



Glenn Youngkin
Governor

Caren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

TO: Members of the Commission on Local Government
FROM: DHCD Staff
DATE: August 21, 2024
SUBJECT: Draft Agenda and August Special Meeting Materials

Dear Commissioners:

The Chair has called an all-virtual special meeting for August 26th at 10:00 am, the notice for which you have all received via email. The purpose of the meeting is to discuss and review and discuss the draft regulations implementing SB645 that have been prepared by staff and give further direction to staff on their development. You have all been invited to a calendar event, and the virtual login information is on the agenda in this packet.

Please find enclosed the following:

1. Draft agenda for the August Special Meeting of the Commission;
2. Draft regulations implementing the provisions of SB645 (2024).

If you have any questions about the meeting or require additional information, please feel free to contact me at 804-310-7151 or legrand.northcutt@dhcd.virginia.gov

We hope you have a wonderful week and look forward to seeing you virtually on August 26th!
Please let us know if you have any questions.





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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

AGENDA

Commission on Local Government
Special Meeting: 10:00 am, August 26, 2024
All-Virtual Public Meeting

FOR VIRTUAL ATTENDANCE

[Join the meeting now](#)

Meeting ID: 278 070 587 373

Passcode: wrZ6df

Dial in by phone

[+1 434-230-0065](#)

Phone conference ID: 431 307 594#

1. Please contact LeGrand Northcutt (legrand.northcutt@dhcd.virginia.gov) for additional information on how to connect to the meeting electronically.
2. The Public Comment portion of the meeting will be limited to thirty minutes. Each person wishing to give comments before the Commission should limit their comments to three minutes. These rules are subject to change without notice by the Commission Chair. We encourage anyone who wishes to comment to pre-register for public comment by contacting LeGrand Northcutt (legrand.northcutt@dhcd.virginia.gov) in advance of the meeting.
3. Members of the public viewing the meeting through the Microsoft Teams option are required to mute themselves during the meeting unless called upon by the Commission Chair to speak. The CLG reserves the right to remove from its virtual meetings anyone who does not abide by these rules.
4. Access to meeting materials for members of the public is available on the corresponding meeting page of the [Virginia Regulatory Town Hall website](#) and on [Commonwealth Calendar](#).

I. Call to order (Chair)

- II. Administration**
- a. Approval of the draft agenda (Chair)
 - b. Public comment period (Chair)

III. Presentation of Draft Regulations Implementing SB645

- a. Staff Presentation (Staff)



- b. Questions from Commissioners (Chair)
- IV. **Other business** (Chair)
- V. **Adjournment** (Chair)

DRAFT



CHAPTER 30.
REGULATRION OF PROCESURES CONCERNING FISCALLY DISTRESSED
LOCALITIES.

PART 1.
GENERAL.

1VAC50-30-100 Definitions

The following words and terms when used in this chapter have the following meanings unless a different meaning is provided or the context clearly indicates otherwise:

"Auditor" means the Auditor of Public Accounts.

“Chair” means the Chair of the Commission on Local Government.

“Commission” means the Commission on Local Government.

“Commission hearing” means a proceeding where any party or witness may present evidence, either orally or in writing, as allowed by this chapter to the commission to amplify their submissions, to critique and to offer comment upon the submissions and evidence offered by other parties and witnesses, and to respond to questions relative to the issue from the commission. Commission hearings may extend for a period of time as the commission may deem appropriate.

"Emergency Fiscal Manager" means an official appointed by the Commission on Local Government to implement a remediation plan approved by the Commission under § 15.2-2512.1(H) of the Code of Virginia to restore fiscal health for a locality in the Commonwealth. The "Emergency Fiscal Manager" has all authority granted to the Emergency Fiscal Manager by law and this chapter.

“Executive Director” means the Executive Director of the commission pursuant to §15.2-2901 of the Code of Virginia.

