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HOUSE BILL NO. 1043

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws
on March 3, 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 and 2.2-5513, 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 and 2.2-5513 as follows:

CHAPTER 55.2.

COMPETITIVE GOVERNMENT ACT.

§ 2.2-5512. Definitions.

As used in this chapter:

"Commercial activity" means an activity performed by or for state government that is not an inherently governmental activity and that may feasibly be obtained from a commercial source at lower cost than the activity being performed by state employees.

"Commercial source" means any business or other private concern that is eligible for contract awarded in accordance with the Public-Private Education and Infrastructure Act of 2002 (§ 56-575.1 et seq.) or the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

"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 to ensure efficiency in government.

A. Consistent with the preparation of the biennial budget as provided in § 2.2-1508, the Governor shall cause to be conducted an examination of the commercial activities that are being performed by state employees at state agencies and institutions to ensure such activities are being accomplished in the most cost-efficient and effective manner.

B. The examination required by subsection A shall be completed at least once in every two-year period and may be conducted entirely by a commercial source through a solicitation process as provided in the Virginia Public Procurement Act (§ 2.2-4300 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

C. The examination required by subsection A shall consider at least three commercial activities as the Governor or the commercial source may identify.

D. Upon determination that outsourcing a commercial activity may result in reduced costs or otherwise provide a measurable benefit to the Commonwealth and to assure such activities are being accomplished in the most cost efficient and effective manner, the Governor shall cause that commercial activity to be procured in accordance with the Virginia Public Procurement Act or by using the processes described in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

2. That to implement the provisions of this act, no later than July 1, 2004, the Governor shall direct the Secretaries of Administration, Finance, and Technology to (i) develop a methodology for updating the inventory of commercial activities previously developed by the Commonwealth Competition Council; (ii) provide guidance in determining functions that should be performed by state employees because they are inherently governmental in nature, and those that may be suitable for cost comparison analyses;

(iii) determine which commercial activities are suitable for consideration for outsourcing at the agency level and which should be the subject of enterprise-wide approaches; (iv) provide guidance to agencies and institutions in making realistic and fair cost comparisons for contracting with the private sector; and (v) recommend such other actions as may be necessary and appropriate to procure the services, and develop the reports provided for in the third enactment of this act.

3. That the initial examination required by this act shall result in a report being completed by the Secretary of Administration, in consultation with the Secretary of Finance and the Secretary of Technology, and presented to the Governor, the chairs of the House Committee on Appropriations and the Senate Committee on Finance, and such other entities as the Governor may designate no later than January 1, 2006. Thereafter, once in each biennium, the examination of commercial activities not already examined by a commercial source in a preceding report, shall be conducted and reported to the Governor, the chairs of the House Committee on Appropriations and the

60 Senate Committee on Finance, and such other entities as the Governor may designate no later
61 than January 1 of the second year of each biennium.