

**Annual Report
of the
Commonwealth Competition Council**



**to
Governor of Virginia
Members of the General Assembly
Members of the Small Business Commission**

CURRENT MEMBERS

COMMONWEALTH COMPETITION COUNCIL

CHAIRMAN

2006-2007 CALENDAR YEAR
elected from the membership

The Honorable Emmett W. Hanger, Jr.
Member, Senate of Virginia
term concurrent with Senate term

VICE-CHAIRMAN

2006-2007 CALENDAR YEAR
elected from the membership

Edgaro Marquez
Mark Bric, Inc.
term ending June 30, 2007

REMAINING MEMBERS

IN ORDER OF TERM

CONCURRENT WITH LEGISLATIVE TERM

The Honorable J. Brandon Bell, II
Member, Senate of Virginia

The Honorable Thomas Davis Rust
Member, Virginia House of Delegates

The Honorable Tumothy D. Hugo
Member, Virginia House of Delegates

TERM ENDING JUNE 30, 2008

David A. Von Moll
State Comptroller
Department of Accounts

Beverly B. Davis
Chief Operating Officer
Davis Brothers Construction Company, Inc.

Sara Redding Wilson
Director
Department of Human Resource Management

TERM ENDING JUNE 30, 2007

Lana Ingram Digges
Virginia Semiconductor, Inc.
Member of the Small Business Commission

Roger E. Ortega, Sr.
OCS of Virginia, Inc.

Ronald V. Shickle
The West End Group of Investors, LLC
Member of the Small Business Commission

David M. Zobel, Esq.
Huff Poole & Mahoney, P.C.

TERM ENDING JUNE 30, 2009

The Honorable Kim Y. Farrar
Deputy Secretary of Administration

Barry R. Green
Director
Department of Juvenile Justice

Marian M. Pegram
Principal
Pegram Development Company, LLC

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2006 Report

Pursuant to Section 2.2-2622 D of the Code of Virginia, the Commonwealth Competition Council is pleased to submit its annual report for 2006. During this year the Commonwealth Competition Council (Council) has continued to provide a valuable service to state agencies and institutions since being established by the Virginia Government Competition Act of 1995. That Act directed the Council to examine and promote methods of providing a portion or all of select government-provided or government-produced programs through the private sector by a competitive contracting program. The Council has developed an institutional framework for a statewide competitive program to encourage innovation and competition within state government.

Out of state interest in activities of the Commonwealth Competition Council

During the last year, the Council provided guidance and direction to not only Virginia state agencies and institutions, but other states and countries seeking advice and counsel in privatization and outsourcing issues. Virginia, through the Council, is continually called upon by other states seeking ways to make their governments more efficient and effective. The majority of the inquiries came after the individual states viewed <http://www.egovcompetition.com> – the Council’s award winning web site.

State of Washington

Extensive conversations occurred with a representative of the Joint Legislative Audit and Review Commission in Olympia. Specifically, the state of Washington was interested in the:

- legislation creating the Council
- Employee Stock Ownership Plan (ESOP) study completed several years ago
- processes used by the Council on making recommendations to the Governor and General Assembly
- commercial activities inventory and the selection of three initiatives by the Governor for further study
- guidance on inherently governmental activities of Virginia’s state government

State of Florida

Florida was committed to developing and implementing key initiatives focused on increasing citizen access to government, delivering cost-effective products and services, promoting and supporting economic development in Florida, and improving government productivity in partnership with other government entities and the private sector. All of this is with Florida’s goal of providing excellence in customer service and delivering these services more effectively and more efficiently. The state of Florida was interested in the:

- processes followed by the Council
- review of the various reports of studies undertaken by the Council

State of Missouri

Missouri had previously contacted the Council on its processes and cost accounting computer program, COMPETE. This year they were interested in the:

- Public-Private Education Facilities and Infrastructure Act (PPEA)
- Public-Private Transportation Act (PPTA)