"Fiscal distress" means a situation whereby the provision and sustainability of public services in a locality, or a locality’s ability to appropriately fund financial liabilities, is threatened by various administrative and financial shortcomings, including cash flow issues, inability to pay expenses, revenue shortfalls, deficit spending, structurally imbalanced budgets, billing and revenue collection inadequacies and discrepancies, debt overload, failure to meet obligations to authorities, school divisions, or political subdivisions of the Commonwealth, lack of trained and qualified staff to process administrative and financial transactions, or the inability to timely produce an audited financial report. Fiscal distress may be caused by factors internal to the

locality or external to the locality, and in various degrees such conditions may or may not be controllable by management or the local governing body or its constitutional officers.

“Locality” means a city, county, or town in the Commonwealth of Virginia that is determined to be in fiscal distress by the auditor after a review under the procedures created by § 15.2-2512.1 of the Code of Virginia or § 4-8.03 of any appropriations act signed into law.

“Planning District 19” means the planning district organized under § 15.2-4200, et seq. of the Code of Virginia that, as of July 1, 2024, is known as Planning District 19. The boundaries of Planning District 19 shall be the boundaries established by the Department of Housing and Community Development as of July 1, 2024. All localities within those boundaries as of July 1, 2024, shall be considered part of Planning District 19 for purposes of this chapter.

“Oversight authority” means the authority granted to the commission by § 15.2-2512.1 of the Code of Virginia. It includes the ability to act in an oversight capacity, coordinate with the auditor, and exercise all authority to investigate, make and issue decisions, promulgate and issue procedural rules and orders, hold hearings, write reports, and otherwise execute the powers and authority granted to the commission by §§ 15.2-2512.1 and 15.2-2903(9) of the Code of Virginia.

“Party” means any entity, person, or group of persons that the commission has oversight authority over pursuant to § 15.2-2512.1 of the Code of Virginia. It may include, but is not limited to, localities, the state-appointed intervention staff, and the Emergency Fiscal Manager.

“Proceeding” means any process or proceeding governed by this chapter including, but not limited to, commission hearings.

“Public hearing” means an opportunity for input from the public on an issue before the commission.

“State-appointed intervention staff” means public employees or private contractors hired or procured by the governor under the authority provided pursuant to § 15.2-2512.1 of the Code of Virginia. It does not include the commission, its staff, or the Emergency Fiscal Manager.

1VAC50-30-110 Scope of commission oversight of fiscally distressed localities generally.

- A. The commission’s oversight authority shall begin when the Executive Director receives notice from the governor that the auditor has made a preliminary determination of fiscal distress in a locality pursuant to § 15.2-2512.1 of the Code of Virginia and has requested the commission to assume oversight authority pursuant thereto.
- B. Upon the Executive Director’s receipt of notice from the governor under subsection A, and before taking any actions related to the preliminary determination by the auditor, the

commission will send an initial notice to the governor, the auditor, and the Chief Administrative Officer of the locality stating that the commission has initiated its oversight authority pursuant to § 15.2-2512.1 of the Code of Virginia and this chapter. The notice will i) provide an overview of the commission's oversight authority that indicates the potential resolutions, reports, decisions, or other orders that might be issued under 15.2-2512.1 and this chapter ii) contain contact information consisting of the name, telephone number, and government email address of the commission staff assigned to answer questions or otherwise assist the locality, and iii) state that the locality shall enjoy the rights and privileges described in § 15.2-2512.1 of the Code of Virginia and this chapter in proceedings governed by this chapter including without limitation:

- a. to appear in person or by counsel or other qualified representative before the commission;
 - b. to have notice of any contrary fact basis or information in the possession of the commission that can be relied upon in the writing of any report or the making of any decision against the locality; and
 - c. to be informed, briefly and generally in writing, of the factual or procedural basis for a decision against the locality to the extent such information is not included in a commission report.
- C. For localities not located in Planning District 19, the commission's oversight authority ends upon the issuance of a report of its findings and conclusions to the governor and the chairmen of the House Committees on Appropriations and Counties, Cities, and Towns, and the Senate Committees on Finance and Local Government in accordance with § 15.2-2512.1(G) of the Code of Virginia and 1VAC50-30-210.
- D. For localities located in Planning District 19, the commission's oversight authority will end when the locality has either i) met the benchmarks and criteria of, and has otherwise satisfied and completed, an approved remediation plan, whether in fact or through consent, to the commission's satisfaction, or ii) taken appropriate action to address the issues raised by the auditor in its notification to the governor under §15.2-2512.1(D) of the Code of Virginia. The commission will determine whether a locality has taken appropriate action to address the issues either i) by issuing a report under 1VAC50-30-220 concluding that the locality has taken appropriate action or ii) through the terms of a consent decree with the locality.
- E. If the commission determines that the terms of any consent decree entered into under this chapter have not been met or will not be met by the locality, it may hold and issue additional proceedings and reports under Part II of this chapter and exercise all other authority granted by §15.2-2512.1 of the Code of Virginia and this chapter regardless of whether such authority has been exercised previously.
- F. The commission may amend its reports, resolutions, decisions and orders for any reason within 60 days of their issuance or at any time for good cause shown.
- G. The commission may rescind or amend its appointment of the Emergency Fiscal Manager within 60 days of the appointment if the person being appointed declines the

