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HOUSE BILL NO. 2196

Offered January 12, 2011

Prefiled January 12, 2011

A *BILL to amend the Code of Virginia by adding in Chapter 26 of Title 2.2 an article numbered 36, consisting of sections numbered 2.2-2699.8 and 2.2-2699.9, and by adding in Title 2.2 a chapter numbered 37.1, consisting of sections numbered 2.2-3720 through 2.2-3726, relating to the Government Transparency Act.*

Patron—Comstock

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 Chapter 26 of Title 2.2 an article numbered 36, consisting of sections numbered 2.2-2699.8 and 2.2-2699.9, and by adding in Title 2.2 a chapter numbered 37.1, consisting of sections numbered 2.2-3720 through 2.2-3726, as follows:

*Article 36.**Government Transparency Advisory Council.*

§ 2.2-2699.8. *Government Transparency Advisory Council established; purpose; membership; staffing.*

A. *The Government Transparency Advisory Council (the Council) is hereby established as an advisory board within the meaning of § 2.2-2100 in the executive branch of state government. The Council shall advise the Department of Planning and Budget (the Department) with regard to the searchable statewide website established pursuant to Chapter 37.1 (§ 2.2-3720 et seq.).*

B. *The Council shall consist of eleven nonlegislative citizen members to be appointed by the Governor and shall include persons who are experienced in website design, database administration, and database management. After initial staggered terms, the terms of members of the Board shall be four years, except that vacancies may be filled for the remainder of the unexpired term. The Council shall elect a chairman and a vice-chairman annually from among its members. A majority of the members of the Council shall constitute a quorum. Members shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses in accordance with § 2.2-2823.*

C. *The Department shall provide staff support to the Council.*

§ 2.2-2699.9. *Powers and duties of the Council.*

The Council shall have the power and duty to:

1. *Review and make recommendations to the Department regarding the practical usability of the website considering all intended end users; and*

2. *Review and make recommendations to the Department regarding information included on the website to ensure that such information is understandable and formatted in a manner to maximize citizen access.*

CHAPTER 37.1.**GOVERNMENT TRANSPARENCY ACT.**

§ 2.2-3720. *Establishment of statewide searchable website.*

A. *The Commonwealth of Virginia shall maintain a searchable database and structured website to facilitate citizen access to detailed, well-organized, and understandable information as described in this chapter. The website shall use nontechnical, readily understandable language, using common everyday words and avoiding words and terms of art whose usage or special meaning primarily is limited to a particular field or profession.*

B. *The data accessible through the website shall be provided (i) in a digital format that may be searched by keyword using site-provided search engines, as well as other Internet search engines, and (ii) in a machine-readable format that allows users to programmatically sift and sort the data.*

C. *The website shall be maintained by the Department of Planning and Budget. The Governor may designate additional agencies to provide support as necessary.*

§ 2.2-3721. *Definitions.*

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

"Agency" means a state agency, department, office, authority, board, court, commission, bureau, division, institution, or institution of higher education. The term includes (i) individual state agencies and programs, as well as those programs and activities that cross agency lines, and (ii) all elected offices in the executive branch of government and legislature.

"Audit or report" shall include any audit or report issued by the Comptroller, Auditor of Public

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59 *Accounts, Joint Legislative and Audit Review Commission, a legislative committee, or any executive*
60 *body relating to the entity or recipient of funds or the budget program, activity, or agency.*

61 *"Department" means the Department of Planning and Budget.*

62 *"Entity or recipients" means (i) a corporation, (ii) an association, (iii) a union, (iv) a limited liability*
63 *company, (v) a limited liability partnership, (vi) any other legal business entity including nonprofits,*
64 *(vii) grantees, (viii) contractors, and (ix) a county, city, town, or other local government entity. The term*
65 *shall not include an individual recipient of state assistance.*

66 *"Funding action or expenditure" means details on the type of state spending (grant, contract,*
67 *appropriations, or other type of spending). Where possible, a hyperlink to the actual grants or contracts*
68 *shall be provided. Funding action or expenditure shall include tax exemptions, subtractions, deductions,*
69 *or credits.*

70 *"Funding source" means the state account from which the expenditure is appropriated.*

71 *"Nonstate agency" means any public or private foundation, authority, institute, museum, corporation,*
72 *or similar organization that is not a unit of state government or a political subdivision of the*
73 *Commonwealth as established by general law or special act.*

74 *"Shall" means the obligation or duty to perform; no discretion is granted.*

75 *§ 2.2-3722. State budget information; data included; schedule for implementation.*

76 *A. The website shall contain information from the state budget that is searchable by any of the*
77 *following factors: (i) the name and principal location or residence of the entity or recipients of funds,*
78 *(ii) the amount of funds expended, (iii) the funding or expending agency, (iv) the funding source of the*
79 *revenue expended, (v) the budget program or activity of the expenditure, (vi) a descriptive purpose for*
80 *the funding action or expenditure, (vii) the expected performance outcome for the funding action or*
81 *expenditure, (viii) the past performance outcomes achieved for the funding action or expenditure, and*
82 *(ix) any state audit or report relating to the entity or recipient of funds or the budget program, activity,*
83 *or agency.*

84 *B. Whenever possible, the website shall include hyperlinks to the recipient's website, the budget line*
85 *item, and any related state audits or reports, and the schedule for any agency financial audit shall also*
86 *be included.*

87 *C. The website shall also provide access to information for individual or specific appropriations or*
88 *budget items relating to:*

89 *1. Disbursements by state agencies of funds deposited in the state treasury;*

90 *2. Salaries and wages including, but not limited to, compensation paid to directors or other heads of*
91 *state agencies;*

