

COMMONWEALTH COMPETITION COUNCIL

2007 ANNUAL REPORT
TO THE
GOVERNOR,
GENERAL ASSEMBLY, AND
SMALL BUSINESS COMMISSION



DECEMBER 1, 2007

CURRENT MEMBERS COMMONWEALTH COMPETITION COUNCIL

CHAIRMAN

2008 CALENDAR YEAR
elected from the membership

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

VICE-CHAIRMAN

2008 CALENDAR YEAR
elected from the membership

Geoffrey F. Segal
VP, Gov't Relations, Macquarie.
term ending June 30, 2010

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 Timothy 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, 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

TERM ENDING JUNE 30, 2010

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

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

Robert A. Archer
President, Blue Ridge Beverage Company, Inc.

Christopher Andreano
President, Central Virginia Uno Chicago Grill
Franchise and Anthony & Alan Real Estate

TABLE OF CONTENTS

2007 Report 4

2007 Commercial Activities Inventory. 4

 Fleet Operations and Maintenance. 4

 Seat of Government Mail Operations & Service. 6

 Real Estate Operations & Service. 8

 Outsourcing Surplus Property Auctions 9

Commonwealth Operations Review 10

Sharing COMPETE 11

Membership 11

2008 Potential projects 12

APPENDICES

Appendix A Privatization Efforts Funded in 2006-2008 Appropriation Act 14

Appendix B Legislation on the Commonwealth Competition Council 16

Appendix C Contact Information 23

2007 Report

During 2007 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.

2007 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. On September 19, 2007, deputy director of the Department of General Services, Joe Damico presented his findings regarding the three activities to the Council. While many results are still developing, the following findings (copied from the presentation) are promising.

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).

2007 Findings:

- **Phase 1 (complete):**
 - DGS has implemented an outsourced Vehicle Maintenance Control Center (VMCC)
 - Outsourced short-term vehicle rentals to Enterprise Rental Car
 - Implemented a statewide fuel management system

Phase 2 (Summer 2007 - 2008):

- Complete a business plan for the Office of Fleet Management Services (OFMS)
- Complete policies and procedures for purchase, assignment, use, and maintenance of state-owned vehicles
- Statewide vehicle planning, deployment, and disposal
- Expand DGS Vehicle Maintenance Control Center (VMCC) services to agencies
 - Department of Environmental Quality and Richmond Redevelopment Housing Authority are first to utilize services
 - In discussions with additional agencies
- Statewide safety program
 - Partnering with Drive Smart VA to develop a comprehensive statewide fleet safety and driver training program

Fall 2005 implemented contractor operated VMCC:

- State-of-the-art fleet information management system (FASTER)
- Network consists of approx. 500 private maintenance facilities
- State shops in network (77)
- 24hrs, 7days a week, 365 days a year VMCC is on-call
- Operation performance data experienced from work performed on DGS vehicles
- Vehicle preventive maintenance service cost before VMCC was \$44.71; with VMCC FY07 \$37
- Brake service average cost before VMCC was \$228; with VMCC FY07 \$81
- Improvement in vehicle down time (prior to VMCC 15% > 2 days; 70% <1 day)
- Prior to Spring 2006, DGS maintained approximately 200 vehicles as a “trip-pool” (short-term rental) used primarily by state employees in the Richmond area
- State employees outside the Richmond area taking short trips had the following travel options available to them:
 - Agency permanently assigned vehicle
 - Personal vehicle (reimbursed at IRS rate = .485 per mile)
 - Rental car
- Winter 2006 DGS released RFP for private sector rental agencies to provide rental cars to state employees across the Commonwealth

- Spring 2006 DGS awarded contract to Enterprise Rental Car
 - 240 locations across the Commonwealth
 - Deliver vehicle to employee
 - \$27.00 per day for compact vehicle – standardized pricing and more cost efficient for travel over 80 miles per day
 - To date: 950 rentals nationwide; 364 rentals in Virginia; 365,000 miles traveled
- State vehicles fuel at:
 - State owned fuel sites (approximately 300+)
 - Privately owned fuel sites (BP, Exxon, Sheetz, etc.)
- Prior to 2005, the Commonwealth contracted for a fuel card to purchase fuel at private fuel sites at retail price minus taxes
- 2005 DGS released RFP for private sector fuel providers that could manage a fuel program that offered most favored pricing for fuel purchased at private fuel sites
- 2005 DGS awarded a new contract fuel card contract
 - Fuel purchased using Voyager credit card partnering with Mansfield Oil
 - Fuel purchased at wholesale price + management fee
 - Fuel data (gallons purchased, price per gallon) provided to DGS for uploading into VMCC FASTER system
 - FY07 average: \$2.21 per gallon. Average retail price for gas approximately \$2.67. Commonwealth purchased approximately 1,141,200 gallons from private fuel sites. (\$500K cost avoidance)

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.

