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## HOUSE JOINT RESOLUTION NO. 209

Offered January 24, 2000

*Establishing a joint subcommittee to examine employer-employee relations in light of Virginia Supreme Court decisions challenging the Commonwealth's commitment to its duly enacted public policies.*

Patrons—Moran, Almand, Armstrong, Baskerville, Brink, Christian, Crittenden, Darner, Plum, Scott, Tate, Van Landingham, Van Yahres and Woodrum; Senator: Miller, Y.B.

Referred to Committee on Rules

WHEREAS, Virginia adheres to the common-law doctrine of employment-at-will, which holds that, when the intended duration of an employment contract cannot be determined from the terms of the contract, then either party is at liberty to terminate the contract at will, upon giving reasonable notice; and

WHEREAS, the Virginia Supreme Court, in the Bowman v. State Bank of Keysville, 228 Va. 534 (1985), recognized an exception to the employment-at-will doctrine, which provides that a discharged employee may have a claim in tort against his former employer for a retaliatory discharge based on violations of public policy; and

WHEREAS, in Miller v. SEVAMP, Inc., 234 Va. 462 (1987), the Virginia Supreme Court described the Bowman decision's exception to the employment-at-will rule as "limited to discharges which violate public policy, that is, the policy underlying existing laws designed to protect the property rights, personal freedoms, health, safety, or welfare of the people in general;" and

WHEREAS, the Virginia Supreme Court has declined to extend the Bowman decision's narrow exception to the employment-at-will doctrine to encompass any "whistleblower" retaliatory discharge claims; and

WHEREAS, in Dray v. New Market Poultry Products, 258 Va. 187 (1999), the Virginia Supreme Court concluded that regulatory statutes enacted by the General Assembly do not in general confer any rights upon employees of the firms that are subject to the regulations from retaliation; and

WHEREAS, in Lawrence Chrysler Plymouth Corp. v. Brooks, 251 Va. 94 (1996), the Virginia Supreme Court rejected the plaintiff's contention that an exception from the employment-at-will doctrine, to provide protection from retaliatory discharges, need not be found in express statutory command; and

WHEREAS, it is appropriate to examine the extent to which the public policies reflected in statutes adopted for the protection of property rights, personal freedoms, health, safety, and welfare of the people in general should provide protection for qualified private sector workers who may be discharged in retaliation for acts taken in furtherance of such public policies; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to examine employer-employee relations in light of Virginia Supreme Court decisions challenging the Commonwealth's commitment to its duly enacted public policies. The joint subcommittee shall (i) study Virginia's public policies upholding property rights, personal freedoms, and the health, safety, and welfare of its residents; (ii) determine whether existing laws governing the termination of private sector employees in violation of such public policies are sufficient to safeguard these policies while retaining the high quality of workers necessary for economic and social progress; and (iii) propose any clarifications in the current law that the joint subcommittee determines to be necessary.

The joint subcommittee shall be composed of seven members, as follows: four members of the House of Delegates, to be appointed by the Speaker of the House in accordance with the principles of Rule 16 of the Rules of the House of Delegates; and three members of the Senate, to be appointed by the Senate Committee on Privileges and Elections.

The direct costs of this study shall not exceed \$5,250.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study. #

INTRODUCED

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