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HOUSE JOINT RESOLUTION NO. 75**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Rules
on February 10, 2002)

(Patrons Prior to Substitute—Delegates Janis and Wardrup [HJR 70])

Establishing a joint subcommittee to study circuit courts' powers of appointment, and the powers, duties, and fees of commissioners of accounts and commissioners in chancery.

WHEREAS, the circuit courts, and the judges thereof, of the Commonwealth have wide-ranging powers of appointment from appointing commissioners of accounts to pro tempore district court judges; and

WHEREAS, many of these powers include the authority to fill local constitutional offices for extended periods of time between election cycles; and

WHEREAS, these appointees have powers and duties that under normal circumstances are reserved for officials elected by the citizenry, appointed by local governing bodies, or elected by the state legislature; and

WHEREAS, the responsibility of determining the best appointee may better rest with other state and local officials who are elected themselves, or who are, by virtue of their offices, more responsive to the needs of a particular community; and

WHEREAS, commissioners of accounts and commissioners in chancery perform quasi-judicial functions in Virginia's legal system; and

WHEREAS, the powers and duties bestowed upon commissioners in chancery are wide-ranging limited only by a court's discretion, not by any statutory limitation or framework; and

WHEREAS, commissioners in chancery are used by some courts for the simplest of cases while other courts use commissioners only for the most complex matters, notably equitable distribution; and

WHEREAS, commissioners of accounts are local appointees responsible for probating estates on behalf of the courts, and although there is some debate as to whether this function is truly necessary, their duties, powers, functions and fees are totally within the control of the appointing court; and

WHEREAS, the Legislature should fully review the need for these commissioners, their appropriate powers and uses, if any, and the fees allowed them for their services; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study circuit courts' powers of appointment, and the powers, duties, and fees of commissioners of accounts and commissioners in chancery. The joint subcommittee shall consist of a total of 12 members, which shall include eight legislative members, three nonlegislative members, and one ex officio member as follows: five 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; three members of the Senate, to be appointed by the Senate Committee on Privileges and Elections; one Commissioner in Chancery, and one circuit court judge, upon the recommendation of the Chief Justice of the Supreme Court of Virginia, to be appointed by the Speaker of the House; one Commissioner of Accounts to be appointed by the Senate Committee on Privileges and Elections; and the Attorney General of Virginia or his designee to serve ex officio with full voting privileges.

In conducting the study, the joint subcommittee shall (i) prepare a comprehensive list of positions appointed by circuit court judges under various conditions and circumstances; (ii) determine whether circuit courts' appointive powers are appropriate for the judiciary and whether such appointive powers would be more appropriately the responsibility of another branch of government, such as the General Assembly or Governor; (iii) identify the potential conflicts of interest posed by such judicial appointments, and determine whether some judicial appointments are necessary; (iv) examine the role and duties of commissioners of accounts and commissioners in chancery throughout the Commonwealth; (v) assess the need for consistency in the duties of commissioners of accounts and in the duties of commissioners in chancery in the state; and (vi) ascertain the need for commissioners of accounts and commissioners in chancery, determine which powers can be appropriately delegated to them, review the fee structure for the services that they provide, and consider whether parameters should be established on the powers and duties that they perform.

The direct costs of this study shall not exceed \$10,000.

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 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

60 legislative documents.

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