardian, all contracts entered into by any student, his parent or guardian solicited or given them by any agent who does not possess a current and valid permit may be cancelled and any nonnegotiable promissory note or other nonnegotiable evidence of indebtedness taken in lieu of cash by such agent may be recovered from either the agent or the school he represents.

Source: § 22-330.35

REVISER'S NOTE: References to procedures are deleted as covered by the Administrative Process Act.

Chapter 17.

Compact for Education; Education Commission of the States.

§ 22.1-336. *Compact entered into and enacted into law; form of compact.*—The compact for education is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Article I

A. *It is the purpose of this compact to:*

1. *Establish and maintain close cooperation and understanding among executive, legislative,*

professional, educational and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states as well as in the excellence of its own educational systems and institutions because individuals are highly mobile throughout the nation and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

Article II

As used in this compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Article III

A. The Education Commission of the States, hereinafter called "the Commission," is hereby established. The Commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations, be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education and lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution designated by the governor having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners are present. The Commission shall meet at least once a year. In its bylaws and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering

committee or the executive director except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III (J).

C. The Commission shall have a seal.

D. The Commission shall elect annually from among its members a chairman, who shall be a governor, a vice-chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission and, together with the treasurer and such other personnel as the Commission may deem appropriate, shall be bonded in such amount as the Commission shall determine. The executive director shall serve as secretary of the Commission.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, subject to the approval of the steering committee, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.

F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The Commission may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph F. of this article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed and the identity of the donor or lender.

H. The Commission may establish and maintain such facilities as may be necessary for transacting its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

J. The Commission annually shall make to the governor and legislature of each party state a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

Article IV

In addition to authority conferred on the Commission by other provisions of this compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources:

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this article in any instance

where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole or for any segment thereof and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

Article V

A. If the laws of the United States specifically so provide or if administrative provision is made therefor within the federal government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law and may be drawn from any one or more branches of the federal government. No such representative shall have a vote on the Commission.

B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states and may advise any such agencies or officers concerning any matter of mutual interest.

Article VI

A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One fourth of the voting membership of the steering committee shall consist of governors, one fourth shall consist of legislators, and the remainder shall consist of other members of the Commission. A federal representative on the Commission may serve without vote on the steering committee. The voting members of the steering committee shall serve for terms of two years except that members elected to the first steering committee of the Commission shall be elected as follows: Sixteen for one year and sixteen for two years. The chairman, vice-chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

B. The Commission may establish advisory and technical committees composed of state, local and federal officials and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

C. The Commission may establish such additional committees as its bylaws may provide.

Article VII

A. The Commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among

the party states. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The Commission shall not pledge the credit of any party states. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to paragraph G. of Article III of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to paragraph G. of Article III of this compact, the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. In addition, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VIII

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In any such jurisdiction not having a governor, the term "governor" as used in this compact shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

C. Adoption of the compact shall be by enactment.

D. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or if the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Source: § 22-345

REVISER'S NOTE: Obsolete provisions operative prior to 12/31/78 are deleted.

§ 22.1-337. *Virginia representatives on Education Commission of the States.—There shall be seven member commissioners representing Virginia on the Education Commission of the States.*

These commissioners shall consist of the Governor, one member selected from the body of the House of Delegates by the Speaker thereof, one member selected from the body of the Senate of Virginia by the Committee on Privileges and Elections of the Senate, and four members appointed by the Governor. The term of the member from the House shall be two years; the term of the member from the Senate shall terminate at the end of his current term as Senator. The terms of the members appointed by the Governor shall be for four years each except that appointments to fill vacancies other than by expiration of term shall be for the unexpired terms. The Governor, the Committee on Privileges and Elections of the Senate and the Speaker shall have the authority to fill all vacancies in the manner of the original appointment. The Governor shall designate one member commissioner to serve as chairman of the group for a two-year term. The commissioners shall meet on the call of the chairman or at the request of a majority of the members. A majority of the member commissioners shall constitute a quorum for any meeting. The commissioners may consider any and all matters related to recommendations of the Education Commission of the States or the general activities and business of the organization and shall have the authority to represent the Commonwealth in all actions of the Commission. The commissioners shall serve without compensation but shall be paid their actual and necessary expenses incurred in the performance of their duties, such expenses to be paid from the contingent fund of the General Assembly.

Source: § 22-346

REVISER'S NOTE: Obsolete provisions relating to terms of initial appointees are deleted.

§ 22.1-338. Education Commission to file bylaws with State Council of Higher Education.—Pursuant to paragraph 1 of Article III of the compact for education set forth in § 22.1-336, the Education Commission of the States shall file a copy of its bylaws and amendments thereto with the State Council of Higher Education for Virginia.

Source: § 22-347

REVISER'S NOTE: No material change.

Chapter 18.

Rehabilitative School Authority.

§ 22.1-339. As used in this chapter:

- 1. "School Authority" means the Rehabilitative School Authority.*
- 2. "The board" means the Board of the Rehabilitative School Authority.*

Source: §§ 22-41.1 and 22-41.2

REVISER'S NOTE: No material change.

§ 22.1-340. Authority created.—There is hereby created the Rehabilitative School Authority which shall be composed of all the educational facilities of all institutions operated by the Department of Corrections.

Source: § 22-41.1

REVISER'S NOTE: The definition of "school authority" is moved to the preceding section.

§ 22.1-341. Supervision of Authority; composition of board; terms and vacancies.—The supervision of the School Authority shall be vested in the Board of the Rehabilitative School Authority. The board shall be composed of seven members who shall be appointed by the Governor, subject to confirmation by the General Assembly. Members shall be appointed for terms of four years each except that whenever a vacancy occurs other than by expiration of a term, the Governor shall appoint a member for the remainder of that term. No member shall serve more

than two consecutive four-year terms. The chairman of the Virginia Parole Board, two persons designated by the Director of the Department of Corrections and the director of Vocational Education in the Department of Education shall serve as *ex officio* members without vote.

Source: § 22-41.2

REVISER'S NOTE: Obsolete provisions deleted. The definition of "the board" is moved to § 22.1-339.

22.1-342. System of schools for persons committed to certain institutions.—The board shall establish and maintain a general system of schools for persons committed to the institutions composing the Rehabilitative School Authority. Such system shall include elementary, secondary, post-secondary, vocational, technical, adult and special education schools. The School Authority, through the board, shall operate all of the schools in the system.

Source: §§ 22-41.3 and 22-41.4

REVISER'S NOTE: No material change.

§ 22.1-343. Powers and duties of board.—The board shall have the following powers and duties:

1. To adopt and enforce all necessary rules and regulations for the management and operation of the schools in the School Authority except that the rules and regulations adopted hereunder shall not conflict with rules and regulations relating to security adopted by the institutions to which the pupils are committed;

2. To visit and inspect the schools at reasonably frequent intervals;

3. To set the compensation of the superintendent of the School Authority;

4. To adopt rules and regulations governing the timing and methods of payment of compensation of teachers and other personnel under term or annual contracts;

5. To establish schools of the appropriate grades, levels and types in the institutions comprising the School Authority and to adopt regulations for the admission of pupils thereto;

6. To enter into such agreements with private entities, school divisions, community colleges and public and private junior colleges, colleges and universities as it may deem to be appropriate for the purpose of carrying out its duties and responsibilities under this chapter;

7. To name the various individual schools but such names need not be associated or identified with the institution or facility within which they are located;

8. To employ teachers on recommendation of the superintendent of the School Authority and place them in appropriate schools;

9. To prepare a budget for the School Authority and submit it to the General Assembly of Virginia; and

10. To receive and disburse funds from any source for the purposes of providing education in such School Authority.

Source: § 22-41.5

REVISER'S NOTE: The boards power to appoint the Authority superintendent is deleted to conform to § 2.1-41.2.

§ 22.1-344. Appointment of Authority superintendent, powers and duties.—The Governor shall appoint, subject to confirmation by the General Assembly, the Superintendent of the School Authority who shall meet the minimum standards for division superintendents set by the Board of Education. The powers and duties of the superintendent shall be fixed by the Board of Education in accordance with law.

Source: § 22-41.6

REVISER'S NOTE: The appointment of the Authority Superintendent is conformed to the provisions of § 2.1-41.2.

§ 22.1-345. *Compliance with applicable regulations and statutes.—The board shall comply with and require all school facilities within the School Authority to comply with applicable regulations and statutes, both State and federal.*

Source: § 22-41.7

REVISER'S NOTE: No material change.

Chapter 19.

Public Telecommunications.