appointment, dies, resigns, or is otherwise unable to perform the duties of the appointment.

1VAC50-30-120. Commission to not reject oversight authority in certain circumstances.

- A. Any notification from the auditor to the governor pursuant to § 15.2-2512.1 of the Code of Virginia should contain the following elements:
 - a. The auditor’s preliminary determination of fiscal distress based upon its early warning system criteria;
 - b. A statement that either the local governing body or Chief Executive Officer requests assistance or the auditor is of the opinion that state assistance, oversight, or targeted intervention is needed, either to further assess, help stabilize, or remediate the situation; and,
 - c. Specific issues or actions that need to be addressed by state assistance, oversight, or intervention.
- B. The commission will not reject oversight authority on the grounds that the auditor’s review that led to the notification sent to the governor under subsection A occurred before July 1, 2024, or because the factual basis for the notification is based on events that occurred before July 1, 2024.
- C. The commission has oversight authority in all cases where the auditor initiated a review of a locality and made conclusions or determinations based on that review under authority granted by § 4-8.03 of any appropriations act signed into law so long as the resulting notification sent to the governor under subsection A otherwise fulfills the requirements of § 15.2-2512.1 of the Code of Virginia and this chapter.

1VAC50-30-130. General provisions regarding commission oversight of fiscally distressed localities.

- A. In addition to complying with the State and Local Government Conflict of Interests Act (Va. Code § 2.2-3100 et seq.) and all other applicable laws and regulations, each commissioner has a duty to recuse himself from any commission hearing or other proceeding as well as the discussion, deliberation, drafting or approval of any resolution, report, decision, or other order when any of the parties is a locality where such commissioner is employed, presently resides, or owns an interest in real property.
- B. If, due to the number of recusals that occur pursuant to subsection A that are not required by the State and Local Government Conflict of Interests Act, there are not enough commissioners to establish a quorum, then the chair of the commission, in accordance with commission policies and in consultation with any recusing commissioners who do not have conflicts under the State and Local Government Conflict of Interests Act, may require enough commissioners to participate in the commission hearing, other proceeding, or decision to establish a quorum regardless of each individual commissioner’s duty to recuse.

- C. The chair of the commission, or vice chair in the chair's absence, will have all powers and authority granted to the chair under 1VAC50-20 as may be applicable to investigations, commission hearings and other proceedings under this chapter.
- D. The commission will generally schedule for consideration issues in the order in which received; however, the commission reserves the right to consider issues in another sequence where it deems appropriate.
- E. Parties may participate in proceedings governed by this chapter in the manner described in this chapter. The commission may allow submissions from any interested person or entity. Such submissions must be provided by the submitting party to all parties and must be filed by any dates established by the commission, as applicable. The commission may waive the submission date at its discretion when it determines such submission will assist in fulfilling its responsibilities under this chapter.
- F. Any materials submitted to the commission by the parties, except materials presented in the context of meetings, negotiations, or mediations of a confidential nature as authorized by law and this chapter, are considered public documents and will be made available by the commission for review by any other interested party or by the public. In addition, the commission will post all public documents as described by this subsection on its website.
- G. Each document, exhibit, report, or other material submitted to the commission should contain a title, the date of preparation, a detailed citation of the sources from which all data are obtained, and the name of the entity which submitted the document, exhibit, report, or other material.
- H. In each instance where projections are given, projections should be made for a period to be set by the commission, and the method and bases of the projections should be indicated.
- I. Any party making submissions to the commission must provide at least eight copies of all submissions, unless the commission or the commission's staff indicates that a lesser number would be sufficient for its review and analysis. The commission may make provisions for the electronic filing of submissions.
- J. At any time during the course of the commission's oversight, the commission may solicit additional data, documents, records, or other materials from the parties as is deemed necessary for proper analysis of any issue.
- K. The commission may undertake independent research as it deems appropriate to assure a full and complete investigation of each issue. If the commission considers or relies upon any publicly available data in a report or decision, the commission will provide all parties with advance notice of its intent to use such data. This requirement shall not apply to the commission's use of case law, administrative precedent, or its own reports.
- L. The commission considers the cooperation among parties vital to the discharge of its responsibilities; therefore, all parties should cooperate fully in the development and timely sharing of data throughout the commission's oversight.
- M. Parties may submit testimony, evidence, and submissions to the commission. The