Japan

A representative from Japan visited Richmond in June and met with the Secretary of Finance and Department of Planning and Budget. He was particularly interested in the:

- Council's cost accounting program, COMPETE, and was provided a demonstration on this Excel spreadsheet capabilities
- commercial activities inventory
- discussion on guidance to state agencies and institutions on inherently governmental services
- presentations made by various Virginia officials on
 - (i) private prison services
 - (ii) privatized road maintenance
 - (iii) privatized tax collection efforts
 - (iv) privatized information technology management (Northrop Grumman contract)

United Kingdom

The Commonwealth Association of Public Administration and Management (CAPAM) in the United Kingdom used the Council's Internet accessible "egovtoolkit" as a resource for their four-day conference on commonwealth local governments. They learned of this toolkit from the Council's web site at <http://www.egovcompetition.com>.

CAPAM is an international association of senior public sector practitioners who seek opportunities for professional networking and learning to improve their capacity to provide excellent public service. CAPAM programs strengthen the quality and effectiveness of public administration and advance good governance in Commonwealth countries. Membership is open to public sector individuals, organizations, and government ministries and departments within all Commonwealth countries. It was established in 1994 to facilitate the exchange of information and knowledge on public administration among Commonwealth countries and beyond. The origins of CAPAM lie in the initiative to define and promote practical requirements of good governance, just and honest government and the fundamental political values outlined in the Declaration of the Commonwealth Heads of Government at its meeting in Harare, Zimbabwe in 1991.

Presentations

Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)

The Council was updated on the activities undertaken and the progress achieved to date under the 2002 PPEA. The Commonwealth and private sector partners have begun a three-part, seven year effort costing \$300 million to reengineer a number of activities common to all state agencies. The state is currently spending over \$300 million annually on numerous systems that are not interconnected, and its private sector partner, CGI-AMS, is to restructure business processes to achieve efficiency, effectiveness, cost management and interconnectedness. Two of the first re-engineered processes are the state's purchasing activities, eVA, and the overhaul of the Department of Taxation. Other processes to be examined include financial systems, human resources, and administration. The Council on Virginia's Future (COVF) will track and monitor progress. Council members expressed concerns that the new systems implemented as part of this project be able to be updated and upgraded so as to avoid obsolesces. Such design considerations have been incorporated into the contract of work.

Virginia Information Technologies Agency (VITA)

VITA reported to the Council on the infrastructure partnership between the Commonwealth and Northrop Grumman to, over the next three years, design and implement a 21st century information technology infrastructure for the Commonwealth. Northrop Grumman is the largest technology/manufacturing private employer in Virginia. The partnership represents \$272 million capital investment to provide a reliable and agile hardware structure with a three-year refresh cycle. Other highlights included enterprise-wide security, a single point of contact for help and service, and an enterprise-wide voice and data network. A commitment of this size affected existing VITA state employees. They were given a choice of accepting the offer from the company or remaining state employees. Some 849 VITA employees received offer letters from Northrop Grumman with comparable salary and benefit packages. Of this, 66.7 percent or 566 employees accepted that offer, with 245 FTE remaining "managed" state employees. During the offer period an additional 38 positions became vacant.

The transformation for state agencies, local governments, and businesses means improved 21st century information technology services at today's costs, improved security of state assets, improved disaster recovery, consistent technology innovation, etc. For taxpayers, this translates to improved security of information, expanded, improved and simpler government services, no additional taxpayer dollars, economic development, and new jobs.

Virginia Department of Transportation (VDOT)

The Council continues to be focused on transportation issues affecting the Commonwealth. VDOT was invited to speak at two of the Council meetings during 2006. At its October meeting VDOT provided an update on the transportation maintenance public-private efforts and the Public-Private Transportation Act (PPTA) projects. There have been 53 public-private partnership proposals with 11 agreements valued at \$8.7 billion, including the Dulles Rail project. The agency has solicited proposals for two projects (reconstruction of I-81 and Route 460 from Hampton Roads to I-295 in the Richmond region). Eight proposals are currently active with a construction value of more than \$11 billion. A majority of these propose new toll facilities and one would use existing coal reserves to offset construction costs. Early proposals

had a 30-day competition period. The current VDOT policy is a minimum 90-day period and 120-day period for Federal oversight projects.