§ 22.1-346. *Definitions.—As used in this chapter:*

1. *“Telecommunications” means any origination, transmission, emission or reception of signs, signals, writing, images and sounds, or intelligence of any nature, by wire, radio, television, optical or other electromagnetic systems;*

2. *“Telecommunications services” means noncommercial, nonprofit telecommunications to serve education, health, safety, welfare and human development, including without limitation, uses for preschool, elementary, secondary, higher and continuing education and for public information and cultural purposes;*

3. *“Telecommunications facilities” means apparatus, equipment and material necessary or useful in the nonprofit production, distribution or interconnection of electronic communications, including without limitation, apparatus, equipment and material for towers, broadcast television and radio transmitters, instructional television fixed service, satellite communications, cable television, cassette-cable television, radio, television, film production, programs and receiving equipment, buildings and structures to house such apparatus, equipment and material, and the land necessary therefor, and other technological innovations and inventions to produce, transmit, interconnect or receive electronic communications;*

4. *“Nonprofit” means that no part of the net earnings enures, or may lawfully enure, to the benefit of any private shareholder or individual;*

5. *“Council” means the Virginia Public Telecommunications Council;*

6. *“The Fund” means the Telecommunications Facilities and Services Fund;*

7. *“Project” means the construction, improvement, maintenance and operation or acquisition in any manner of any telecommunications facilities or the providing of telecommunications services, or a combination thereof, including the production and acquisition of programs therefor and technical assistance and State aid in the utilization of such facilities and services.*

Source: § 22-344.5

REVISER'S NOTE: No change.

§ 22.1-347. *Virginia Public Telecommunications Council continued; functions; Governor may assign duties to other agencies.—The Virginia Public Telecommunications Council, heretofore established by law, is continued in the office of the Governor. The Council shall be charged with assisting counties, cities and towns, the various departments, agencies and institutions of the State, the nonprofit telecommunications entities in the State, and others engaged in the nonprofit use of telecommunications services, in the construction, establishment, operation and use of telecommunications facilities and telecommunications services and programs therefor.*

The Governor may, upon request of the Council, assign to any agency within his office all or any part of the duties imposed upon the Council by this chapter.

Source: § 22-344.6

REVISER'S NOTE: No change.

§ 22.1-348. Appointment of Director; Director to employ personnel.—The Council shall be headed by a Director who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor. The Director shall employ such personnel as may be required to carry out the purposes of this chapter.

Source: § 22-344.6:1

REVISER'S NOTE: No change.

§ 22.1-349. General powers and duties of Council.—In carrying out the purposes of this chapter, the Council, through its chairman, is authorized:

- 1. To acquire and require such reports and make such inspections and investigations as it deems necessary;*
- 2. To procure the temporary services of experts or consultants when such services are to be performed on a part-time or fee-for-service basis;*
- 3. To enter into agreements for the utilization of the facilities and services of other public or private departments, agencies and institutions;*
- 4. To apply for, accept on behalf of the Commonwealth and deposit with the State Treasurer any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of this chapter and to expend the same for such purposes;*
- 5. To assist applicants awarded grants pursuant to the chapter in planning, developing and operating projects and to grant and administer State aid therefor as provided in this chapter;*
- 6. To maintain an inventory of existing telecommunications facilities and to survey periodically the need for additional telecommunications facilities;*
- 7. To coordinate the development and use of telecommunications facilities and telecommunications services;*
- 8. To promulgate regulations to carry out the provisions of this chapter, including reasonable standards and criteria for awarding grants as provided in this chapter, governing the extent to which existing facilities may be considered in determining the applicant's share, if any, of the cost of a project, and governing the method of transmission of telecommunications services;*
- 9. To acquire, produce and distribute programs for telecommunications services to any area of the Commonwealth and to make necessary contracts for such acquisition, production and distribution;*
- 10. To acquire property and construct, maintain and operate telecommunications facilities and telecommunications services and to produce programs therefor;*
- 11. To enter into contracts with applicants who are awarded grants pursuant to this chapter and others in furtherance of the purposes of this chapter.*

Source: § 22-344.7

REVISER'S NOTE: No material change.

§ 22.1-350. Members of Council; appointment, terms, compensation, meetings, etc.—A. Notwithstanding the provisions of § 2.1-42.1, the Council shall consist of fourteen members

including the President of the Board of Education, the Chairman of the State Council of Higher Education, the Chairman of the State Board of Community Colleges, and the Chairman of the Board of Trustees of the Virginia Museum of Fine Arts. The remaining members shall be appointed by the Governor, one from each congressional district of the State. Such appointments shall be subject to confirmation by the General Assembly. Each of the local nonprofit telecommunications entities of the State may recommend nominees to the Governor from their respective congressional districts. Such members from congressional districts shall be appointed for the term of four years each. Vacancies other than by expiration of term shall be filled by the Governor for the unexpired term. No member shall serve more than two consecutive four-year terms. No member of the Council may be the chief executive officer of any State agency, a member of the General Assembly, or an officer, director or employee of any local nonprofit telecommunications entity of the State.

B. The Governor shall designate a member to serve as Chairman and the members may elect from their number a vice-chairman.

C. The Council shall meet at least quarterly and at the call of its Chairman.

D. The Chairman shall designate an employee to act as secretary to the Council.

E. Council members shall be reimbursed for their actual and necessary expenses for travel and subsistence incurred in performance of their duties as Council members away from their places of residence. Such expenses shall be paid from such funds as may be appropriated for the purpose.

Source: § 22-344.8

REVISER'S NOTE: Obsolete provisions regarding terms of 1978 appointees are deleted.

§ 22.1-351. Master Plan for State; modification; State agencies to cooperate.—The Council shall review and modify from time to time the Master Plan for Public Telecommunications heretofore approved by the Council so that there may be a continuous Master Plan for the development, establishment, administration, operation and coordination of telecommunications facilities and services throughout the Commonwealth. The Master Plan shall, insofar as possible, provide for the distribution of telecommunications facilities and services throughout the State in such manner as to make telecommunications services reasonably accessible to persons desiring the same throughout the State. In considering the Master Plan, the Council shall take into account those telecommunications facilities, including without limitation cable television and other telecommunications systems, which are, or are likely to be, owned or operated by private for-profit organizations. The Board of Education and other State agencies shall cooperate with the Council and shall furnish such services as may be agreed upon.

Source: § 22-344.9

REVISER'S NOTE: Obsolete provisions operative prior to 12/31/78 are deleted.

§ 22.1-352. Telecommunications Facilities and Services Fund.—A. The Telecommunications Facilities and Services Fund, heretofore established by law separate and apart from all public monies and funds of the State, is continued. Monies received by the Council for projects shall be deposited to the credit of the fund.

B. The Council may make grants from the Fund for projects upon application therefor. Grants shall be awarded in the order of the relative need for the projects.

Source: § 22-344.10

REVISER'S NOTE: No change.

§ 22.1-353. Application for and award of grants from fund.—An application for a grant from the Fund for a project shall be submitted to the Council in such form and manner as may be prescribed by the Council. The Council shall afford to every applicant for a grant from the Fund for a project an opportunity for a hearing. If the Council, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that an application complies with the requirements of this chapter, that there is a need for the project and that the

project is otherwise in conformity with the Master Plan, it may approve such application and award a grant to the applicant.

Source: § 22-344.11

REVISER'S NOTE: No change.

§ 22.1-354. Limit on contribution by State to cost of project.—The amount of any grant from the Fund awarded by the Council for a project shall not exceed such amount as may be determined by the Council. No part of any such grant shall be made available by the Council unless and until the Council has satisfactory assurances that the necessary funds to finance the remaining cost, if any, of the project have been or will be made available from sources other than the grant. In making the determination of the applicant's share of the cost of a project, the Council may consider the values of existing or partially completed telecommunications facilities.

In determining the amount of funds from sources other than the grant available to finance any project, the Council shall take into account the value of any building or space within any building and facilities thereof provided by funds of any local jurisdiction or jurisdictions of the Commonwealth or part of any community college or other educational institution of the Commonwealth or local government for the purpose of such project, provided such applicant has entered into a lease or occupancy agreement for a term of at least twenty years.

Source: § 22-344.12

REVISER'S NOTE: No material change.

§ 22.1-355. Payments from Fund.—Payments pursuant to a grant from the Fund for a project shall be made only for work performed, or purchases made, in carrying out the project. Invoices for all payments from the Fund shall bear the signature of the agent of the Council duly authorized for that purpose. The Council shall determine when payment from the Fund is to be made toward the cost of an approved project and the conditions of such payment. Such payment shall be made by the Treasurer upon warrants signed by the Comptroller and vouchers signed by the chairman of the Council.

Source: § 22-344.13

REVISER'S NOTE: No change.

§ 22.1-356. State public telecommunications network.—The Council is authorized to make provision for a State public telecommunications network for the purpose of interconnecting the telecommunications facilities serving Virginia, to determine the best methodology to be employed, to hold title to State-owned facilities where used, to make arrangements for the operation thereof and to pay the cost of building, maintaining and operating such interconnection facilities where state-owned.

Source: § 22-344.14

REVISER'S NOTE: No change.

§ 22.1-357. Use of telecommunications programs in schools.—No telecommunications program shall be utilized in any public school without such use having first been approved by the Board of Education or by the school board of the school division responsible for the school or schools in which such program is to be utilized subject to regulations promulgated by the Board of Education.