commission may allow the parties to supplement and correct data, exhibits, documents, testimony, or other material submitted to the commission. Where corrections are authorized, copies of all corrections must be provided by the submitting party to all other parties. If, in the commission's judgment, the corrections are of a substantive nature so as to significantly alter the scope or character of the issue under review, the commission may delay its proceedings as allowed by applicable law and this chapter for a reasonable amount of time to provide an opportunity for other parties to respond to the corrected data, exhibits, documents, testimony, or other material.

1VAC50-30-140. Proceedings conducted by the commission related to fiscally distressed localities.

- A. The commission may identify the parties and witnesses from whom it wishes to hear testimony, provide evidence, or accept submissions. The locality made the subject of proceedings governed by this chapter shall be among such parties and witnesses. All agencies of the Commonwealth shall provide the commission with necessary information for the performance of its duties upon request. Any party appearing before the commission may be represented by counsel or other qualified representative.
- B. The chair of the commission, or vice chair in the chair's absence, will generally have all powers and authority granted to the chair under 1VAC50-20 as may be applicable to proceedings under this chapter.
- C. The chair of the commission, or vice chair in the chair's absence, will be the presiding officer over all proceedings conducted in accordance with this chapter.
- D. All proceedings before the commission will take place in Richmond, Virginia, unless the commission selects an alternative location.
- E. The commission may conduct any proceedings under this chapter virtually in accordance with § 2.2-3708.3 of the Code of Virginia and the commission's electronic meetings policy.
- F. Commissioners may attend any proceedings under this chapter using electronic participation in accordance with § 2.2-3708.3 of the Code of Virginia and the commission's electronic meetings policy.
- G. No party before the commission will communicate in any manner with any member of the commission with respect to the merits of the issue under review except as is authorized by this chapter, or as may be otherwise authorized by the commission or its chair.
- H. No proceeding will take place without a quorum of the commission present.
- I. The commission may examine parties and witnesses and may permit a locality to ask questions of parties and witnesses.
- J. The commission may allow any interested person or entity to testify, either orally or in writing, at a proceeding. Where supplemental testimony is authorized pursuant to

this subsection, copies of all written testimony and exhibits will be provided by the testifying person or entity to all parties.

- K. Any party making written testimony to the commission must provide at least eight copies of all testimony, unless the commission or the commission's staff indicates that a lesser number would be sufficient for its review and analysis. The commission may make provisions for the electronic filing of written testimony.

1VAC50-30-150. Resolutions, reports, decisions, and other orders of the commission.

- A. The commission will issue such resolutions, reports, decisions and other orders as needed to effectuate the purposes of § 15.2-2512.1 of the Code of Virginia and this chapter.
- B. All resolutions, reports, decisions, and orders will be issued in writing.
- C. All resolutions, reports, decisions and orders issued by the commission will be signed by the chair of the commission.
- D. The commission's resolutions, reports, decisions and orders will be based on the conclusions of a majority of the commissioners. Dissenting commissioners will note their disagreement with the resolution, report, decision, or order and may write separately as they deem appropriate.

