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HOUSE BILL NO. 1043

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 55.2, consisting of sections numbered 2.2-5512 through 2.2-5515, relating to the creation of the Competitive Government Act.

Patrons—Saxman, Albo, Byron, Cline, Cole, Cosgrove, Frederick, Jones, S.C., Landes, Lingamfelter, Reese, Weatherholtz and Wright

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 55.2, consisting of sections numbered 2.2-5512 through 2.2-5515, as follows:

CHAPTER 55.2.**COMPETITIVE GOVERNMENT ACT.****§ 2.2-5512. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Commercial activity" means the provision of goods or services performed by state government that can be obtained from the private sector.

"Core function of government" means a function that is so closely related to the public interest as to require performance by state government employees.

"Cost comparison" means the process of developing an estimate of the cost of government performance of a commercial activity and comparing it to the cost of performance of such activity by the private sector.

"Productive hours of work" means all time during which an employee is required to be on duty, on the employer's premises, or at a prescribed workplace and in active productive labor.

"State agency" or "agency" means any authority, board, department, instrumentality, institution, agency or other unit of state government. The term shall not include any county, city or town or any local or regional governmental authority.

"State employee" means any person who is regularly employed full time, performing 1,776 productive hours of work annually on either a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution or agency thereof.

§ 2.2-5513. Responsibilities of Governor's Secretaries.

Each Secretary shall create an intra-secretarial task force consisting of representatives of each agency for which such Secretary is responsible and such others as the Secretary deems appropriate to carry out the duties required by § 2.2-5514.

Each Secretary, in consultation with the respective agency head, shall designate as the competitive sourcing official, one state employee in each agency who shall be responsible carrying out the directives of the Governor in accordance with § 2.2-5515.

§ 2.2-5514. Responsibilities of intra-secretarial task forces.

A. The task forces created pursuant to § 2.2-5513 shall have the following duties:

1. Prepare a commercial activities inventory that, in the judgment of the task force, are not core functions of government. Such inventory shall include:

a. The fiscal year for which the activity first appeared on the inventory prepared under this section;

b. The number of state employees necessary to perform the activity based on productive hours of work; and

c. The name of the state employee responsible for the activity from whom additional information about the activity may be obtained.

B. Once the inventory has been completed, a cost comparison shall be done for each activity listed in the inventory. Where the cost comparison reveals that the activity as performed by state government is within five percent of the cost as performed by the private sector, such finding shall be noted on the inventory and such function shall be continue to be performed by state government.

C. Each task force shall report its findings to its respective Secretary, the Governor, and the chairs of the House Committee on Appropriations and the Senate Committee on Finance.

D. Technical assistance shall be provided by the Commonwealth Competition Council created

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58 pursuant to § 2.2-2621, upon request.

59 § 2.2-5515. Responsibilities of the Governor.

60 A. The Governor shall review the findings of each task force and identify those commercial activities
61 that, in the discretion of the Governor, should be provided by the private sector. The Governor shall
62 publish the findings of each task force, which shall include the inventory prepared and the cost
63 comparison analysis, along with his specific recommendations for contracting out the qualifying
64 commercial activities.

65 B. The Governor, through the appropriate Secretary, shall direct the designated competitive sourcing
66 official to procure such commercial activities through contracts with the private sector. All such
67 procurements shall be done in accordance with the Public Procurement Act (§ 2.2-4300 et seq.).