Source: § 22-344.15

REVISER'S NOTE: No change.

Amendments to Other Titles

§ 2.1-349.1. Teachers and employees of school board not to be related to board members or

school superintendent; exceptions.—It shall not be lawful for the school board of any county, city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, State or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if such teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law or daughter-in-law, sister-in-law or brother-in-law of the *division* superintendent ; or of any member of the school board.

This provision shall apply to any such person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town the school board.

This provision shall not apply to any person within such relationship or relationships who has been regularly employed or employed as a substitute teacher by any school board prior to the taking of office of any member of such board or division superintendent of schools, or who has been regularly employed or employed as a substitute teacher by any school board prior to the inception of such relationship or relationships; provided, however, that a person employed as a substitute teacher may not be employed to any greater extent than such person was employed by such school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship or relationships. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and such funds shall be recovered from such individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Such funds, when recovered, shall be paid into the local treasury for the use of the public schools.

REVISER'S NOTE: No material change.

Chapter 38.

Rehabilitative Services.

§ 2.1-574. *Definitions.—As used in this chapter:*

1. "Board" means the Board of Rehabilitative Services;
2. "Department" means the Department of Rehabilitative Services;
3. "Director" means the Director of the Department of Rehabilitative Services.

Source: §§ 22-330.1, 22-330.4:1 and 22-330.4:2

REVISER'S NOTE: No material change.

§ 2.1-575. *Board established; appointment, terms, etc., of members; per diem and expenses.—A. The Virginia Board of Vocational Rehabilitation is continued and shall hereafter be known as the Board of Rehabilitative Services. Whenever the words "Virginia Board of Vocational Rehabilitation" are used in any law of this Commonwealth, they shall mean the Board of Rehabilitative Services.*

B. The Board shall be composed of seven members appointed by the Governor for terms of four years. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. All terms shall commence July one of the year in which the term is to begin.

C. No person shall serve as a member of the Board for more than two consecutive terms of two or more years and no person who has served two such terms consecutively may be reappointed to the Board without the lapse of four years between terms.

D. The members of the Board shall be reimbursed for actual expenses incurred while engaged in the discharge of their duties. Any member who is not a salaried officer or employee of the Commonwealth shall receive compensation of twenty dollars a day for each day so engaged in the

discharge of his duties.

Source: § 22-330.1

REVISER'S NOTE: The definition of "Board" is moved to § 2.1-574. Obsolete provisions governing initial terms are deleted.

§ 2.1-576. Powers and duties of Board.—The Board shall exercise the following general powers and duties:

- 1. Provide a means of citizen access to the Department;*
- 2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department programs;*
- 3. Monitor the policies and activities of the Department and have the right of access to Department information;*
- 4. Advise the Governor, the Secretary of Human Resources and the Director of the Department on matters relating to the Department's jurisdiction and on such other matters as the Governor, Secretary or Director may request.*

Source: § 22-330.1:1

REVISER'S NOTE: No material change.

§ 2.1-577. Meetings; chairman and secretary.—The Board shall meet at least four times each year and at other times on call of the chairman or at the written request of a majority of the members. The Board shall elect one of its members chairman and shall elect a secretary who may be a member of the Board.

Source: § 22-330.2

REVISER'S NOTE: No material change.

§ 2.1-578. Department of Rehabilitative Services.—There is hereby created in the executive branch of the State government the Department of Rehabilitative Services. Whenever the words "Department of Vocational Rehabilitation" are used in any law of this Commonwealth, they shall mean the Department of Rehabilitative Services. The Department shall be assigned to the Secretary of Human Resources.

Source: § 22-330.4:1

REVISER'S NOTE: The definition of "Department" is moved to § 2.1-574.

§ 2.1-579. Director of Department.—The supervision of the Department shall be the responsibility of the Director of the Department under the direction and control of the Governor and the Secretary of Human Resources. The Director shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor for a term coincident with that of the Governor.

Source: § 22-330.4:2

REVISER'S NOTE: The definition of "Director" is moved to § 2.1-574.

§ 2.1-580. Power and duty of Director.—A. The Director shall have the power and duty:

- 1. To employ such personnel as may be required to carry out the purposes of this chapter;*
- 2. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, agencies and*

governmental subdivisions of this Commonwealth;

3. To accept grants from the United States government and agencies and instrumentalities thereof and any other source and, to these ends, to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;

4. To do all acts necessary or convenient to carry out the purposes of this chapter;

5. To develop and analyze information on the needs of the State's handicapped citizens;

6. To develop plans, policies and programs for the delivery of services to the State's handicapped citizens for consideration by the Governor and General Assembly, such policies, plans and programs for services to those who cannot benefit from vocational rehabilitation programs to be prepared over time, and as funds become available for such efforts;

7. To operate and maintain the Woodrow Wilson Rehabilitation Center and to organize, supervise and provide other necessary services and facilities (i) to prepare disabled persons for useful and productive lives including suitable employment and (ii) to enable handicapped persons, to the degree possible, to be self-sufficient and have a sense of well-being;

8. To develop criteria for the evaluation of plans and programs relative to the provision of rehabilitative services;

9. To investigate the availability of funds from any source for planning, developing and providing services to handicapped citizens, particularly those who are not capable of being gainfully employed;

10. To coordinate its plans, policies, programs and services with those of the other State agencies providing services to handicapped citizens so as to achieve maximum utilization of available resources to meet the needs of such citizens;

11. To compile and provide information on the availability of federal, State, regional and local funds and services for the handicapped;

12. To perform such other duties as may be required by the Governor and the Secretary of Human Resources.

B. The Director shall not be obligated to perform any act or duty for which no funds were appropriated to the Department.

Source: § 22-330.4:3

REVISER'S NOTE: The duty to operate and maintain the Woodrow Wilson Rehabilitation Center is moved to this section from § 22-330.3 which is deleted. The term "person disabled in industry or otherwise" is changed to "disabled person" in this section and throughout the chapter.

§ 2.1-581. Revenue bonds.—In accordance with the provisions of Chapter 3 (§ 23-14 et seq.) of Title 23, the Board may issue revenue bonds on behalf of the Woodrow Wilson Rehabilitation Center or other facilities of a like nature over which it has supervision.

Source: § 22-330.5

REVISER'S NOTE: No change.

§ 2.1-582. Authority concerning environmental barriers.—A. The Department may coordinate and direct the efforts of public and private agencies to prevent environmental barriers which keep disabled people from living normal, productive lives. For the purposes of this section, "environmental barrier" means any things, conditions or influences that restrain or obstruct a severely disabled person in his efforts to live a normal, productive life.

B. To carry out the purposes of this section the Department may:

1. *Make surveys of the nature and extent of environmental barriers and issue reports thereon;*
2. *Provide information to the public concerning standards for the prevention and elimination of barriers;*
3. *Coordinate the efforts of groups seeking to eliminate environmental barriers and serve as a liaison for groups of handicapped individuals in this field;*
4. *Evaluate the effectiveness of §§ 2.1-109.01 through 2.1-109.07 of this Code; and*
5. *Coordinate its activities concerning State buildings pursuant to this section with the Division of Engineering and Buildings.*

Source: § 22-330.6:1

REVISER'S NOTE: Paragraph 5 is new.

§ 2.1-583. Central registry.—The Director shall establish and maintain a central registry of persons who sustain spinal cord injury other than through disease, whether or not permanent disability results, in order to facilitate the provision of appropriate rehabilitative services by the Department and other State agencies to such persons.

Every hospital and attending physician shall report to the Director by the most expeditious means within seven days after identification of any person sustaining such an injury. The report shall contain the name, age and residence of the person, date and cause of the injury, and such additional information as the Director may deem necessary.

Source: § 22-330.6:2

REVISER'S NOTE: No material change.

§ 2.1-584. Acceptance of provisions and benefits of acts of Congress.—The Commonwealth of Virginia accepts the provisions and benefits of the acts of Congress of the United States for the promotion of vocational rehabilitation of disabled persons and their return to civil employment and will observe and comply with all requirements of such acts.

Source: § 22-330.7

REVISER'S NOTE: The term "disabled person" is substituted. See Reviser's Note for § 2.1-580.

§ 2.1-585. Department designated as State agency for purpose of cooperation with federal government.—The Department is designated as the State agency for the purpose of cooperating with the federal government in carrying out the provisions and purposes of the federal Rehabilitation Act and is empowered and directed to cooperate with the federal government in the administration of such Act, to prescribe and provide such courses of vocational training and other services as may be necessary for the vocational rehabilitation of disabled persons, to provide for the supervision of such training and services and to direct the disbursement and administer the use of all federal funds provided to this Commonwealth for the vocational rehabilitation of such persons.

Source: § 22-330.9

REVISER'S NOTE: The term "disabled person" is substituted. See Reviser's Note to § 2.1-580. The federal Rehabilitative Act is referenced.