Other significant VDOT outsourcing items included:

- 77 percent of all interstate maintenance outsourced, with a goal to have 100 percent outsourced by 2009
- 45 percent of primary and secondary roadway maintenance, including all pavement resurfacing, outsourced
- All rest area property management outsourced

At its November meeting, welcome centers and rest areas along Virginia highways were high on the priority of the Council so as to determine what prominent role the welcome centers could play in tourism especially for the Jamestown 2007 celebration and beyond. There are 41 safety rest areas, of which ten have welcome centers. These centers play an important role in Virginia with over 105,000 vehicles stopping on peak days. The Council was interested in the privatization of the welcome centers. However, the members were told that outright privatization was not an option because of the initial federal funding provided.

2005 Commercial Activities Inventory

The Council continued to monitor the three cost efficiency/effectiveness initiatives of the last administration identified in the 2005 commercial activities inventory. The three were:

- Fleet operations and maintenance
- Seat of government mail operations and services
- Real estate operations and services

A full report on the above three initiatives is due the Governor and General Assembly by October 1, 2007. At the same time Governor Kaine will identify and select three additional commercial activities for further study and evaluation. Interim reports reflect:

Fleet operations and maintenance

The Department of General Services (DGS) purchased and maintains approximately 6,000 vehicles forming the centralized fleet. Of this, some 5,800 are permanently assigned to agencies, leaving approximately 200 vehicles available to state employees on a temporary basis. Fleet Management Services is re-engineering its operation and services in two phases:

Phase 1 includes three statewide functions: vehicle maintenance services (to prove the concept on centralized fleet); short-term vehicle rentals; and fuel management. The state purchases approximately 1.4 million gallons of gasoline annually.

Phase 2 covers three statewide functions: vehicle planning, deployment and disposal; statewide safety program; and vehicle maintenance services (roll out to other agencies and institutions).

Seat of government mail operations and services

Executive Directive 3 (Warner) was issued to improve mail services at the seat of government to promote greater business efficiencies. It was felt that security and safety issues set forth a more compelling reason to re-evaluate how mail is received, screened, and distributed. DGS was directed by the 2006 Appropriation Act to develop, implement, and administer a consolidated mail function for inbound and outbound mail for agencies in the Richmond metropolitan area. A Homeland Security grant was received and used to relocate the DGS centralized mail center and to purchase mail screening equipment. A state mail services manager was hired, and, among other things, deployed additional X-ray machines to selected large agencies. The transition of small agencies into consolidated mail operations will be completed by June 2007.

Real estate operations and services

According to DGS, the Commonwealth owns 360,000 acres of land in over 1,000 locations, 13,000 owned buildings comprising 117 million sq. ft. of space, and 1,400 leases comprising 16 million sq. ft. at \$145 million in annual rent. Seven million sq. ft. of leased office space is targeted for highest potential for savings, and there is an annual transaction volume of 400-500 leases, easements, purchases, and sales. The 2002 Wilder Commission report identified that an enterprise-wide review of real estate operations for cost savings could result in increased efficiencies and savings potential of \$30-\$60 million. The newly created (January 2005) DGS Division of Real Estate Services report results through July 2006 a total cost savings/cost avoidance of \$20.1 million on 842,000 sq. ft. of lease transactions with a total lease value of \$107.1 million. This resulted in a savings/cost avoidance rate of 18.8 percent to be realized over approximately 6.5 years. Also, the sale of 25 surplus properties was completed with total proceeds of \$14.2 million.

