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## HOUSE JOINT RESOLUTION NO. 46

Offered January 9, 2002

Prefiled January 4, 2002

*Establishing a commission to study the appointive powers of the Governor.*

Patron—Purkey

Referred to Committee on Rules

WHEREAS, Section 10 of Article 5 of the Constitution of Virginia gives to the Governor the power to appoint agency heads of administrative departments and divisions of the executive branch of the government, subject to the confirmation of the General Assembly; and

WHEREAS, this section was intended to cover only the major policy-making departments that contain a single officer as the head of the department; and

WHEREAS, the Constitution is generally silent regarding the Governor's appointive power of members of boards and commissions that govern a principal department; and

WHEREAS, the General Assembly by law can restructure an agency so that the power to appoint the agency head can be transferred to the governing board or other appropriate person or entity; and

WHEREAS, the General Assembly has so far invested the Governor with extensive appointive powers in order to give him wide latitude in establishing the chains of command in the executive branch as a means to promote administrative coordination and cooperation; and

WHEREAS, in some agencies, including the Department of Game and Inland Fisheries and the Motor Vehicle Dealers Board, the Governor's power to appoint the agency head is buffered by an intervening governing board or commission that is appointed by the Governor, and which in turn appoints the agency head; and

WHEREAS, the terms of members of boards, commissions, and councils may vary considerably in their length of service, the degree that they are staggered, and whether they coattail the term of the Governor or another office; and

WHEREAS, there are no rules governing the confirmation process of the General Assembly and what type of information must be made available for the deliberative process, including background evaluations and criminal records checks of appointees; and

WHEREAS, the primary objective of the appointive and confirmation processes is to select individuals who are well-qualified and competent for their leadership role, and who will provide supportive and effective assistance to the Governor in managing the executive branch of government; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a commission subcommittee be established to study the appointive powers of the Governor. The commission shall be composed of 11 members, which shall include six legislative members and four nonlegislative members and one ex officio as follows: four members of the House of Delegates, to be appointed by the Speaker of the House, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate, to be appointed by the Senate Committee on Privileges and Elections; four nonlegislative members, to be appointed by the Governor; and the Secretary of the Commonwealth or her designee to serve ex officio with nonvoting privileges. If the Governor fails to make one or more appointments by April 1, 2002, such appointments shall become vacancies to be appointed as follows: the Speaker of the House shall appoint to fill the first three vacancies and the Senate Committee on Privileges and Elections shall appoint to fill the fourth vacancy.

In conducting its study, the commission shall examine (i) the government as presently structured, (ii) the appointive and removal power of the Governor for each board, commission, council, or other governmental entity, (iii) the number of staggered terms versus the number of uniform terms, (iv) the average length of service of members appointed, (v) the confirmation process of the General Assembly, (vi) the appointive and removal power of the governor and the confirmation process in other states, and (vii) any other aspect of the appointive or confirmation process that would assist the commission in determining the proper balance of the executive prerogative.

The direct costs of this study shall not exceed \$9,500.

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

The commission shall complete its work by November 30, 2002, and shall submit its written findings and recommendations to the Governor and the 2003 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative

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**59** documents.

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