§ 2.1-586. Cooperation with Industrial Commission and other agencies.—The Department may cooperate with the Industrial Commission of Virginia and other public and private agencies serving the disabled in formulating a plan of cooperation in accordance with this chapter and the federal Rehabilitation Act for vocational rehabilitation of disabled persons. Such plan shall become effective when approved by the respective boards of the cooperating agencies.

Source: § 22-330.10

REVISER'S NOTE: The term "disabled person" is substituted. See Reviser's Note to § 2.1-580. The Federal Rehabilitation Act is referenced.

§ 2.1-587. Gifts and donations.—The Department is authorized to receive such gifts and donations, either from public or private sources, as may be offered unconditionally or under such conditions related to the rehabilitation of disabled persons as in the judgment of the Department are proper and consistent with this chapter. All monies received as gifts or donations shall be deposited in the State Treasury, shall constitute a permanent fund to be called the special fund for the rehabilitation of disabled persons and shall be used by the Department to defray the expenses of rehabilitation for persons undergoing rehabilitation services and constructing, equipping, and operating necessary rehabilitation facilities. Such monies may also be used in matching federal grants for the foregoing purposes. A full report of all gifts and donations offered and accepted, the names of the donors, the respective amounts contributed by each donor, and all disbursements of such gifts and donations shall be submitted annually to the Governor by the Department.

Source: § 22-330.11

REVISER'S NOTE: The term "disabled person" is substituted. See Reviser's Note to § 2.1-580. Gifts and donations may be made and used for rehabilitation generally rather than vocational rehabilitation only.

~~§ 14.1-5. Traveling expenses on State business; public or private transportation.—Any person traveling on State business shall be entitled to reimbursement, as provided in § 14.1-5.2, for such of his actual expenses as are necessary and ordinarily incidental to such travel. If conveyance is by public transportation, reimbursement shall be at the actual cost thereof. If conveyance is by private transportation, reimbursement shall be at the rate of fifteen cents per mile or, in the instance of a State employee, the amount charged by the central car pool unless the head of the State agency concerned certifies that a State-owned vehicle was not available or that he considers use of a personal vehicle to be of advantage to the State. Provided, however, the members of public school boards shall be reimbursed for private transportation at the same rate that is authorized for the employees of the school board which they serve.~~

REVISER'S NOTE: The last sentence is stricken as covered by § 22.1-32.

~~§ 15.1-186. Initial resolution for bond issue; contents; request for bonds for school purposes.—Whenever the governing body of any county shall determine that it is advisable to contract a debt and issue general obligation bonds of the county to finance any project, it shall adopt a resolution (herein sometimes called the "initial resolution") setting forth:~~

~~(a) In brief and general terms the purpose or purposes for which the bonds are to be issued, and~~

~~(b) The maximum amount of such bonds and, if bonds are to be issued for more than one purpose, the maximum amount for each purpose; provided, however, that with respect to bonds for school purposes a statement of the maximum amount of each separate purpose is not required, and provided, further, that with respect to bonds for the purchase of land for diversified public purposes, a statement of the maximum amount of each separate purpose is not required. Where voter approval is required by the Constitution of Virginia and this chapter, such resolution shall request the circuit court, or any judge thereof, to order an election upon the question of contracting the debt and issuing the proposed bonds.~~

~~Prior to the adoption under the provisions of this section of a resolution by the governing body of any county requesting the ordering of an election upon the question of contracting a debt and issuing bonds for school purposes, the county board of education or school board of such county shall first request, by resolution, such governing body to take such action.~~

~~If voter approval is not required by the Constitution of Virginia or the provisions of this chapter, the governing body of the county shall have, with reference to contracting the debt and issuing the bonds for such project, all the powers granted by this chapter to the governing bodies of cities and towns.~~

REVISER'S NOTE: A reference to the "county board of education" is deleted as nonexistent.

§ 15.1-189. Subsequent resolutions; request of school authorities necessary for school bond resolutions.—In the event the question of contracting a debt and issuing bonds for the purpose or purposes set forth in the initial resolution shall be approved at the election called and held for such purpose, the governing body of the county, subsequent to the recording of the results of such election, shall, by resolution, at one time or from time to time, authorize the issuance of bonds, and a copy of each such resolution, certified by the clerk of the governing body of the county, shall be filed with the clerk of the circuit court of such county. With respect to bonds for school purposes, the governing body of the county shall take this action only after the ~~county board of education, if any; or~~ school board has, by resolution, requested the governing body of the county to authorize the issuance of such bonds.

REVISER'S NOTE: A reference to the "county board of education" is deleted as nonexistent.

§ 15.1-228. Borrowing for capital projects for school purposes authorized.—In conformity with Article VII, § 10, of the Constitution of Virginia, ~~the any school board of any county and, in addition, the school board of any city~~ is hereby authorized to contract to borrow money from the Virginia Supplemental Retirement System for capital projects for school purposes, with the approval of the governing body of ~~the each county or and city ; or part thereof constituting the school division or of the town if the town constitutes the school division ;~~ and the Board of Trustees of the Virginia Supplemental Retirement System is hereby authorized to lend the money if it be available for investment, subject to and in conformity with the provisions of this chapter.

REVISER'S NOTE: Town school divisions and the possibility that counties and cities may be divided are taken into account.

§ 15.1-229. Resolution by school board; approval or rejection by governing body; indebtedness evidenced by bonds.—Whenever ~~the a~~ school board of ~~any county or city~~ desires to contract with the Board of Trustees of the Virginia Supplemental Retirement System to borrow money for capital projects for school purposes, it shall adopt a resolution setting forth the purpose for which it is desired to borrow the money and the amount of such proposed borrowing. Such resolution shall be entered in the minutes of the school board, and a copy of the same, certified by the clerk of the school board, shall be submitted by the school board to the governing body of the county ~~or , city or town~~ for its approval or rejection. If the governing body of ~~the county or city~~ approves the resolution, it shall enter its approval in its minutes, and the school board may then endeavor to negotiate an agreement with the Board of Trustees of the Virginia Supplemental Retirement System for the borrowing of such money. If agreement be reached, the question of borrowing such money on the terms agreed upon by the school board and the Board of Trustees of the Virginia Supplemental Retirement System shall again be submitted to the governing body of the county ~~or , city or town~~ for its approval or rejection. If the governing body approves the terms of such agreement, it shall enter its approval in its minutes, and the school board may then, by resolution entered in its minutes, provide for the issuance of negotiable bonds evidencing the indebtedness for sale to the Virginia Supplemental Retirement System. Such bonds shall be issued in conformity with the provisions of this chapter.

REVISER'S NOTE: Town school divisions are taken into account.

§ 15.1-230. Issuance of bonds; procedure; form and requirements.—Such bonds shall be issued by the school board in the name of the county ~~or , city or town~~ . For the payment of the principal of and the interest on such bonds the full faith and credit of the county ~~or , city or town~~ shall be pledged. The bonds shall be signed by the chairman of the school board and countersigned by the clerk thereof, but the bonds may bear or be executed with the facsimile signature of one of such officials, and in the case of coupon bonds the coupons may bear the facsimile signatures of both of such officials; the bonds shall be under the seal of the school board, but in lieu of impressing such seal physically upon such bonds, a facsimile of such seal may be imprinted on the bonds if so authorized by the school board. The bonds shall be in the denomination or denominations of not less than one thousand dollars each; they may be in coupon or registered form, or both, as may be agreed upon by the school board and the Board of Trustees of the Virginia Supplemental Retirement System; they shall bear interest at the agreed rate or rates ~~not exceeding six per centum per annum~~ , and such interest shall be payable semiannually; they shall be serial bonds with maturities and amounts as agreed upon but the first maturity date shall not be longer than two years from the date of such bonds and the maximum maturity date shall not be longer than thirty years from the date of such bonds. The place or places of payment of principal and interest shall be as agreed

upon by the school board and the Board of Trustees of the Virginia Supplemental Retirement System. In case any officer whose signature or a facsimile thereof shall appear on any bond or coupon shall cease to be such officer before the delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bond may bear the signature of a person who at the actual time of the execution of such bond shall be the proper officer to sign such bond although at the date of such bond such person may not have been such officer.

REVISER'S NOTE: The 6% limitation on the interest rate is removed. Town school divisions are taken into account.

§ 15.1-231. Disposition of proceeds from sale of bonds; separate fund.—All proceeds received from the sale of the bonds issued under the provisions of this chapter shall be paid to the treasurer or chief financial officer of the county or city or town, who shall promptly deposit such funds in a bank or banks as prescribed by general law. He shall account for such money through a fund, separate from all other funds, in the system of accounting.

REVISER'S NOTE: Town school divisions are taken into account.