Outsourcing Surplus Property Auctions

One of the ideas proposed at an earlier meeting of the Council was the privatization of the sale and auction of surplus heavy equipment (such as VDOT equipment). DGS was interested in contracting services to augment its surplus vehicles and equipment sales program. DGS sought to minimize the considerable work associated with these sales, minimize long-term storage and security of surplus vehicles and equipment while awaiting the sales, explore opportunities that would increase sales revenues by reducing depreciation and holding costs, and by increasing opportunities. The schedule for this outsourcing was vendor selection in November 2006 (three submitted proposals), contract awarded in December, and vendor services to begin in early 2007.

Guidance in determining inherently governmental functions

As a part of the 2005 commercial activities inventory, the Council did extensive research in order to develop guidance for identifying inherently governmental functions within state government. The Department of Planning and Budget included this guidance in the instructions to state agencies and institutions on developing budget requests for the Governor's 2007 executive budget. The 2007 budget will contain the Governor's proposed amendments to the 2006-2008 biennial budget adopted by the 2006 Special Session I of the General Assembly. These

instructions stated that amendments would only be considered if the specific request was determined to be inherently governmental. The instructions explained that an inherently governmental activity is one that is so intimately related to the public interest, public well-being, and public trust as to mandate its performance by the governmental entity, state employees, and their direct agents. The state agencies and institutions were directed to the Council's website, <http://www.egovcompetition.com>, for full guidance. On the Decision Package Narrative Justification (Form NJ), the agencies were directed to explain how each request was inherently governmental.

Membership

The Speaker of the House of Delegates appointed Delegate Timothy D. Hugo of Centreville to fill the seat vacated by the retirement of Delegate Allen L. Louderback of Luray.

The Governor announced three gubernatorial appointments. Ms. Marian Pegram from Northern Virginia and Barry Green, Director of the Department of Juvenile Justice, were reappointed to their second three-year terms ending June 30, 2009. Ms. Kim Farrar, Deputy Secretary of Administration, was appointed to fill the executive branch employee seat vacated by Sandra D. Bowen, Secretary of Administration in the Warner administration. Ms. Farrar's term ends June 30, 2009. In keeping with the provisions of the Code of Virginia, Ms. Pegram and Mr. Green will not be eligible for reappointment as of June 30, 2009, as no nonlegislative citizen member is eligible to serve more than two successive three-year terms.

Number of State Jobs Eliminated due to Privatization

In accordance with § [2.2-203.2:1](#) of the Code of Virginia, the Secretary of Administration is to report to the Governor and the General Assembly on the number of state jobs eliminated in the immediately preceding fiscal year due to the privatization of commercial activities to a commercial source. That report is due annually on or before November 30 of each year. As used in this legislation, "commercial activities" and "commercial source" are defined in the portion of the Council legislation in § [2.2-2620](#).

In early November, 2006, the Secretary reported that twelve positions were confirmed eliminated in the 2005-2006 fiscal year meeting this criteria. The Virginia Port Authority privatized five office administrative support positions and the Department of Corrections privatized seven commissary positions.

The large number of positions eliminated in VITA due to the public-private partnership between the Commonwealth and Northrop Grumman on the information technology infrastructure will not be reported until November 30, 2007, inasmuch as these positions were not eliminated until the 2006-2007 fiscal year.

VDOT has announced its ongoing efforts to streamline maintenance operations throughout the Commonwealth as part of its strategic business plan. In the consolidation of its 335 maintenance facilities into 248 locations by July 1, 2008, a number of positions will be eliminated. Again,

because the positions will not be eliminated by the end of the 2006-2007 fiscal year, those positions will not be reported until November 30, 2008.

Privatization efforts funded in the 2006-2008 Appropriation Act

Appendix A lists the nine privatization efforts funded in the current Appropriation Act, Chapter 3.

