

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact § 2.2-2822 of the Code of Virginia, relating to patent and copyright  
2 policies of the Commonwealth.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That § 2.2-2822 of the Code of Virginia is amended and reenacted as follows:**

5 § 2.2-2822. Ownership and use of patents and copyrights developed by certain public employees.

6 A. Patents, copyrights or materials that were potentially patentable or copyrightable developed  
7 by a state employee during working hours or within the scope of his employment or when using state-  
8 owned or state-controlled facilities shall be the property of the Commonwealth. ~~The Governor shall set~~  
9 such policies as he deems necessary to implement this section.

10 B. The Secretary of Administration shall establish policies, subject to the approval of the  
11 Governor, regarding the use of patents and copyrights owned by the Commonwealth. Such policies shall  
12 include, at a minimum, the following:

13 1. A policy granting state agencies the authority over the use and release of patents and  
14 copyrights created by employees of the agency. Such policy shall authorize state agencies to release  
15 potentially copyrightable materials under the Creative Commons licensing system.

16 2. A provision encouraging the Commonwealth and state agencies to seek patent and copyright  
17 protection only in those instances where the patents or copyrights have significant commercial value.

18 3. Subject to approval by the Secretary of Administration, a process permitting state agencies to  
19 commercialize patents and copyrights with significant commercial value.

20 C. Patents, copyrights, or materials that were potentially patentable or copyrightable developed  
21 by an employee of any county, city, or town during working hours or within the scope of his  
22 employment or when using locality-owned or locality-controlled facilities shall be the property of the  
23 respective county, city, or town.

24 The governing body of any county, city, or town may establish policies regarding the use of  
25 patents and copyrights owned by the locality or may establish any policy adopted by the Secretary of  
26 Administration pursuant to subdivision B. Such policies may include a provision authorizing the release  
27 of potentially copyrightable materials under the Creative Commons licensing system.

28 D. Patents, copyrights, or materials that were potentially patentable or copyrightable developed  
29 by a local school board employee during working hours or within the scope of his employment or when  
30 using local school-board-owned or local school-board-controlled facilities shall be the property of the  
31 respective local school board.

32 Any local school board may establish policies regarding the use of patents and copyrights owned  
33 by the local school board or may establish any policy adopted by the Secretary of Administration  
34 pursuant to subdivision B. Such policies may include a provision authorizing the release of potentially  
35 copyrightable materials under the Creative Commons licensing system.

36 E. Nothing in this section shall be construed to limit access to public records as provided in the  
37 Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

38 F. This section shall not apply to employees of public institutions of higher education who shall  
39 be subject to the patent and copyright policies of the institution employing them.

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