§ 15.1-232. Investment of proceeds pending application to authorized purpose.—Pending the application of the proceeds of any bonds issued under the provisions of this chapter to the purpose for which such bonds have been issued, all or any part of such proceeds may be invested, upon resolution of the school board, in securities that are legal investments under the laws of this State for public sinking funds, which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the date on which such moneys will be required to make the payments for which such moneys have been designated. Any security so purchased as investment of the proceeds of such bonds shall be deemed at all times to be a part of such proceeds, and the interest accruing thereon and any profit realized from such investment shall be credited to such proceeds. Any security so purchased shall be held by the treasurer or chief financial officer of the county or city or town, and shall be sold by him upon resolution of the school board directing such sale, at the best price obtainable, or presented for redemption, whenever it shall be necessary, as determined by such resolution, so to do in order to provide moneys to meet the purpose for which the bonds shall have been issued.

REVISER'S NOTE: Town School divisions are taken into account.

§ 15.1-234. Tax to pay principal and interest on bonds.—For the payment of the principal of and the interest on any bonds issued under the provisions of this chapter, the governing body of the county or city or town is hereby authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the county or city or town are assessed, levied and collected, a tax upon all locally taxable property within the county or city or town over and above all other taxes authorized or limited by law sufficient to pay such principal and interest as the same respectively become due and payable.

REVISER'S NOTE: Town school divisions are taken into account.

§ 15.1-262. Purchase, sale or exchange of real property; how sale or exchange made.—The governing body of the county shall have power to sell, at public or private sale, or exchange and convey the real property, which includes the superjacent airspace (except airspace provided for in § 15.1-376.1) which may be subdivided and conveyed separate from the subjacent land surface, of the county; to purchase any real estate as may be necessary for the erection of all necessary county buildings; to provide a suitable farm as a place of general reception for the poor of the county, and to adopt such ordinances authorized by law as they deem expedient concerning such real property as now exists or as may hereafter be acquired; provided, that no sale or exchange of such property exceeding twenty-five thousand dollars in value or any combination of sales or exchanges exceeding one hundred thousand dollars in value during the county's fiscal year shall be made without the approval and ratification of such sale and exchange by an order of the circuit court of the county entered of record; however, this approval and ratification shall not be required for the conveyance, with or without consideration, of easements for highways, streets, alleys, curbs, sidewalks, storm drainage, sanitary sewers, electricity, gas, water and other public utilities, by the governing body of any county; ~~provided, however, no such order of court shall be required for the sale or exchange of school property when the unanimous approval of the school board and the local governing body~~

is obtained for such sale or exchange .

But this section shall not be construed to deprive the judge of the right to control the use of the courthouse of the county during the term of his court therein.

REVISER'S NOTE: Conformed to revised provisions of § 22.1-129.

§ 15.1-264. Joint acquisition of property for educational purposes by counties and cities; how disposed of.—Any two or more counties and cities or combinations thereof, or a board of control established pursuant to this section, may acquire by gift, purchase, condemnation in the manner provided by but not subject to the acreage limitation of § 22-140 , or otherwise, real property with improvements thereon located in any of such counties or cities, and construct buildings thereon to be used for educational purposes jointly by the political subdivisions acquiring the same. Control of and title to any such property shall be vested in a board chosen in the manner provided under § 22-100.3 22.1-53 provided, however, that all members of such board shall be appointed for terms of four years. Every board so chosen is declared a body corporate under style of the board of control of county or counties and city or cities. Property so acquired may be used by such political subdivisions for educational purposes or may be leased on such terms as may be agreed upon to any state-supported institution of higher learning to provide for education beyond high school of residents of such counties and cities. Any such real property may, with the approval of the governing body of each such political subdivision, be conveyed by the board of control to any such institution of higher learning upon such terms and conditions as shall be agreed upon by such governing bodies, and the governing body of the institution, and approved by the Governor.

REVISER'S NOTE: One cross-reference to Title 22 is deleted as unnecessary and another is conformed to the title revision.

§ 15.1-265. Acquisition of property for certain educational purposes by counties, cities and towns.—Any county, city or town or any combination thereof acting jointly may acquire for educational purposes by gift, purchase, condemnation in the manner provided by but not subject to the acreage limitation of § 22-140 ; or otherwise ; real property and any improvements that may be located thereon within the congressional district wherein such county, city or town is located county, city, town or combination thereof acquiring the property or within any county or city adjacent to any such county, city or town and may construct buildings thereon to be used for educational purposes ; provided, however, that for the purposes of this section . The powers of condemnation hereby granted by this section shall be subject to the provisions of § 25-233 of the Code of Virginia to the same extent as though such county, city or town were a corporation possessing the power of eminent domain. Whenever the property is not within a county, city or town acquiring the property, not more than fifty acres may be acquired. Such Property acquired pursuant to this section shall be under the control of the local school board provided that of the county, city or town acquiring it or, in the case of joint action by two or more counties, cities or towns or combinations thereof, control of such property shall be under a board chosen in the manner and for the term provided in § 22-100.3 22.1-53 : Property so acquired may be used by such political subdivisions for educational purposes ; or such property may be leased on such terms as may be agreed upon to any state-supported institution of higher learning to provide for education beyond high school of residents in the general region of such political subdivisions : Any ; or such real property may, with the approval of the governing body of each such participating political subdivision, be conveyed by the board of control to any such institution of higher learning upon such terms and conditions as shall be agreed upon by such governing bodies ; and the governing body of the institution ; and approved by the Governor.

REVISER'S NOTE: Acquisition of property pursuant to this section is limited to property within a county, city or town acquiring it or any adjacent county or city. Not more than fifty acres may be acquired if the property is not within a county, city or town acquiring it.

§ 15.1-506.1. Liability insurance for officers, employees, volunteers and members of boards and commissions.—The board of supervisors or school board of any county and the governing body of any political or governmental subdivision may provide liability insurance, or may provide self-insurance, for certain or all of its officers and employees and volunteers who are not employees of the governing body and members of commissions and boards recognized by the local governing body to cover the costs and expenses incident to liability, including those for settlement, suit or satisfaction of judgment, arising from the conduct of its officials, employees, volunteers and board

and commission members in the discharge of their duties. The liability insurance coverage shall be placed with insurance companies authorized to do business in this State by the State Corporation Commission.

REVISER'S NOTE: School boards are deleted from this section as covered by § 22.1-84.

§ 15.1-571.1. Boundaries of magisterial districts.— *A.* The several magisterial districts in the different counties of the State, with the boundary lines and names thereof respectively shall be as the governing body of such counties may establish. The districts shall be composed of contiguous and compact territory and be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. Whenever in the opinion of the governing body it is necessary, or whenever the boundaries of such county have been altered, the governing body shall, as may be necessary, redistrict the county in magisterial districts, change the boundaries of existing districts, change the name of any district, or increase or diminish the number of districts.

B. Whenever redistricting of magisterial or election districts is required as a result of annexation, the governing body of such county shall, within a reasonable time from the effective date of such annexation, not to exceed ninety days, commence the redistricting process which shall be completed within a reasonable time thereafter, not to exceed twelve months.

C. The governing body of a county may by ordinance provide that the magisterial districts of the county shall remain the same, but that representation on the governing body shall be by election districts, in which event all sections of this Code providing for election or appointment on the basis of magisterial districts shall be construed to provide for election or appointment on the basis of election districts; ~~such election districts shall also constitute school districts~~, including appointment to a school board as prescribed by ~~§ 22-61~~ §§ 22.1-36 and 22.1-44 of this Code.

D. Notwithstanding the provisions of § 24.1-40.3, the governing body of Lunenburg County may, by resolution, increase the number of election districts by adding an at-large district. Such increase shall not have the effect of altering the existing form of county government in such county.

REVISER'S NOTE: No material change.

§ 15.1-609. Department of education.—The department of education shall consist of the county school board, the division superintendent of schools and the officers and employees thereof. Except as herein otherwise provided, the county school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law. The county school board shall be composed of not less than three nor more than seven ~~trustees members~~, who shall be chosen by the board of county supervisors to serve at the pleasure of the ~~appointing board~~; . The exact number of ~~trustees members~~ shall be determined by the board of county supervisors; provided, however, that in addition to such number any town in a county which is operated as a separate school district under a town school board shall be entitled to one member on the county school board, to be selected by the town school board from its own membership

The board of county supervisors shall also appoint a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The tie breaker shall be appointed for a four-year term whether appointed to fill a vacancy caused by expiration of term or otherwise.

The chairman of the county school board shall for the purpose of appearing before the board of county supervisors under the provisions of § 15.1-601 be considered head of this department, unless some other person in the department shall be designated by the school board for such purpose.

REVISER'S NOTE: Revised to change the term "trustee" to "member", to delete obsolete references to towns operating as special school districts, to provide for appointment of a tie-breaker and to delete a provision for members to serve at the pleasure of the governing body as in conflict with the next section.

§ 15.1-609.1. Terms of school boards.— ~~Notwithstanding the provisions of the preceding sections, in any county which hereafter adopts the county executive form of organization and government under this article, The trustees members of the county school boards board in office on June twenty seven, nineteen hundred sixty six, and those hereafter appointed shall be appointed or~~

reappointed, as the case may be, for terms of four years each, except that initial appointments hereunder may be for terms of one to four years, respectively, so as to provide staggered terms for such ~~trustees members~~ .