1VAC50-30-160 Default and other limitations on testimony

- A. Unless otherwise provided by law, if a locality without good cause fails to attend or participate in a commission hearing or other proceeding before the commission, the commission may proceed without the locality's attendance.
- B. In all instances where good cause must be shown, the decision to accept such cause is at the discretion of the chair but may be appealed by the locality to the full commission.
- C. A locality that chooses not to present or file testimony by the date established by the commission may not thereafter present its own testimony except by permission of the commission but may otherwise fully participate in the commission hearing or other proceeding and respond to the testimony of other witnesses.
- D. Failure to comply with the directions of the commission for any written or oral testimony, without good cause shown, may result in rejection of the testimony by the commission.

1VAC50-30-170. Additional powers of the commission.

- A. The commission may create and promulgate procedural rules, forms, schedules and scheduling orders, briefing schedules, or guidance documents necessary to carry out the provisions of § 15.2-2512.1 of the Code of Virginia and this chapter.

- B. Except as required by law, the commission may, in its reasonable discretion, waive any of the procedural rules, forms, schedules and scheduling orders, briefing schedules, guidance documents, or other requirements of this chapter when in its judgment it finds that the waiver in no way lessens its responsibilities pursuant to this chapter and § 15.2-2512.1 of the Code of Virginia.
- C. The commission may, on its own motion, adjust all dates and deadlines required by this chapter but not otherwise required by law to facilitate the resolution of issues before it.
- D. In addition to any proceeding, meeting, hearing, or other gathering of the parties specified by law or this chapter, the commission may, where it deems necessary for an analysis of material, facilitation of a negotiated settlement, or for a discussion or clarification of the issues before it, schedule other meetings. Such meetings may be held in executive session as allowed by § 15.2-2907D of the Code of Virginia and commission regulations.
- E. The commission may extend the services of its office to the parties in an endeavor to promote a consent decree or other negotiated settlement of the issues and, further, may designate, with the agreement of the parties, an independent mediator to assist in the negotiations.
- F. The commission may, at its discretion, accept for mediation issues presented to it by mutual agreement of the parties if the purpose of the mediation is to reach a full or partial settlement of the issues through a consent decree or other negotiated settlement. Requests for commission mediation under this subsection should be made to the commission through the Executive Director, or designee, and should be accompanied by satisfactory evidence that the parties agree to the request for mediation assistance. The requests should include a statement indicating the issue or issues for which mediation is sought and any other information to allow the commission to determine whether its mediation effort would be timely and appropriate. If the commission agrees to mediate any issues under this subsection, the parties will assist the commission by providing data, material, and other information as the commission or other parties deem necessary.
- G. All expenses incurred by the commission and its staff in assisting with negotiations or mediations, including the cost of an independent mediator, will be borne by the locality unless otherwise agreed to by the other parties and the commission.
- H. In accordance with § 15.2-2901 of the Code of Virginia, the Executive Director may enter into and administer any contracts to procure additional resources to assist the commission in carrying out the provisions of § 15.2-2512.1 of the Code of Virginia and this chapter.

PART II.
REPORT OF FINDINGS AND CONCLUSIONS TO THE GOVERNOR AND SPECIFIED LEGISLATIVE COMMITTEES.

1VAC50-30-200 Proceedings with the state-appointed intervention staff

- A. Upon the Executive Director's receipt of a plan for state assistance, oversight, or intervention approved by the governor, the commission or Executive Director will provide notice to the locality of receipt of the plan and request the locality attend a meeting with the commission and the state-appointed intervention staff to develop and approve a schedule for review of the issues. The schedule will take into account the due dates of any periodic reports by the state-appointed intervention staff required by § 15.2-2512.1(F) of the Code of Virginia. The schedule will include, at a minimum, dates for (i) the submission of evidence collected by the state-appointed intervention staff, (ii) the submission of responsive materials from the locality, (iii) a commission hearing where the locality may present and rebut any evidence or testimony, (iv) a public hearing, if desired by the commission, (v) the issuance of the commission's report, and (vi) dates for other proceedings or deadlines the commission deems appropriate. The commission will consider input from the locality when developing the schedule, as appropriate.
- B. If the locality does not participate in the meeting referenced in subsection A, the commission will send it notice of the approved schedule, including the dates, times, and locations of the commission hearing and any public hearing.
- C. The commission's report under subsection A will be issued within 90 days of the commission hearing.
- D. The commission may request the state-appointed intervention staff to present, either orally or in writing, testimony to assist the commission with writing its report and reaching a decision. The commission may also utilize data or testimony from the auditor, the House Committee on Appropriations, or the Senate Finance and Appropriations Committee, and may request that they present, either orally or in writing.
- E. The locality is permitted and may be requested by the commission to present, either orally or in writing, testimony at a commission hearing. The testimony of the locality may refer to all data, exhibits, documents, or other material previously submitted to the commission and may respond to any testimony presented by other parties or witnesses.
- F. Any public hearing will be advertised in accordance with 1VAC50-30-330 E.