2007 Potential Projects Identified by Competition Council Members

Each Council member was asked to identify potential projects of interest for the Council to study during 2007. Those topics to date include:

- 1 PPEA and PPTA – oversight; review of law; streamlining process
- 2 Design Build – approval process
- 3 Elimination of social security numbers as identifier in state records
- 4 Integration of state computer systems to achieve maximum efficiencies
- 5 Outsourcing surplus auctions – heavy equipment and vehicles
- 6 Museums:
 - Service Bureaus for museums, allowing museums to focus on revenues, marketing, and fundraising
 - PPEA applicability, five year comparison of dollars appropriated/expended and positions
- 7 Disparity study – how to increase the number of Small, Women Owned, and Minority (SWAM) businesses doing business with the State
- 8 Constitutional Officers – structure and satellite state functions
- 9 State – local governments (example: higher education model)
- 10 Deferred budget items – identification, funding, maintenance vs. new construction (example: VDOT rest areas deferred maintenance requirements)
- 11 Revenue generation – example: museums, rest areas (cell towers), banners
- 12 Coordination with Council on Virginia’s Future and Cost Cutting Caucus
- 13 Boards and Commissions – effectiveness
- 14 Resources for communicating “the story,” e.g. online links to Virginia efforts
- 15 Process for filling vacancies – inherently governmental positions

- 16 Authorities – effectiveness and efficiencies
- 17 Energy management efficiencies through steam generation of recyclable material
- 18 Property and casualty insurance proposal leveraging with other states
- 19 State government mandatory sources

**Privatization Efforts Funded in Chapter 3 (2006-2008 Appropriation Act)
(Dollars in Millions)**

Secretary of Education	FY 2007	\$1.5 general fund	\$41.3 nongeneral fund
Council of Higher Education	FY 2008	\$1.5	\$44.6

Addressing nursing shortage

Establishes a public-private sector partnership involving the University of Virginia and Northern Virginia Community College to maximize the number of newly licensed nurses and increase the supply of nursing faculty

Executive Offices	FY 2007	\$5.5 general fund	\$0.0 nongeneral fund
Enterprise Application Program Office	FY 2008	\$5.5	\$0.0

Enterprise Applications PPEA

Establishes a public-private partnership between the EA Program Office and CGI-AMS to modernize central financial and administrative systems, such as CARS, PROBUD, procurement, payroll, and time and attendance

Secretary of Health and Human Resources	FY 2007	\$0.5 general fund	\$0.0 nongeneral fund
Health	FY 2008	\$0.8	\$0.0

Electronic health records

Establishes a public-private partnership between the Health Department and medical providers by issuing grants to providers for the acquisition of electronic health records.

Secretary of Health and Human Resources	FY 2007	\$1.8 general fund	\$1.8 nongeneral fund
Medicaid	FY 2008	\$2.0	\$2.0

Payroll services for consumer directed personal attendant services

Contracts out payroll processing for personal attendants that provide long-term care services at the direction of the consumer. The personal attendants are hired and fired by the consumer who is under the Mental Retardation waiver. Department of Medical Assistance Services was responsible for handling the payroll but contracted out the services in June 2006.

Privatization Efforts Funded in Chapter 3 (2006-2008 Appropriation Act)
(Dollars in Millions)

continued

Secretary of Health and Human Resources	FY 2007	\$0.0 general fund	\$22.5 nongeneral fund
	FY 2008	\$0.0	\$0.0

Hancock Geriatric Facility

Establishes a public-private partnership between the Department and GD Williamsburg, LLC, for the construction of a 150-bed facility for geriatric mental health clients.

Secretary of Health and Human Resources	FY 2007	\$0.5 general fund	\$62.0 nongeneral fund
	FY 2008	\$0.0	\$0.0

Virginia Center for Behavioral Rehabilitation

Establishes a public-private partnership between the Department and GD Burkeville, LLC, for the construction of a 300-bed facility for the sexually violent predator treatment program.

Secretary of Health and Human Resources	FY 2007	\$2.5 general fund	\$80.5 nongeneral fund
	FY 2008	\$0.0	\$0.0

Western State Hospital

Establishes a public-private partnership between the Department and a to-be-determined organization for the construction of a 280-bed state mental health facility in Staunton.

