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SENATE BILL NO. 858

Offered January 14, 1997

A BILL to amend and reenact §§ 2.1-42.3, as it is currently effective and as it will become effective, and 2.1-116 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.1-20.01:3 and 30-12.1, relating to confirmation procedures and notices, confirmation of certain employees serving on an employment-at-will basis, reports by the Secretary of the Commonwealth, and exemptions to the Virginia Personnel Act.

Patrons—Couric, Gartlan, Hanger, Hawkins, Lambert, Miller, K.G., Norment, Reasor, Waddell and Whipple; Delegates: Croshaw, Nelms and Plum

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-42.3, as it is currently effective and as it will become effective, and 2.1-116 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.1-20.01:3 and 30-12.1 as follows:

§ 2.1-20.01:3. Confirmation of appointments of certain employees serving on an employment-at-will basis.

A. The appointment of any employee of an agency of the executive branch of state government to serve on an employment-at-will basis pursuant to subdivision 21 of § 2.1-116 shall be subject to confirmation by the General Assembly.

B. Employees serving on an employment-at-will basis pursuant to subdivision 21 of § 2.1-116 who are appointed during a session of the General Assembly shall hold office temporarily until the General Assembly rejects the appointment or adjourns the session without confirming the appointment, whichever is earlier. The failure of the General Assembly to confirm the appointment during the session shall be deemed a refusal to confirm.

C. Employees serving on an employment-at-will basis pursuant to subdivision 21 of § 2.1-116 who are appointed during the recess of the General Assembly shall hold office temporarily until thirty days after the commencement of the next regular session of the General Assembly. The failure of the General Assembly to confirm the appointment during the thirty days after the commencement of the session shall be deemed a refusal to confirm.

D. Any employee whose appointment is subject to confirmation under this section shall be eligible for, receive, and accrue all benefits, retirement, health and life insurance, and otherwise, due such employee by virtue of his position until there is a refusal to confirm his appointment.

E. No person appointed to serve on an employment-at-will basis pursuant to subdivision 21 of § 2.1-116, whose appointment is subject to confirmation by the General Assembly, shall be reappointed to the same position during the session in which the General Assembly has refused to confirm the appointment or during the interim prior to the next regular session of the General Assembly.

F. Each administrative head or appointing authority of an agency of the executive branch of state government who appoints an employee to serve on an employment-at-will basis pursuant to subdivision 21 of § 2.1-116, shall notify the Secretary of the Commonwealth of the appointment so that the appointment may be submitted to the General Assembly for confirmation.

§ 2.1-42.3. Secretary of Commonwealth to report list of interim appointments requiring confirmation.

The Secretary of the Commonwealth shall periodically, during the interim between sessions of the General Assembly, present to the Clerk of the Senate, Clerk of the House of Delegates, Chairman of the Senate Committee on Privileges and Elections, and the Chairman of the House Committee on Nominations and Confirmations a list of the names of all employees appointed to serve on an employment-at-will basis pursuant to subdivision 21 of § 2.1-116 and of all persons appointed by the Governor, that require confirmation by the General Assembly. A list shall be presented by June 1, August 1, October 1, and December 1, and shall include the names of all persons so appointed since adjournment or since the last required report, the position to which appointed, and the person whom the appointee will succeed.

§ 2.1-42.3. (Effective January 1, 1998) Secretary of Commonwealth to report list of interim appointments requiring confirmation; other appointments.

A. The Secretary of the Commonwealth shall periodically, during the interim between sessions of the General Assembly, present to the Clerk of the Senate, Clerk of the House of Delegates, Chairman of the Senate Committee on Privileges and Elections, and the Chairman of the House Committee on Nominations and Confirmations a list of the names of all employees appointed to serve on an

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60 *employment-at-will basis pursuant to subdivision 21 of § 2.1-116 and of all persons appointed by the*
61 Governor, that require confirmation by the General Assembly. A list shall be presented by June 1,
62 August 1, October 1, and December 1, and shall include the names of all persons so appointed since
63 adjournment or since the last required report, the position to which appointed, and the person whom the
64 appointee will succeed.

