

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act 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.*

[S 858]

Approved

**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 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,*

57 August 1, October 1, and December 1, and shall include the names of all persons so appointed since  
 58 adjournment or since the last required report, the position to which appointed, and the person whom the  
 59 appointee will succeed.

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

67 § 2.1-116. Certain officers and employees exempt from chapter.

68 The provisions of this chapter shall not apply to:

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

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

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

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

74 5. Members of boards and commissions however selected;

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

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

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

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

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

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

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

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

88 14. The following officers and employees of the Virginia Retirement System: retirement system chief  
 89 investment officer, retirement system investment officer, retirement system assistant investment officer  
 90 and investment financial analyst;

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

96 16. Employees of the State Lottery Department;

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

98 18. [Repealed.]

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

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

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

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

114 § 30-12.1. Duties of the Clerks; notice of certain pending confirmations.

115 *The Clerks of the Senate and House of Delegates shall notify the chairmen of the appropriate*  
 116 *standing committees of their respective houses, including the standing committees with subject matter*  
 117 *jurisdiction of the affected executive branch agencies, of communications from the Governor or*

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

**ENROLLED**

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