Secretary of Public Safety Corrections	FY 2007	\$1.5 general fund	\$0.0 nongeneral fund
	FY 2008	\$0.0	\$0.0

Mt. Rogers prison

Provides funding to move to Phase 2 of the PPEA process for site acquisition, planning, and development of a medium security correctional facility in the Mt. Rogers Planning District.

Secretary of Technology VITA	FY 2007	\$0.0 general fund	\$220.0 nongeneral fund
	FY 2008	\$0.0	\$220.0

Infrastructure PPEA

Establishes a public-private partnership between VITA and Northrop Grumman for the provision of information technology infrastructure services to Commonwealth executive agencies and other customers.

LEGISLATION ON THE COMMONWEALTH COMPETITION COUNCIL

CODE OF VIRGINIA

§ [2.2-203.2:1](#). Secretary [of Administration] to report state job elimination due to privatization.

On or before November 30 of each year, the Secretary shall report to the Governor and the General Assembly on the number of state jobs eliminated in the immediately preceding fiscal year due to the privatization of commercial activities to a commercial source. As used in this section, "commercial activities" and "commercial source" shall mean the same as those terms are defined in § [2.2-2620](#).

§ [2.2-2620](#). Definitions.

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

"Commercial activity" means performing services or providing goods that can normally be obtained from private enterprise.

"Commercial source" means any business or other concern that is eligible for a contract award in accordance with the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.).

"Competitive process" means the process approved by the Council to determine the most cost-effective privatization technique.

"Council" means the Commonwealth Competition Council.

"Fully allocated cost" means a cost that includes all direct personnel costs, materials and supplies, equipment, capital and equipment depreciation costs, rent, maintenance and repairs, utilities, insurance, travel, operations overhead, and general administrative overhead as these terms are defined in the Council's "Compete" cost comparison program.

"Managed competition" means a competitive process between a state agency and the private sector in which (i) the state agency submits its own proposal after completing the fully allocated cost of the commercial activity and (ii) the proposal is based on its most efficient proposed

organization to compete with a private sector bid or proposal for the provision of the commercial activity.

"Privatization" means a variety of techniques and activities that promote more involvement of the private sector in providing services that have traditionally been provided by government. It also includes methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector.

"State agency" means any board, council, authority, department, agency, or institution of the Commonwealth that employs state or nonstate personnel.

§ [2.2-2621](#). Commonwealth Competition Council; membership; terms; chairman; quorum; compensation; staff.

A. The Commonwealth Competition Council (the Council) is established as an advisory council, within the meaning of § [2.2-2100](#), in the executive branch of state government. The Council shall be composed of 15 members to be appointed as follows: four employees of executive branch agencies to be appointed by the Governor; two members of the House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; three members of the private sector to be appointed by the Governor; two members of the private sector to be appointed by the Speaker of the House of Delegates; and two members of the private sector, who shall be private sector members of the Small Business Commission, to be appointed by the Senate Committee on Rules.

B. Legislative members shall serve on the Council until the expiration of their terms of office or until their successors shall qualify. Executive branch agency members shall serve only as long as they retain their positions. After the initial staggering of terms, all nonlegislative members of the Council shall be appointed for terms of three years.

C. Appointments to fill vacancies shall be for the unexpired terms. No nonlegislative citizen member shall be eligible to serve more than two successive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. The Council shall annually elect its chairman and vice-chairman from among its members. A majority of the members of the Council shall constitute a quorum.

E. Legislative members shall be compensated as specified in § [30-19.12](#), and members, who are private sector members of the Small Business Commission, shall be compensated as specified in § [30-182](#). All members of the Council shall be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties as provided in §§ [2.2-2813](#) and [2.2-2825](#).

F. The Council shall employ such staff as necessary to enable it to perform its duties as directed in the appropriation act.

§ [2.2-2622](#). Duties of Council; acceptance of gifts and grants; annual report.