92 *3. Commodities including, but not limited to, amounts paid to the entity or recipients;*

93 *4. Capital outlay including, but not limited to, amounts paid to the entity or recipients;*

94 *5. Bond debt payments;*

95 *6. Debt service including, but not limited to, amounts of bond interest paid and sources of funds paid*
96 *for individual bond issues;*

97 *7. Capital improvements including, but not limited to, amounts of bond principal paid and sources of*
98 *funds paid for individual bond issues;*

99 *8. Aid or grants to nonstate agencies or nonprofit organizations including the contact information for*
100 *the individual responsible for oversight;*

101 *9. Aid to counties, cities, towns, or other local government entities including, but not limited to,*
102 *individually identifiable aid programs; and*

103 *10. Other assistance and benefits.*

104 *D. The website shall also provide for users to search and aggregate information for:*

105 *1. Receipts or deposits by any state agency into the general fund and other funds established under*
106 *law;*

107 *2. General fund or nongeneral fund taxes or fees including, but not limited to, compulsory*
108 *contributions imposed by the state for the purpose of financing services;*

109 *3. State agency earnings including, but not limited to, amounts collected by each state agency for*
110 *merchandise sold, services performed, licenses and permits issued, or regulation;*

111 *4. Revenue for the use of money and property including, but not limited to, amounts received for*
112 *compensation for the use of state-owned money and property;*

113 *5. Gifts, donations, and federal grants including, but not limited to, amounts received from public*
114 *and private entities to aid in support of a specific function or other governmental activity;*

115 *6. Other revenue including, but not limited to, receipts not classified elsewhere;*

116 *7. Nonrevenue receipts including, but not limited to, all receipts that do not constitute reportable*
117 *revenue; and*

118 *8. Annual bonded indebtedness, which shall include, but not be limited to, the amount of the total*
119 *original obligation stated in terms of principal and interest, the term of the obligation, the source of*
120 *funding for repayment of the obligation, the amounts of principal and interest previously paid to reduce*

the obligation, the balance remaining of the obligation, any refinancing of the obligation, and the cited statutory authority to issue such bonds.

E. By July 1, 2012, the Department shall develop and make publicly available a single, searchable budget database website, which shall include the data required under this section in the appropriation acts passed by the 2011 and 2012 Sessions of the General Assembly covering appropriations for the period July 1, 2011, through June 30, 2013.

F. Effective January 1, 2013, budget information contained on the website shall be updated for each fiscal year not later than 30 days after the close of the fiscal year. In addition, the Department may update the searchable budget database website as new data becomes available. All state agencies shall provide to the Department all data required to be included in the searchable budget database website not later than 30 days after the data becomes available to the agency and shall cooperate with the Department to the fullest extent. The Department shall provide guidance to agency heads to ensure compliance with this section.

G. By July 1, 2014, the Department shall add data for biennial appropriation acts that appropriated the revenues of the Commonwealth for periods prior to July 1, 2011, to the searchable budget database website. The Department shall ensure that all data added to the searchable budget database website remains accessible to the public for a minimum of 10 years.

H. For purposes of reporting information and implementing the database pursuant to this section, the Department shall include all appropriated funds and other sources under the control of state-supported institutions of higher education, except for the activity of private gifts, including endowment funds and unrestricted gifts referenced in § 23-9.2. The exclusion of this activity shall not affect the public access to these records unless otherwise specifically exempted by law.

I. The Department shall not be considered in compliance with this section if the data required for the searchable budget database website is not available in a searchable and aggregate manner or the public is redirected to other government websites, unless each of those sites has information from all agencies and each category of information required can be searched electronically by field in a single search.

J. To facilitate citizen accessibility to the budget information required by this section, the Department shall develop a citizen access guide to enable citizens at any level of previous knowledge to read and understand the state budget.

§ 2.2-3723. Additional financial information; check registers.

The website shall provide access to agency check registers and include (i) the amount of the payment, (ii) date of the payment, (iii) the check number, (iv) the name and address of the person receiving the payment, (v) the purpose of the payment, (vi) the budgetary authority for the expenditure, (vii) the functional expenditure category, (viii) the source of the funds, and (ix) links to the relevant contracts that provided for the payments.

§ 2.2-3724. Procurement data.

The website shall provide access to laws, regulations, and policies governing the procurement of goods and services and bids and contracts for all purchases over \$10,000, and a hyperlink to the state's electronic procurement site shall also be included.

§ 2.2-3725. Elected and appointed officials; lobbyist disclosure; conflict of interest statutes.

A. The website shall contain contact information for all statewide elected and appointed officials and information on the (i) term of office or appointment; (ii) date of the next election, if applicable; (iii) voting record, committee appointments, and party affiliation of the elected officials; and (iv) governing board for the appointed officials.

B. Access from the website shall be provided to:

1. The database of lobbyists registered with the Secretary of the Commonwealth pursuant to § 2.2-422;

2. Lobbyist disclosure statements filed pursuant to § 2.2-426;

3. Financial disclosure statements filed by state officials and employees as required by the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);

4. Financial disclosure statements filed by state officials and employees as required by the General Assembly Conflicts of Interests Act (§ 30-100 et seq.); and

5. Contact information for the person designated by each state public body to (i) assist a requester in making a request for records or (ii) respond to requests for public records under the Freedom of Information Act (§ 2.2-3700 et seq.).

§ 2.2-3726. Information and assistance from other state agencies.

In maintaining the searchable database, the Department shall coordinate its efforts with the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission in obtaining, summarizing, and compiling the information to avoid duplication of effort, including avoiding duplication of the data or other information maintained in the database required pursuant to subsection H of § 30-133.