2007 Findings:

Consultants hired to review mail operations at the Seat of Government in 2005, findings:

- Security of mail distribution system at the Seat of Government is totally fragmented and minimally effective
- Duplication of mail services
- Inefficiency among smaller agencies

2006: Virginia Acts of Assembly – Chapter 3; Item 73E.:

“The Department of General Services shall, in conjunction with affected agencies, develop, implement, and administer a consolidated mail function to process inbound and outbound mail for agencies located in the Richmond metropolitan area. The consolidated mail function shall include the establishment of a centralized mail receiving and outbound processing location or locations, and the enhancement of mail security capabilities within these location(s).”

2006 - 2007:

- DGS received money from a Homeland Security grant to relocate and upgrade the DGS Capitol Square Mail Operations Center and purchase mail screening equipment
- Hired a new State Mail Manager and began consolidating agency mail operations into centralized mail activity
- Hosted four Mail Forums for state employees handling mail in agencies
- Deployed mobile X-ray machines to 4 strategic locations
- Meters mail for 34 agencies; an increase from 3 agencies in September 2006
- Enabled some agencies to eliminate courier services and USPS P.O. Box rental fees resulting in a savings of approximately \$39,000
- Number of meter machines has decreased from 53 to 28, saving \$105,000
- Pre-sorted an additional 95K pieces of mail resulting in approximately \$41,000 in cost avoidance
- Inter-agency piece count has increased from 11,467 in October 2006 to 42,330 in July 2007. Each piece of inter-agency mail represents a minimum cost avoidance of \$.80 for each piece – approximately \$24,000 total cost avoidance
- Issued comprehensive mail services and mail security procedure documents
- Created web-pages on the DGS web-site to serve as a central location for disseminating information: <http://sms.dgs.virginia.gov/>
- Number of mail stops have increased: Courier routes are now covering 102 miles daily
- Outgoing mail metered by SMS has increased from 1,245 pieces in September 2006 to 172,344 pieces in July 2007
- A total of more than 1.2 million pieces of mail have been metered

- **Introduced new services:**
- Drop-boxes, business reply envelopes, electronic processing of certified mail, new inter-agency envelopes, and methods for reducing junk mail

The Future for State Mail Services:

- **Maximize Postage Savings:**
- Continue to examine how agencies can maximize postage savings by effectively using presort services

- **Establish Uniform Performance Measures:**
- Develop uniform performance measures and data collection methodology across all state agencies to facilitate studying ways to save money
- **Enterprise-wide Study:**
- Engage in discussions with agencies about an enterprise-wide study of print-to-post options available to the Commonwealth

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 of 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.

2007 Findings:

Background Statistics:

- 360,000 acres of land in over 1,000 locations
- 13,000 owned buildings comprising 117 million square feet of space
- 1,400 leases comprising 16 million square feet at \$145 million in annual rent
- 490 leases for 7 million square feet of leased office space. Target for highest potential for savings
- Annual transaction volume of 400-500 (leases, amendments, easements, purchases, sales)

Division of Real Estate Services (DRES), with assistance from private sector partner CBRE provides the following services to agencies:

- Strategic portfolio management
- Identification of co-location opportunities
- Request for proposal (RFP) drafting, distribution and review
- Space Programming
- Financial modeling
- Lease negotiation
- Real state information systems

- Property appraisal
- Surplus real property disposal

- Total cost savings/cost avoidance - \$31.8 million
 - On a total lease value of \$185.4 million
 - To be realized over approximately 7.4 years
- Sale of 25 surplus properties competed with total proceeds of \$14.2 million
- Re-compete brokerage services contract Fall '07 with a new contract in place Jan/Feb '08

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 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, and 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.

2007 Findings:

Two contracts awarded for surplus vehicles and heavy equipment sales:

- Richmond contractor (Motley's)
- Harrisonburg contractor (Harrisonburg Auto Auction)

Contract Objectives:

- Minimize agencies' direct labor associated with sales
- While awaiting sales, minimize long-term storage and security of surplus vehicles and equipment
- Explore opportunities to increase sales revenue by reducing depreciation and holding costs

Vendors' Scope of work:

- Respond to agency and institution locations across the Commonwealth
- Remove vehicle/equipment from the owning agency location, transporting and storing in a secure location
- Maintain, or enhance vehicle/equipment appearance, performance, or other material details to increase the value and subsequent sale price of the item
- Market the vehicles/equipment in a manner to maximize revenue potential for the sale of the item
- Provide real-time, on-line auction, statistical, and inventory data

Results to date of Outsourcing Surplus Property Auctions:

- As vendors build a public clientele the sales dollars have improved for vehicles

- Time period for removing vehicles from agencies continues to improve

Future considerations:

- Market downturn in the construction industry makes comparing past performance with the contractor difficult

Internet Sales – GovDeals, www.govdeals.com

- August 2007: 65 items via GovDeals, in August totaling \$36,762.50. An additional 30+ items were listed, but not sold or the buyer defaulted.
 - Examples – machinery, school equipment, medical equipment, highway equipment, sports equipment, computer parts and supplies, vehicles and cafeteria equipment