REVISER'S NOTE: Revised to change the term "trustee" to "member" and to delete obsolete language operative in 1967.

§ 15.1-644. Department of education.—The department of education shall consist of the county school board, the division superintendent of schools and the officers and employees thereof. Except as herein otherwise provided, the county school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law. In addition the parks and playgrounds shall be under the supervision and control of the department of education. The county school board shall be composed of not less than three nor more than seven ~~trustees members~~ , who shall be chosen by the board of county supervisors to serve at the pleasure of the appointing board . The exact number of ~~trustees members~~ shall be determined by the board of county supervisors ; ~~provided, however, that in addition to such number, any town in the county, which is operated as a separate school district under a town school board, shall be entitled to one member on the county school board to be selected by the town school board from its own membership~~

The board of county supervisors shall also appoint a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The tie breaker shall be appointed for a four-year term whether appointed to fill a vacancy caused by expiration of term or otherwise.

The chairman of the county school board shall for the purpose of appearing before the board of county supervisors under the provisions of § 15.1-636 be considered head of this department, unless some other person in the department shall be designated by the school board for such purpose.

REVISER'S NOTE: Revised to change the term "trustee" to "member", to delete obsolete references to towns operating as special school districts and to provide for appointment of a tie-breaker.

§ 15.1-644.1. Terms of school boards.—Notwithstanding the provisions of the preceding sections, in any county which hereafter adopts the county manager form of organization and government under this article, the ~~trustees members~~ of the county school ~~boards~~ board in office on June twenty-seven, nineteen hundred sixty-six and those hereafter appointed shall be appointed or reappointed, as the case may be, for terms of four years each, except that initial appointments hereunder may be for terms of one to four years, respectively, so as to provide staggered terms for such ~~trustees members~~

REVISER'S NOTE: Revised to change the term "trustee" to "member".

§ 15.1-708. County school board and division superintendent of schools.—(a) The county school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law.

(b) The county school board shall be composed of ~~(1)~~ not less than three nor more than six ~~trustees members~~ chosen by the board of county supervisors and ~~(2)~~ from each town within the county ~~constituting a separate town school district operating under a town school board, one trustee or member selected annually by the town under a town school board of such town from its own membership~~ . If the ~~trustees~~ or members of the county school board first chosen by the board of county supervisors are three or less in number they shall all be appointed for terms of four years, and subsequent appointments shall be for terms of four years each. If the ~~trustees~~ or members so chosen shall be four or five in number, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and so on up to the number of ~~trustees~~ or members so appointed, and all subsequent appointments of ~~trustees~~ or members chosen by the board of county supervisors shall be for terms of such number of years as there are ~~trustees~~ or members of the board chosen by the board of county supervisors. All appointments to fill vacancies shall be for the unexpired terms. If the ~~trustees~~ or members of the county school board first chosen shall be six in number, two shall be appointed for a term of two years, two for a term of three years and two for a term of four years, and all subsequent appointments of ~~trustees~~ or members chosen by

the board of county supervisors shall be for terms of four years from the date of the expiration of the term for which said ~~trustee member~~ was appointed. All appointments to fill vacancies shall be made by the board of county supervisors and shall be for the unexpired terms.

(c) Each ~~trustee or~~ member shall receive as compensation for his services ~~an such annual salary of not to exceed one thousand eight hundred dollars, payable in equal monthly installments, and mileage at a rate not to exceed an amount established elsewhere by law as may be prescribed pursuant to § 22.1-22 .~~

(d) *The board of county supervisors shall also appoint a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75 . The tie breaker shall be appointed for a four-year term whether appointed to fill a vacancy caused by expiration of term or otherwise.*

REVISER'S NOTE: Revised to change the term "trustee" to "member", to delete obsolete references to towns operating as special school districts, to provide for appointment of a tie-breaker and to conform the provisions for salaries of school board members to those in § 22.1-22.

§ 15.1-770. Department of education.—The department of education shall consist of the county school board, the division superintendent of schools and the officers and employees thereof. Except as herein otherwise provided, the county school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law. In addition the parks and playgrounds shall be under the supervision and control of the department of education unless otherwise provided by the urban county board of supervisors. The county school board shall be composed of not less than five nor more than eleven ~~trustees members~~ , who shall be chosen by the urban county board of supervisors to serve for a term of two years, except that as many as one half of the members of the first such board appointed may be appointed for lesser terms. The exact number of ~~trustees members~~ shall be determined by the urban county board of supervisors. The term of office for any ~~trustee member~~ appointed after July one, nineteen hundred seventy-two, shall expire on July one, of the second year after his appointment.

The board of county supervisors shall also appoint a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The tie breaker shall be appointed for a four-year term whether appointed to fill a vacancy caused by expiration of term or otherwise.

The chairman of the county school board, unless some other person in the department is designated by the school board for such purpose, shall have the right to appear before the urban county board of supervisors and present his views on matters relating to the department of education.

REVISER'S NOTE: Revised to change their term "trustee" to "member" and to provide for appointment of a tie-breaker.

§ 15.1-1003. Assumption of debt; adjustment.—Whenever a town hereafter becomes a city, as herein provided, the city shall assume and provide for the reimbursement of the county of a just and reasonable proportion of any debt of the county existing at the date the town becomes a city and also for compensation to any school district of which the town was a part for the city's just and reasonable proportion of any debt existing on the district at such date.

~~The common council governing body of the city and the board of supervisors ; in the one case, and the council and the district school trustees, in the other case,~~ shall make an equitable adjustment of such debts, and the same shall be provided for as those bodies shall determine and agree upon. In making such adjustment the parties shall take into consideration the city's just proportion of money collected by the county treasurer under the ~~preceding section § 15.1-1002~~ and of any unexpended balance in the county treasury belonging to any fund to which the territory embraced in the city has contributed and shall take into consideration all other equitable claims of the city, county and district.

REVISER'S NOTE: An obsolete reference to district school trustees is deleted. The adjustment of debts is left to the governing bodies concerned.

§ 23-1. Annual reports required of boards of visitors.—It shall be the duty of the president or chairman of the board of visitors or trustees of every State institution which is educational in its character of higher education to cause to be made out by the ~~superintendent~~ president ; ~~principal~~ or other proper officer of such institution ; and forwarded to the office of the ~~Superintendent of Public Instruction~~ and State Council of Higher Education on or before the first day of October of each year a report for the year ending the thirtieth of June preceding. Such report shall set forth the condition and progress of the particular institution; the number of professors, assistant teachers, and other officers, and the compensation of each; the whole number of students in attendance; the courses of instruction, academic, professional, or technical; the means and methods of instruction; the number of students in the different classes; the terms of tuition; the number of students admitted free of charge for tuition; the kind and amount of all funds and endowments yielding an income; the annual income from all sources, and the items thereof; the amount of expenditures, and the items thereof; and such other information as may be deemed necessary to a full exhibit of the affairs and conditions of such institution.

REVISER'S NOTE: Revised to apply solely to institutions of higher education rather than all State educational institutions and to delete the requirement that the reports referred to in the section be sent to the Superintendent of Public Instruction.

§ 23-70. Appointment of visitors generally; number and terms of office.—(a) The board of visitors is to consist of ~~seventeen~~ ~~sixteen~~ visitors ; ~~sixteen~~ to be appointed by the Governor, of whom at least thirteen shall be appointed from the State at large and not more than three shall be appointed from the nonresident alumni of the University of Virginia ; and the ~~Superintendent of Public Instruction, ex officio~~ . The visitors in office on April ninth, nineteen hundred and forty-five are continued in office until the end of their respective terms, or until February twenty-eighth, nineteen hundred and forty-six, whichever last occurs.

(b) As soon as practicable after April ninth, nineteen hundred and forty-five, the Governor shall appoint members to fill all unexpired terms due to vacancies, except those of members appointed pursuant to the nineteen hundred and forty-four amendment of this section, and at the appropriate time shall appoint in place of such excepted members two members for new terms of two years and two for new terms of four years, each term beginning March first, nineteen hundred and forty-six. He shall, in addition, appoint the Superintendent of Public Instruction as an ex officio member for a term of two years to begin March first, nineteen hundred and forty six; provided that, if the tenure in office as Superintendent of such ex officio member expires within that time, the Governor shall appoint such member's successor to fill the unexpired term. The Superintendent shall remain eligible for appointment as an ex officio member so long as he continues in office as Superintendent. All appointments for full terms, as well as to fill vacancies, shall be made by the Governor subject to confirmation by the Senate. The three new members of the board provided for by this section as amended shall be appointed for four-year terms beginning March first, nineteen hundred fifty-five.

REVISER'S NOTE: Revised to delete obsolete references to membership of the Superintendent of Public Instruction on the University of Virginia board of visitors.

§ 23-71. Appointment of visitors from nominees of alumni association.—(a) The Governor may appoint visitors from a list of qualified persons submitted to him, before or after induction into office, by the alumni association of the University of Virginia, on or before the first day of December of any year next preceding a year in which the terms of any visitors will expire.