65 B. The Secretary of the Commonwealth shall report to the General Assembly by December 1 of each
66 year, the number of persons appointed to any state board, commission, agency or authority, categorized
67 by race, gender and national origin. Information on the race, gender and national origin of appointees
68 shall be obtained through voluntary self-identification following appointment. Such information shall be
69 used solely for the purpose of compiling the statistical information required under this section and any
70 personally identifiable information collected under this section shall be confidential and shall be exempt
71 from disclosure under the Freedom of Information Act (§ 2.1-340 et seq.).

72 § 2.1-116. Certain officers and employees exempt from chapter.

73 The provisions of this chapter shall not apply to:

74 1. Officers and employees for whom the Constitution specifically directs the manner of selection;

75 2. Officers and employees of the Supreme Court and the Court of Appeals;

76 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
77 house thereof is required or not;

78 4. Officers elected by popular vote or by the General Assembly or either house thereof;

79 5. Members of boards and commissions however selected;

80 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
81 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
82 notaries public;

83 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
84 special inquiries, investigations, or examinations on its behalf;

85 8. The presidents, and teaching and research staffs of state educational institutions;

86 9. Commissioned officers and enlisted personnel of the national guard and the naval militia;

87 10. Student employees in institutions of learning, and patient or inmate help in other state
88 institutions;

89 11. Upon general or special authorization of the Governor, laborers, temporary employees and
90 employees compensated on an hourly or daily basis;

91 12. County, city, town and district officers, deputies, assistants and employees;

92 13. The employees of the Virginia Workers' Compensation Commission;

93 14. The following officers and employees of the Virginia Retirement System: retirement system chief
94 investment officer, retirement system investment officer, retirement system assistant investment officer
95 and investment financial analyst;

96 15. Employees whose positions are identified by the State Council of Higher Education and the
97 boards of the Virginia Museum of Fine Arts, the Science Museum of Virginia, the Jamestown-Yorktown
98 Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History and The
99 Library of Virginia, and approved by the Director of the Department of Personnel and Training as
100 requiring specialized and professional training;

101 16. Employees of the State Lottery Department;

102 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;

103 18. [Repealed.]

104 19. Employees of the Medical College of Virginia Hospitals Authority;

105 20. Employees of the University of Virginia Medical Center. Any changes in compensation plans for
106 such employees shall be subject to the review and approval of the Board of Visitors of the University of
107 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
108 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
109 provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1;

110 21. In executive branch agencies the employee who has accepted serving in the capacity of chief
111 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
112 assistant for policy or administration. An employee serving in either one of these two positions shall be
113 deemed to serve on an employment-at-will basis. *The appointment of an employee to serve on an*
114 *employment-at-will basis pursuant to this subdivision shall be subject to confirmation by the General*
115 *Assembly and notice procedures as provided in §§ 2.1-20.01:3 and 30-12.1. An agency may not exceed*
116 *two employees who serve in this exempt capacity; and*

117 22. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
118 provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1.

119 § 30-12.1. *Duties of the Clerks; notice of certain pending confirmations.*

120 *The Clerks of the Senate and House of Delegates shall notify the chairmen of the appropriate*
121 *standing committees of their respective houses, including the standing committees with subject matter*

122 jurisdiction of the affected executive branch agencies, of communications from the Governor or
123 Secretary of the Commonwealth for appointments, that require confirmation by the General Assembly, to
124 full-time paid positions including the Secretaries, executive branch agency heads, and employees who
125 serve on an employment-at-will basis pursuant to subdivision 21 of § 2.1-116. The Clerks shall assist the
126 chairmen of the appropriate standing committees by circulating to their committees copies of the
127 resumes and statements of economic interests of the appointees provided by the Secretary of the
128 Commonwealth. The Clerks shall assist the chairmen, as they may request, in arranging interviews with
129 the appointees.

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