1VAC50-30-210. Reports and other decisions for localities not located in Planning District 19.

- A. For any locality not located in Planning District 19, the commission will issue a report to the locality, the auditor, the governor, and the chairmen of the House Committees on

Appropriations and Counties, Cities, and Towns, and the Senate Committees on Finance and Local Government on or before the date established under 1VAC50-30-200. The report will be advisory only.

- B. The commission's report will state its findings and conclusions.
- C. The commission's report will explicitly respond to the following:
 - a. Whether the locality has taken appropriate action to address the issues raised by the auditor, the state-appointed intervention staff, and the locality;
 - b. Whether the locality appears to be on track to resolve its fiscal distress; and
 - c. The extent the locality is willing or able to comply with the conditions necessary to address its fiscal distress.
- D. In its report, the commission will consider, as appropriate, whether any issues have been resolved through mediation or negotiation, whether the locality has consented to comply with the conditions necessary to address its fiscal distress, or whether the locality has fulfilled the requirements of the governor's plan for state assistance, oversight, or intervention to the commission's satisfaction.

1VAC50-30-220. Decisions, orders and reports for localities located in Planning District 19.

- A. For any locality located in Planning District 19, the commission will issue a report to the locality, the auditor, the governor, and the chairmen of the House Committees on Appropriations and Counties, Cities, and Towns, and the Senate Committees on Finance and Local Government on or before the date established under 1VAC50-30-200.
- B. The commission's report will state its findings and conclusions.
- C. The commission's report will explicitly respond to the following:
 - a. Whether the locality has taken appropriate action to address the issues raised by the auditor, the state-appointed intervention staff, and the locality;
 - b. Whether the locality appears to be on track to resolve its fiscal distress; and
 - c. The extent the locality is willing or able to comply with the conditions necessary to address its fiscal distress.
- D. In its report, the commission may consider, as appropriate, whether any issues that have been resolved through mediation or negotiation, whether the locality in Planning District 19 has consented to comply with the conditions necessary to address its fiscal distress, or whether the locality in Planning District 19 has fulfilled the requirements of the governor's plan for state assistance, oversight, or intervention to the commission's satisfaction.
- E. If the commission concludes that a locality in Planning District 19 is either unwilling or unable to comply with the conditions necessary to address its fiscal distress, it will issue such decision and order for the appointment of an Emergency Fiscal Manager in accordance with 15.2-2512.1 of the Code of Virginia.
- F. The commission's report and any accompanying order will comply with the provisions of 1VAC50-30-150.

PART III.
EMERGENCY FISCAL MANAGER.

1VAC50-30-300 Powers of the Emergency Fiscal Manager

- A. Upon appointment, the Emergency Fiscal Manager has all powers and responsibilities provided in §15.2-2512.1 of the Code of Virginia.
- B. The Emergency Fiscal Manager will develop a proposed remediation plan to restore the fiscal health of the locality in Planning District 19 and present that plan to the commission for approval. The plan must contain the following elements:
 - a. A summary of the issues identified by the auditor, the state-appointed intervention team, and the locality that have not been resolved;
 - b. The purpose of each specified remediation effort;
 - c. The roles and responsibilities of the local governing body and the chief executive officer, directly or indirectly, relating to the locality's finances; and
 - d. The benchmarks and criteria, developed in consultation with the auditor, that will allow a locality to exit the approved remediation plan upon meeting such benchmarks and criteria.
- C. Once the proposed remediation plan has been approved by the commission in accordance with 1VAC50-30-340, the Emergency Fiscal Manager will implement the approved remediation plan and send periodic progress reports in accordance with 1VAC50-30-410.