(b) Whenever a vacancy occurs otherwise than by expiration of term, the Governor shall certify this fact to the association and nominations may be submitted of qualified persons and the Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of the association, whether or not alumni or alumnae.

(c) Every list shall contain at least three names for each vacancy to be filled.

(d) The Governor is not to be limited in his appointments to the persons so nominated.

(e) At no time shall less than eleven of the ~~appointive~~ visitors be alumni or alumnae of the University.

REVISER'S NOTE: Conformed to changes made in § 23-70.

§ 23-72. Eligibility to serve more than two successive terms.—No person ; ~~except ex officio members~~, shall be eligible to serve for or during more than two successive four-year terms; but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such a member if appointed thereto. Incumbents on April ninth, nineteen hundred and forty-five, who were appointed for full terms prior to June first, nineteen hundred and forty-four shall be deemed to be serving their first terms.

REVISER'S NOTE: Conformed to changes in § 23-70.

§ 23-115. Appointment of visitors generally; number and eligibility.—The board of visitors is to consist of ~~fifteen~~ *fourteen* members, thirteen of whom shall be appointed by the Governor, and ~~two~~ *one* of whom shall be the President of the Board of Agriculture and ~~Immigration and the Superintendent of Public Instruction~~ *Consumer Services* , ~~both~~ *both* ex officio. Of the members appointed by the Governor, three may be nonresidents. The visitors in the office on April ninth, nineteen hundred and forty-five, are continued in office until the end of their respective terms, or until June thirtieth, nineteen hundred and forty-five, whichever last occurs.

As soon as practicable after April ninth, nineteen hundred and forty-five the Governor shall appoint four members to fill the unexpired portions of the terms which began on July first, nineteen hundred and forty-four, and shall appoint three additional members for new terms of two years and two for new terms of four years, each term beginning July first, nineteen hundred forty-five. He shall, in addition, appoint ~~the Superintendent of Public Instruction as an ex officio member for a term of two years, and the President of the State Board of Agriculture and Immigration~~ *Consumer Services as an ex officio member for a term of four years ; such terms to begin July first, nineteen hundred forty-five; provided that, if the tenure in office as Superintendent or President of such ex officio member expires within that time, the Governor shall appoint such member's successor to fill the unexpired term. Such Superintendent and President shall remain eligible for appointment as an ex officio members member so long as they continue he continues in office as Superintendent or President.* All appointments for full terms, as well as to fill vacancies, shall be made by the Governor subject to confirmation by the Senate.

REVISER'S NOTE: Revised to delete obsolete references to membership of the Superintendent of Public Instruction on the VPI & SU board of visitors.

§ 23-117. Eligibility to serve for more than two successive terms.—No person, except ~~the ex officio members~~ *member* , shall be eligible to serve for or during more than two successive four-year terms; but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such a member if appointed thereto. Incumbents on April fifth, nineteen hundred and forty-five, appointed for full terms prior to June first, nineteen hundred forty-four shall be deemed to be serving their first terms.

REVISER'S NOTE: Conformed to changes made in § 23-115.

§ 23-258. In-depth studies; policy relating to transportation of students.—A. Upon July one, nineteen hundred seventy-eight, and thereafter not less often than every five years, the board shall provide for an in-depth study of the administration structure, funding, educational programs and use and condition of facilities at the schools under its control. The Department of Education is authorized to assist the board with these studies from such funds as may be available for this purpose.

B. The board shall adopt a policy governing both schools for the transportation of students to permit frequent home visits by students *and to provide to each student transportation to and from the school he attends and the place of residence of such child's parent or guardian whenever the school is officially closed .*

REVISER'S NOTE: Language now in § 22-10.11 is moved to the section as a more appropriate location.

§ 25-232. Condemnation by counties, cities, towns and State institutions.—If the State Highway *and Transportation* Commission or the governing body of any county, for the purpose of opening, constructing, repairing or maintaining a road or any other public purpose authorized by law, or the council of any city or town, ~~the trustees of any school district, the institution for the deaf and blind, the Breaks Interstate Park Commission, hereinafter referred to as Commission, any of the State hospitals, the University of Virginia, the Virginia Military Institute, the Medical College of Virginia, or any other State institution~~ ; cannot, because of the incapacity of the owner or inability to agree upon a price or terms, or because the owner cannot with reasonable diligence be found in this State or is unknown, agree on terms of purchase with those entitled to any land, buildings, structures, sand, earth, gravel, water or other material necessary to be taken and used for the purposes of the State Highway *and Transportation* Commission, ~~or such county, city, town, or school district, or for any or all purposes of the institution for the deaf and blind, the Commission ; such State hospitals, the University of Virginia, the Virginia Military Institute, the Medical College of Virginia, or of any other State institution,~~ it may acquire title to such land or an easement thereover, and title to such sand, earth, gravel, water or other material ~~aforsaid~~ by condemnation under the provisions of Chapter 1.1 (§ 25-46.1 et seq.) of this title, and the proceedings in all such cases shall be according to the provisions of that chapter, so far as they can be applied to the same. In all cases where roads are constructed with State aid, either in the form of convict labor or money, together with county or district funds, the location of such roads shall be first approved by the local road authorities of such county. Wherever the word “company” is used in Chapter 1.1 of this title it shall be construed to mean the “State Highway *and Transportation* Commission” or “governing body” in cases in which the State Highway *and Transportation* Commission or governing body may, under the provisions hereof, exercise the right of eminent domain.

Cities and towns may also, upon compliance with the provisions of Chapter 1.1 of this title so far as applicable, acquire by condemnation such lands or right-of-way as may be necessary for providing watersheds for the use of such cities or towns, and for the necessary lands or rights for laying water pipes from or through the same.

REVISER'S NOTE: Revised to delete references to trustees of school districts as covered by § 22.1-127, to update the name of the State Highway Commission and to delete redundant language.

§ 46.1-380.2. Fees.—(a), (b) [Repealed.]

(c) For each operator's license and for each operator's license with an endorsement to operate a school bus issued under the provisions of this chapter, the fee shall be nine dollars, and for each such operator's license renewed under such provisions the fees shall be nine dollars. On and after July one, nineteen hundred seventy-six, for each chauffeur's license issued under the provisions of this chapter, the fee shall be twelve dollars, and for each chauffeur's license renewed under such provisions the fee shall be twelve dollars.

On and after July one, nineteen hundred seventy-six, for each operator's license issued with an endorsement to operate motorcycles and other vehicles under the provisions of this chapter, the fee shall be twelve dollars, and for each such license renewed under such provisions the fee shall be twelve dollars. On and after July one, nineteen hundred seventy-six, for each chauffeur's license issued with an endorsement to operate motorcycles and other vehicles under the provisions of this chapter, the fee shall be fifteen dollars, and for each such license renewed under such provisions the fee shall be fifteen dollars.

(c1) No additional fee above the fee charged for an operator's license shall be assessed for a chauffeur's license or for an endorsement to operate motorcycles and other vehicles against any employee of the Commonwealth, or of any county, city or town who operates a motorcycle or other vehicle solely in the line of his duty and for which a license or endorsement fee is assessed. The Commissioner is authorized to prescribe such forms as may be requisite for completion by persons claiming exemption from such additional fees under the provisions of this subsection.

(d) On and after July one, nineteen hundred seventy-six, one dollar and thirty-three cents of all fees collected for each original or renewal operator's license and two dollars and sixty-six cents of all fees collected for each original or renewal chauffeur's license shall be paid into the driver education fund of the State treasury, and expended as provided ~~for in § 22-236.1~~ by law . Unexpended funds from the driver education fund shall be retained in such fund and be available for expenditure in ensuing years as provided therein.

(d1) [Repealed.]

(e) The provisions of this section shall be deemed to supersede any other provisions of this chapter to the contrary.

REVISER'S NOTE: Revised to delete a reference to § 22-235.1 for the expenditure of the driver education fund since expenditure of the funds is governed by the appropriation act.

§ 51-111.24. Board as trustee of funds; investments; liability for losses.—(a) The Board shall be the trustee of the several funds created by this chapter and of those resulting from the abolition of the Virginia Retirement System, and shall have full power to invest and reinvest such funds, subject to the limitation that no investment shall be made except, upon the exercise of bona fide discretion, in securities permitted for the investment of reserves of domestic life insurance companies, and common and preferred stocks, limited to forty per centum of total trust fund investments based on cost, such as fiduciaries may invest in under the statutory and common law of the State. The Board may also, in its discretion, invest such trust funds in first deeds of trust on residential real property limited to twenty per centum of total trust fund investments based on cost. Subject to such limitations, the Board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The Board may also, in its discretion, invest such trust funds in bonds, notes and other evidences of debt of the school boards of the several counties, cities and towns of the State held in the Literary Fund evidencing loans made from such Literary Fund by the State Board of Education pursuant to the provisions of §§ ~~22-101 to 22-113~~ *Chapter 10 of Title 22.1 of this Code* and the State Board of Education is hereby authorized to assign such bonds, notes and other evidences of debt to the Board whenever the Board desires to invest any of such trust funds therein and the State Board of Education consents thereto; and when such bonds, notes or other evidences of debt are so acquired by the Board the same may not be sold or otherwise disposed of except to a State governmental agency.