A. The Council shall:

1. Examine and promote methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector by a competitive contracting program, and advise the Governor, the General Assembly, and executive branch agencies of the Council's findings and recommendations.
 2. Develop an institutional framework for a statewide competitive program to encourage innovation and competition within state government.
 3. Establish a system to encourage the use of feasibility studies and innovation to determine where competition could reduce government costs without harming the public.
 4. Monitor the products and services of state agencies to bring an element of competition and to ensure a spirit of innovation and entrepreneurship to compete with the private sector.
 5. Advocate, develop and accelerate implementation of a competitive program for state entities to ensure competition for the provision or production of government services, or both, from both public and private sector entities.
 6. Establish approval, planning, and reporting processes required to carry out the functions of the Council.
 7. Determine the privatization potential of a program or activity; perform cost/benefit analyses; and conduct public and private performance analyses. The Secretary of Finance shall independently certify the results of the comparison.
 8. Devise, in consultation with the Secretary of Finance, evaluation criteria to be used in conducting performance reviews of any program or activity that is subject to a privatization recommendation.
 9. To the extent practicable and to the extent that resources are available, make its services available for a fair compensation to any political subdivision of the Commonwealth.
 10. Review the practices of government agencies and nonprofit organizations that may constitute inappropriate competition with private enterprise. The Council shall develop proposals for (i) preserving the traditional role of private enterprise; (ii) encouraging the expansion of existing, and the creation of new, private enterprise; and (iii) monitoring inappropriate competition by nonprofit organizations.
- B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to better carry out its objectives. No entity that provides a gift, donation or grant shall be eligible for a contract award that results from action of a Council recommendation.

C. The Council shall not impose unreasonable burdens or costs in connection with requests of agencies.

D. The Council shall annually by December 1 report its findings and recommendations to the Governor, the General Assembly and the Small Business Commission created pursuant to § [30-182](#). The Council may make interim reports to the Governor, the General Assembly and the Small Business Commission as it deems advisable.

§ [2.2-2623](#). Unsolicited proposals.

The Governor or the General Assembly may direct any state agency to perform a public/private performance analysis covering any commercial activity for which the Council has received a qualifying unsolicited proposal from a private entity that is consistent with the Council's purposes and duties as provided in § [2.2-2622](#).

The provisions of this section shall not apply to transportation-related projects initiated pursuant to Chapter 22 (§ [56-556](#) et seq.) of Title 56.

§ [2.2-2624](#). Public/private performance analysis.

A. The Council shall use the procurement methods cited in the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.) to solicit proposals and bids from private entities in order to make cost comparison decisions. However, the Council shall not execute contracts.

B. The Council shall explore methods to encourage state agencies to compete for contracts.

§ [2.2-2625](#). Duties of the Department of Planning and Budget.

The Department of Planning and Budget shall determine the amount of the existing appropriation no longer needed by a state agency or institution where all or a portion of such agency's function has been privatized in accordance with the recommendations of the Council, and shall unallot such funding. The Department shall also ensure that all appropriate reporting requirements to the Governor and the General Assembly are met. Nothing in this section shall preclude the Governor from recommending in future budget submissions the restoration of a portion of the original appropriation to the state agency or institution.

§ [2.2-2101](#). (Effective until July 1, 2008, and on July 1, 2008) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering

programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § [54.1-901](#); to members of the Council on Indians, who shall be appointed as provided for in § [2.2-2628](#); to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § [23-231.3](#); to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § [23-231.25](#); to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § [23-231.31](#); to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § [2.2-5204](#); to members of the Board of Veterans Services, who shall be appointed as provided for in § [2.2-2452](#); to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § [23-231.15](#); to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § [2.2-2621](#); to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § [2.2-2423](#); to members of the Advisory Commission on the Virginia Schools for the Deaf and the Blind, who shall be appointed as provided for in § [22.1-346.1](#); to members of the Substance Abuse Services Council, who shall be appointed as provided for in § [2.2-2696](#); to members of the Criminal Justice Services Board, who shall be appointed as provided in § [9.1-108](#); to members of the Council on Virginia's Future, who shall be appointed as provided for in § [2.2-2685](#); to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § [2.2-2648](#); to members of the Virginia Workforce Council, who shall be appointed as provided for in § [2.2-2669](#); to members of the Commission on Civics Education, who shall be appointed as provided for in § [22.1-212.18](#); to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § [51.1-1201](#); to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § [2.2-306](#); or to members of the Forensic Science Board, who shall be appointed as provided for in § [9.1-1109](#).