1VAC50-30-310 Procedures for appointing an Emergency Fiscal Manager

- A. The selection of the Emergency Fiscal Manager will be conducted in compliance with the Virginia Public Procurement Act (2.2-4300 et seq. of the Code of Virginia), and all other applicable laws.
- B. In accordance with § 15.2-2901 of the Code of Virginia, the Executive Director, or designee, will enter into and administer any contracts to procure the Emergency Fiscal Manager. The Executive Director, or designee, retains the right to terminate the appointment of the Emergency Fiscal Manager, including any contracts with the Emergency Fiscal Manager in accordance with agreed upon contract terms.
- C. The Executive Director will notify the governor of any expenses incurred by the commission related to any contracts entered into under this chapter such as costs incidental to procuring the Emergency Fiscal Manager and any remuneration due to the Emergency Fiscal Manager.
- D. Any funds the commission receives from the component of fund balance established by the governor pursuant to § 15.2-2512.1(E)(3) of the Code of Virginia will be paid first to the remuneration due to the Emergency Fiscal Manager, then towards other costs incurred by the commission in the furtherance of its responsibilities under § 15.2-2512.1 of the Code of Virginia and this chapter.

1VAC50-30-320 Notice of appointment of Emergency Fiscal Manager

Upon appointment of the Emergency Fiscal Manager, the commission or Executive Director will notify the governor, the auditor, and the Chief Administrative Officer of the locality in Planning District 19 that the commission has appointed an Emergency Fiscal Manager, will be reviewing a proposed remediation plan at a public hearing, and will issue a decision related to the plan that will affect the locality. The notice will invite the locality to attend the commission meeting with the Emergency Fiscal Manager described in 1VAC50-30-330, subsection A and provide contact information consisting of the name, telephone number, and government email address of the commission staff assigned to answer questions or otherwise assist the locality.

1VAC50-30-330 Development of the Emergency Fiscal Manager's proposed remediation plan

- A. The Emergency Fiscal Manager will meet with the commission during a regular or special meeting to develop and approve a schedule for drafting and adopting a proposed remediation plan to resolve the fiscal distress of the locality in Planning District 19. The schedule will include dates for (i) the Emergency Fiscal Manager to submit a proposed remediation plan to the commission, (ii) the commission to publish a proposed remediation plan, (iii) a public hearing on the proposed remediation plan, (iv) a commission hearing where the locality may present and rebut any evidence or testimony regarding the proposed remediation plan, (v) a decision adopting a proposed remediation plan, and (vi) other proceedings or deadlines the commission deems appropriate. The commission will consider input from the locality when developing the schedule, as appropriate. The Emergency Fiscal Manager will conduct their activities in consultation with the auditor.
- B. When the commission publishes a proposed remediation plan, it will also include its recommendation as to whether the proposed plan should be approved or if further revisions are needed.
- C. The commission's decision adopting a proposed remediation plan under subsection A will be issued through a decision and order within 90 days of the commission hearing.
- D. If the locality in Planning District 19 does not participate in the meeting referenced in subsection A, the commission will send it notice of the approved schedule, including the dates, times, and locations of the commission hearing and the public hearing.
- E. A public hearing on the proposed remediation plan will be held within 45 days of the publication of the proposed plan. Prior to the public hearing, a notice of the hearing will be published once a week for two successive weeks in a newspaper of general circulation in the locality in Planning District 19. The second advertisement will appear not less than six days nor more than twenty-one days prior to the hearing.
- F. The commission may hold the commission hearing on the same day as the public hearing, but in any event, the commission hearing will not be held more than 30 days after the public hearing required by subsection E.
- G. At any commission hearing, the commission may request the Emergency Fiscal

Manager to present, either orally or in writing, testimony to assist the commission. The commission may also utilize data or testimony from the auditor, the House Committee on Appropriations, or the Senate Finance and Appropriations Committee, and may request that they present, either orally or in writing. The locality in Planning District 19 is permitted and may be requested by the commission to present, either orally or in writing, testimony at the commission hearing. The testimony of the locality may refer to all data, exhibits, documents, or other material previously submitted to the commission and may respond to any testimony presented by the Emergency Fiscal Manager or other witnesses.

