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HOUSE BILL NO. 1043**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on February 12, 2004)

(Patron Prior to Substitute—Delegate Saxman)

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 2.2-5514, relating to the creation of the Competitive Government Act.

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 2.2-5514, as follows:

CHAPTER 55.2.**COMPETITIVE GOVERNMENT ACT.**

§ 2.2-5512. Definitions.

As used in this chapter:

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

"Commonwealth Competition Council" means the body created pursuant to Article 8 (§ 2.2-2620 et seq.) of Chapter 26 of Title 2.2.

"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 all persons employed by the Commonwealth to provide services, including both salaried and wage employees, and all persons engaged to perform work for or to provide services to the Commonwealth.

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

Each Secretary, as part of the strategic plan development and review provided for in Chapter 55.1 (§ 2.2-5510 et seq.) of Title 2.2, shall, in conjunction with the Governor and the Council on Virginia's Future created pursuant to Article 29 (§ 2.2-2683 et seq.) of Chapter 26 of Title 2.2, include in their considerations an examination of the core functions of government.

Each Secretary shall prepare annually a commercial activities inventory that, in the judgment of the Secretary, are not core functions of government. Such inventory shall include:

- 1. The fiscal year for which the activity first appeared on the inventory prepared under this section;*
- 2. The number of state employees necessary to perform the activity based on productive hours of work; and*
- 3. 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, using the Commonwealth Competition Council's "Compete" program for cost comparison or other accepted full-cost accounting software.

C. Each Secretary shall report his findings to 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, upon request.

E. The inventory required by this section shall be published on each respective Secretary's website.

§ 2.2-5514. Responsibilities of the Governor.

A. The Governor shall review the findings of each Secretary and identify those commercial activities that, in the discretion of the Governor, should be provided by the private sector. The Governor shall publish the findings of each Secretary, including the inventory prepared, the cost comparison analysis, and his specific recommendations for contracting out the qualifying commercial activities.

B. The Governor shall direct the initiation of public-private competitions through contracts entered into in accordance with the Public Procurement Act (§ 2.2-4300 et seq.) to implement his recommendations. Notwithstanding the authority granted to the Governor by this subsection, educational

60 *institutions as set forth in § 23-14 shall retain the authority to engage in commercial activities if the*
61 *respective boards of visitors determine that the interests of the institution are best served by continuing*
62 *to provide particular goods and services.*