Richmond:

- August 18th State Auction at Darbytown Facility - \$36,762.50
- Total revenue for State and Federal Property at the Darbytown Facility in August 2007 - \$111,753.28

Wytheville:

- August fixed price sale held at Wytheville facility - \$13,672.00
- Total revenue for State and Federal Property at the Wytheville Facility in August 2007 - \$79,093.00

Active Agencies

- 171

Active Non-Profits

- 216

Active Localities

- 368

Active SBA 8A's (authorized for Federal Property only)

- 17

Presentation

Commonwealth Operational Reviews

Special advisor to the Governor, Tim Bass, presented findings on the Commonwealth Operational Reviews. The concept to review key operations developed in early 2007 and was initiated by the Governor, former chief-of-staff William Leighty, Delegate Christopher Saxman, Senator Walter Stoch and the Virginia General Assembly Cost Cutting Caucus. The Council's chairman, Senator Emmett Hanger, participated on the team selected to review the

Commonwealth's energy usage. Each team is co-chaired by members from the House and Senate and staffed by volunteer experts from the Executive Branch and private sectors. Each topic was common to nearly every state agency and institution and the purpose for the reviews were to achieve higher levels of state government performance, transparency, and cost-effectiveness in its service to the citizens of the Commonwealth. Reviews were initiated on 11 topics: energy, water, solid waste, real estate, fleet management, travel, communications, return-to-work, printer/copier/paper, mail, and receivables.

While the reviews are still ongoing, Mr. Bass presented an overview of the Energy team. Some of the issues and questions explored are:

What is the aggregate expenditure on energy costs? How much is spent for specific energy sources? Are all agencies sharing information and making use of "best practices?" Is the Commonwealth leveraging its enormous size as an energy consumer at the bargaining table?

Between 2002 and 2006 seven types of energy were used by Commonwealth agencies and institutions: coal, electricity, gasoline, natural gas, oil, steam, and wood fuel. Does the Commonwealth have the most efficient machinery and infrastructure? How does the Commonwealth buy? What portions of the energy costs are controllable?

Mr. Bass stressed that the focus for each operational review is:

- Need to reconcile costs, target discretionary areas
- Need to review methods for usage, buying, maintenance, etc – how we do business
- Celebrate existing best practices
- Consider best practices we don't use (private sector input) and new innovative ideas
- Make changes where appropriate and improve performance, transparency and cost-effectiveness

Sharing COMPETE

In its September meeting, the Council approved the request by non-profit Thomas Jefferson Institute for Public Policy to, "duplicate the COMPETE software computer disk and user's manual and print the name of the Thomas Jefferson Institute on the CD label/manual cover as 'distributed by' and the name of the Commonwealth Competition Council as 'created and owned by'. The Jefferson Institute will offer this program to local governments throughout Virginia. [It] will also promote the program to other state public policy foundations outside Virginia." The Council's approval was unanimous but contingent on approval by the Virginia Office of Attorney General because COMPETE's copyright is owned by the citizens of the Commonwealth. At this writing, the issue is still being researched.

Membership

The Governor reappointed Mr. Robert Ortega of Mosely to a second three-year term.

The Speaker of the House appointed Messrs. Christopher Andreano of Chester and Geoffrey Segal of Arlington to the Council in the spring of 2007. The Senate Committee on Rules appointed Mr. Robert A. Archer of Salem and reappointed Ms. Lana Ingram Digges of Fredericksburg to her second three-year term.

Jerry J Gentile of the Virginia Department of Planning and Budget replaced retired Peggy Robertson as executive director of the Council.

Privatization efforts funded in the 2006-2008 Appropriation Act

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

2008 Potential Projects Identified by Competition Council Members

Each Council member was asked to identify potential projects of interest for the Council to study during 2008. 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
EA 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. The 2007 General Assembly appropriated a working capital advance of up to \$20 million to the Enterprise Applications Public-Private Partnership Project Office.

Secretary of Health and Human Resources	FY 2007	\$0.8 general fund	\$0.0 nongeneral fund
Health	FY 2008	\$1.0	\$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)**

Secretary of Health and Human Resources	FY 2007	\$5.0 general fund	\$22.5 nongeneral fund
Mental Health	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	\$29.0 general fund	\$33.0 nongeneral fund
Mental Health	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
Mental Health	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
Mt. Rogers prison	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
Infrastructure PPEA	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

VISITING AND MAILING ADDRESS

Commonwealth Competition Council
Department of Planning and Budget
1111 East Broad Street, Room 5040
Richmond, VA 23219

TELEPHONE

Jerry J Gentile, Executive Director
Voice: (804) 786-5064
FAX: (804) 225-3291

Richard D. Brown, Director
Department of Planning and Budget
Voice: (804) 786-2269
FAX: (804) 225-3291

WEBSITE

<http://www.egovcompetition.com>