- H. An approved remediation plan will be actionable and binding on the subject locality in Planning District 19 and the Emergency Fiscal Manager upon its adoption by the commission.

1VAC50-30-340 Adoption of the Emergency Fiscal Manager's proposed remediation plan

- A. The commission will consider all evidence presented at the commission hearing and the public hearing and adopt an approved remediation plan by decision and order within 90 days of the commission hearing in accordance with 1VAC50-30-330(C).
- B. When reviewing the Emergency Fiscal Manager's proposed remediation plan, the commission will consider whether the proposed remediation plan is in the best interest of the locality in Planning District 19, its citizens, and the Commonwealth, and will note, as appropriate, any issues or portions of the plan that have been resolved through mediation, negotiation, or other agreement.

PART IV.
IMPLEMENTATION OF THE REMEDIATION PLAN.

1VAC50-30-400 Notice of adoption of approved remediation plan

Upon the adoption of an approved remediation plan, the commission or Executive Director will send the governor, the auditor, and the Chief Administrative Officer of the locality in Planning District 19 a notice containing i) a copy of the decision and order adopting the approved remediation plan, ii) a copy of the approved remediation plan, iii) a brief explanation of how the locality may exit the approved remediation plan under the commission's continued oversight authority, iv) the current schedule of regular meetings for the commission, and v) contact information consisting of the name, telephone number, and government email address of the commission staff assigned to answer questions or otherwise assist the locality.

The Executive Director will ensure that all parties who receive the notice are properly notified of all changes to the commission's regular meeting schedule and future regular meetings of the commission that are not included in the initial notice provided under this section.

1VAC50-30-410 Regular progress reports to the commission

While implementing the approved remediation plan, the Emergency Fiscal Manager will send reports regarding progress on implementation of the approved remediation plan to the locality in Planning District 19, the commission, the auditor, the governor, and the chairmen of the House Committees on Appropriations and Counties, Cities and Towns and the Senate Committees on Finance and Appropriations and Local Government two weeks before each regular commission meeting that is held in accordance with § 15.2-2904 of the Code of Virginia. All reports by the Emergency Fiscal Manager shall be in writing and shall include a brief and succinct statement of the grounds for any recommendations and the facts underlying the report.

1VAC50-30-420 Procedures for exiting fiscal distress

- A. At each regular meeting where the commission receives a report from the Emergency Fiscal Manager, the commission will concurrently hold a commission hearing to determine whether the locality in Planning District 19 has met the benchmarks and criteria in the approved remediation plan to the commission's satisfaction based on the report from the Emergency Fiscal Manager and any other relevant evidence.
- B. The commission's determination will take the form of a report indicating whether the benchmarks and criteria in the approved remediation plan have been met. The decision may be announced at the regular meeting or taken under advisement for up to 14 days. In its report, the commission must consider, as appropriate, whether any issues have been

resolved through a consent decree or other mediation or negotiation, whether the locality in Planning District 19 has consented to comply with the conditions necessary to address its fiscal distress, or whether the locality in Planning District 19 has fulfilled the requirements of the approved remediation plan to the commission's satisfaction.

- C. The commission must send all reports issued under this section to the locality in Planning District 19, the governor, and the chairmen of the House Committees on Appropriations and Counties, Cities and Towns and the Senate Committees on Finance and Appropriations and Local Government.
- D. At each commission hearing, the commission may request the Emergency Fiscal Manager or other witnesses to present, either orally or in writing, testimony to support or explain the Emergency Fiscal Manager's report. The commission may also utilize data or testimony from the auditor, the House Committee on Appropriations, or the Senate Finance and Appropriations Committee, and may request that they present, either orally or in writing.
- E. The locality in Planning District 19 is permitted and may be requested by the commission to present, either orally or in writing, testimony at each commission hearing. The testimony of the locality will respond to the Emergency Fiscal Manager's most recent report and may refer to all data, exhibits, documents, or other material previously submitted to the commission and may respond to any testimony presented by other witnesses.