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HOUSE BILL NO. 476

Offered January 19, 1998

A *BILL to amend and reenact §§ 2.1-41.2 and 2.1-51.20 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.1-41.3 and 2.1-45.1, relating to the Governor's Cabinet.*

Patrons—Hall, Callahan, Councill, Croshaw, DeBoer, Dickinson, Murphy, Parrish and Putney; Senators: Gartlan, Holland, Miller, K.G. and Walker

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-41.2 and 2.1-51.20 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 2.1-41.3 and 2.1-45.1 as follows:

§ 2.1-41.2. Appointment of secretaries, deputy secretaries, and agency heads; chief of staff; background checks; involvement with personnel decisions.

A. Notwithstanding any provision of law to the contrary, the Governor shall appoint *each Cabinet Secretary, Deputy Secretary, and the administrative head of each agency of the executive branch of state government except the following: the Executive Director of the Virginia Port Authority, the Director of the State Council of Higher Education for Virginia, the Executive Director of the Department of Game and Inland Fisheries, the Executive Director of the Jamestown-Yorktown Foundation, the Executive Director of the Motor Vehicle Dealer Board, the Executive Director of the Virginia Higher Education Tuition Trust Fund, and the State Librarian.* However, the manner of selection of those heads of agencies chosen by election as of January 1, 1976, or as set forth in the Constitution of Virginia shall continue without change. Each administrative head ~~and~~ Secretary, *and Deputy Secretary* appointed by the Governor pursuant to this section shall be subject to confirmation by *a majority of the members of each house of the General Assembly*, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor. The chief of staff who may be appointed by the Governor pursuant to § 2.1-38 shall be confirmed by a majority of the members of each house of the General Assembly. For the purpose of this section, "agency" shall include all administrative units established by law or by executive order which are not arms of the legislative or judicial branches of government, which are not educational institutions as classified under §§ 9-84, 22.1-346, 23-14, and 23-252, which are not regional planning districts, regional transportation authorities or districts, or regional sanitation districts and which are not assigned by law to other departments or agencies, not including assignments to secretaries under Chapter 5.1 (§ 2.1-51.7 et seq.) of this title.

B. *The Secretary of the Commonwealth shall compile and submit to the General Assembly all materials required for confirmation of gubernatorial appointees. For appointees to the Governor's Cabinet, these materials shall disclose the results of background checks, including criminal record checks.*

C. *No Secretary shall exercise authority with respect to the selection of applicants for classified positions. Nor shall a Secretary or the Office of the Secretary review or approve employment offers for classified positions prior to an employment offer being extended.*

§ 2.1-41.3. Designation of a Governor's Cabinet.

Notwithstanding any provision of law to the contrary, the Governor's Cabinet is hereby established and shall include, at a minimum, the Governor's Secretaries. The Governor may include other members of the executive branch within the Cabinet. All members of the Governor's Cabinet shall be confirmed by a majority of the members in each house of the General Assembly.

§ 2.1-45.1. Transition between gubernatorial administrations; preparation of certain materials.

In order to provide an orderly transition between gubernatorial administrations, the Governor shall, before his term of office expires, designate a transition director to ensure that transition materials are prepared for presentation to the succeeding gubernatorial administration. Transition materials shall include, at a minimum, information regarding:

1. *Emergency preparedness;*
2. *Fiduciary responsibilities;*
3. *Conflict of interest requirements;*
4. *Procurement procedures;*

5. Powers, duties, and responsibilities of gubernatorial appointees and any limitations on such powers and duties;

6. *Provisions of the Virginia Personnel Act;*

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60 7. *Agency missions and duties; and*

61 8. *Responsibilities relating to the legislative process.*

62 § 2.1-51.20. Subject to supervision by Governor; powers and duties.

63 The Secretary of Education shall be subject to direction and supervision by the Governor. Unless the
64 Governor expressly reserves such a power to himself, the Secretary is empowered to resolve
65 administrative, jurisdictional or policy conflicts between any agencies or officers for which he is
66 responsible and to provide policy direction for programs involving more than a single agency. He is
67 authorized to direct the preparation of alternative policies, plans and budgets for education for the
68 Governor and, to that end, may require the assistance of the agencies for which he is responsible. He
69 shall direct the formulation of a comprehensive program budget for cultural affairs encompassing the
70 programs and activities of the agencies involved in cultural affairs. *Unless expressly reserved by the*
71 *Governor, the Secretary shall have the power to employ such persons and to contract for such*
72 *consulting services as may be required to perform the powers and duties conferred upon him by statute*
73 *or executive order.*