§ 2.2-5512 through 2.2-5513 - Competitive Government Act

§ [2.2-5512](#). Definitions.

As used in this chapter:

"Commercial activity" means an activity performed by or for state government that is not an inherently governmental activity and that may feasibly be obtained from a commercial source at lower cost than the activity being performed by state employees.

"Commercial source" means any business or other private concern that is eligible for contract awarded in accordance with the Public-Private Education and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.) or the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.).

"State employee" means all persons employed by the Commonwealth to provide services, including both salaried and wage employees, and all persons engaged to perform work for or to provide services to the Commonwealth.

§ [2.2-5513](#). Responsibilities of Governor to ensure efficiency in government.

A. The Governor shall cause to be conducted an examination of the commercial activities that are being performed by state employees at state agencies and institutions to ensure such activities are being accomplished in the most cost-efficient and effective manner.

B. The examination required by subsection A shall be completed at least once in every two-year period and may be conducted entirely by a commercial source through a solicitation process as provided in the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.).

C. The examination required by subsection A shall consider at least three commercial activities as the Governor or the commercial source may identify.

D. Upon determination that outsourcing a commercial activity may result in reduced costs or otherwise provide a measurable benefit to the Commonwealth and to assure such activities are being accomplished in the most cost efficient and effective manner, the Governor shall cause that commercial activity to be competed in accordance with the Virginia Public Procurement Act or by using the processes described in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.).

APPROPRIATION ACT

Chapter 3 of the 2006 Virginia Acts of Assembly, Appropriation Act, Item 263, D1 – D3:

Department of Planning and Budget (122)

D.1. The Department of Planning and Budget shall provide staffing and operational support to the Commonwealth Competition Council. Other state agencies and institutions of the Commonwealth shall also assist the Commonwealth Competition Council in its work upon the request of the chairman of the Council.

2. There is hereby created upon the books of the Comptroller a special, nonreverting fund known as the "Commonwealth Competition Council Savings Recovery Fund." This Fund shall provide a nongeneral fund appropriation of \$250,000 each year for use by the Department of Planning and Budget in defraying the costs of providing staff and operational support to the council.

3. Prior to April 1 each year, the Director of the Department of Planning and Budget shall notify the Auditor of Public Accounts of any savings recommendations put forth by the Commonwealth Competition Council for which savings are likely to be realized in the current fiscal year or in the fiscal year beginning on the next July 1 after such notification. The Auditor of Public Accounts shall audit the implementation of these savings recommendations and shall certify to the State Comptroller by June 1 each year the total savings realized by state agencies or institutions as a result of the savings recommendations put forth by the Commonwealth Competition Council. By July 1 each year, the State Comptroller shall transfer 10 percent of these certified savings to the Commonwealth Competition Council Savings Recovery Fund for support of the council's operations. However, if these savings have since accrued to the benefit of the general fund, either by subsequent budgetary action or by reversion, then following the certification of the savings by the Auditor of Public Accounts, the State Comptroller shall transfer the equivalent of 10 percent of the affected certified savings from the general fund to the Commonwealth Competition Council Savings Recovery Fund. The total amount transferred to the Commonwealth Competition Council Savings Recovery Fund pursuant to these provisions shall not exceed \$500,000 in any one fiscal year.

CONTACT INFORMATION

QUESTIONS OR REQUESTS FOR ADDITIONAL INFORMATION

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