(b) [Repealed.]

(c) The Board shall have power to borrow money from time to time in such amounts as may be necessary to discharge current obligations under this chapter whenever in its judgment by so doing it would be more advantageous than by selling securities held by the retirement system. Any debt so incurred may be evidenced by notes duly authorized by resolution of the Board, but in no case is the due date of any note, notes or other evidence of debt to be beyond the end of the biennium succeeding the biennium in which such debt is incurred. Securities held by the retirement system may be hypothecated by the Board as security for the payment of any debt incurred under this section.

(d) The Board is specifically authorized, subject to and in conformity with the provisions of Chapter 6 (§ 15.1-228 et seq.) of Title 15.1 of the Code of Virginia, as amended, to contract with ~~the school boards of the several counties and cities~~ to lend them money belonging to the several funds administered by the Board and in hand for investment, for capital projects for school purposes ~~in such counties and cities~~

(e) The Board upon appropriate resolution may loan or invest not more than the aggregate of five per centum of total trust fund investments based on cost and described in subsection (a) of this section in obligations not otherwise permitted under this section. In the event an obligation is determined subsequent to acquisition to be qualified as an investment under subsection (a) of this section, the Board may consider the investment as held under the applicable provisions of subsection (a) of this section and such investment shall no longer be considered as having been made under this subsection.

(f) The Board shall have the power, with the approval of the Governor, to invest in real estate to be held as a nonrevenue producing asset and used by the retirement system for administrative offices.

(g) The Board shall have the power, on request of the Governor or the General Assembly, to make investments in real estate in accordance with §§ 51-111.52:4 and 51-111.52:5 of the Code of Virginia. Total investment in such property under the authority of this paragraph shall not exceed

one hundred million dollars.

(h) No member of the Board shall be personally liable for losses suffered by the retirement system on investments made under the authority of this section.

REVISER'S NOTE: Section references are conformed to the title revision. Unnecessary language is deleted.

§ 57-60. Exemptions.—(a) The following persons shall be exempt from the registration requirements of § 57-49 and the requirements of § 57-53, but shall otherwise be subject to the provisions of this chapter:

(1) Educational institutions ~~that are recognized by the Superintendent of Public Instruction or that are accredited by the Board of Education~~, by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, Association Montessori Internationale or the American Montessori Society, any foundation having an established identity with any of the aforementioned education institutions, and any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

(2) Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for his use.

(3) Charitable organizations which do not intend to solicit and receive, during a calendar year, and have not actually raised or received, during any of the three next preceding calendar years, contributions from the public in excess of five thousand dollars, if all of their functions, including fund-raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member. Nevertheless, if the contributions raised from the public, whether all of such is or is not received by any charitable organization during any calendar year, shall be in excess of five thousand dollars, it shall, within thirty days after the date it shall have received total contributions in excess of five thousand, register with and report to the Commissioner as required by this chapter.

(4) Organizations which solicit only within the membership of the organization by the members thereof.

(5) Organizations which have no office within the Commonwealth, which solicit in the Commonwealth from without the Commonwealth solely by means of telephone or telegraph, direct mail or advertising in national media, and which have a chapter, branch or affiliate within the Commonwealth which has registered with the Commissioner.

(6) Health care institutions which have been granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code and any supporting organization which exists solely to support any such health care institutions.

(7) Civic organizations as defined herein.

(b) A charitable organization shall be subject to the provisions of §§ 57-57 and 57-59, but shall otherwise be exempt from the provisions of this chapter for any year in which it confines its solicitations in this Commonwealth to five or fewer contiguous cities and counties, and in which it has registered under the charitable solicitations ordinance, if any, of each such city and county. No organization shall be exempt under this paragraph if, during its next preceding fiscal year, more than ten per centum of its gross receipts were paid to any person or combination of persons, located outside the boundaries of such cities and counties, other than for the purchase of real property, or tangible personal property or personal services to be used within such localities. An organization which is otherwise qualified for exemption under this subsection which solicits by means of a local publication, or radio or television station, shall not be disqualified solely because the circulation or range of such medium extends beyond the boundaries of such cities or counties.

(c) No charitable organization shall be exempt under this section unless it shall submit to the Commissioner, who in his discretion may extend such filing deadline prospectively or retrospectively for good cause shown, on forms to be prescribed by him, the name, address and purpose of the

organization and a statement setting forth the reason for the claim for exemption. Parent organizations may file consolidated applications for exemptions for any chapters, branches or affiliates which they believe to be exempt from the registration provisions of this chapter. If exempted, the Commissioner shall issue a letter of exemption which may be exhibited to the public. No registration fee shall be required of any exempt organization. The letter of exemption shall remain in effect as long as the organization continues to solicit in accordance with its claim for exemption.

(d) Nothing in this chapter shall be construed as being applicable to the American Red Cross or any of its local chapters.

REVISER'S NOTE: Since accreditation is the only procedure by which the Board of Education "recognizes" schools, accreditation rather than recognition is referenced.

§ 58-441.48. Disposition of State sales and use tax revenue; localities' share.—All State tax moneys collected by the Commissioner under the preceding sections of this chapter shall be paid into the general fund of the State treasury.

(a) The Comptroller shall designate a specific revenue code number for all (i) the State sales and use tax revenue collected under the preceding sections of this chapter ~~except § 58 441.21:1, (ii) the revenue collected under § 58 441.21:1, and (iii) and (ii) the registration fees collected under § 58-441.16.~~

(b) For the taxable period beginning July one, nineteen hundred seventy-six, and continuing indefinitely, one third of the net revenue derived under the preceding sections of this chapter ~~except § 58 441.21:1~~ shall be distributed among the counties and cities of this State in the manner hereafter in this section provided.

(c) The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the State treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the State treasury during each month, and such distribution shall be made as soon as practicable after the close of each such month.

(d) The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to §§ ~~22-223 and 22-228~~ § 22.1-284 of the Code of Virginia, as adjusted in the manner hereinafter provided. ~~Except as provided in § 22-223 for persons confined in State hospitals, State training schools and State training centers for the mentally retarded.~~ No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not reported, the Department of Education shall adjust such school population figures by the same per centum of annual change in total population estimated for each locality by the Bureau of Population and Economic Research of the University of Virginia. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the free public schools, which shall be considered as funds raised from local resources; provided, however, that in any county wherein is situated any incorporated town constituting a ~~special school district and operated as a separate school district under a town school board of three members appointed by the town council~~ *division*, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the free public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city; or of any town constituting a ~~separate school district~~ *division* is increased by the annexation of territory since the last preceding school population census, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such census and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

(e) If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

(f) The term "net revenue," as used in this section, means the gross revenue received into the general fund of the State treasury under the preceding sections of this chapter, less (1) refunds to taxpayers, and (2) registration fees collected under § 58-441.16.

REVISER'S NOTE: Section references are conformed to the title revision. Obsolete references to a special census prior to 1977 in § 22-223 and to repealed § 58-441.21:1 are deleted. A reference to town school districts is corrected to refer to town school divisions.

2. That the regulations of the Board of Education in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations promulgated under this act.

3. That this recodification of Title 22 as Title 22.1 shall not be construed to require the reappointment of any officer or of any member of a board, council, committee or other appointed body referred to in Title 22.1 and each such officer and member shall continue to serve the term for which appointed pursuant to the provisions of Title 22. The members of each school trustee electoral board in office on October one, nineteen hundred eighty, shall become the members of the school board selection commission for the school division for which they were appointed until the expiration of the terms for which they were appointed to the school trustee electoral board. Their successors shall be appointed as provided in Title 22.1.

4. That if any clause, sentence, paragraph, subdivision, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to controversy in which the judgment shall have been rendered.

5. That this act shall be in force and effect on and after October one, nineteen hundred eighty.

6. That § 7.1-36 of the Code of Virginia and Title 22 of the Code of Virginia, which title contains Chapters 1 through 20 and §§ 22-1.1 through 22-363, are repealed.

7. Whenever any of the conditions, requirements, provisions or contents of any section, article or chapter of Title 22 or any other title of this Code as such titles existed prior to October one, nineteen hundred eighty, are transferred in the same or in modified form to a new section, article or chapter of this title or any other title of this Code and whenever any such former section, article or chapter is given a new number in this or any other title, all references to any such former section, article or chapter of Title 22 or other title appearing in this Code shall be construed to apply to the new or renumbered section, article or chapter containing such conditions, requirements, provisions or contents or portion thereof.

8. The repeal by this act of any law validating any prior conveyance, contract, loan or other action or agreement shall not be construed as invalidating such conveyance, contract, loan or other action or agreement.