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**HOUSE BILL NO. 2416**

Offered January 18, 2011

A *BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 50, consisting of sections numbered 30-326 through 30-334, relating to the Accountability and Performance Review Commission.*

Patrons—Stolle, Athey, Cox, M.K., Garrett, Janis, Lingamfelter, Massie, Miller, J.H., O'Bannon, Peace, Purkey, Robinson, Rust, Sherwood, Villanueva and Ware, R.L.

Referred to Committee on Rules

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 50, consisting of sections numbered 30-326 through 30-334, as follows:**

**CHAPTER 50.****ACCOUNTABILITY AND PERFORMANCE REVIEW COMMISSION.**

§ 30-326. *Short title.*

*This chapter shall be known and may be cited as the "Accountability and Performance Review Act."*

§ 30-327. *Definitions.*

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

"Agency" means any agency, authority, board, department, division, commission, institution, bureau, or like governmental entity of the Commonwealth and includes any entity, public or private, with which any of the foregoing has entered into a contractual relationship to accomplish an agency program.

"Commission" means the Accountability and Performance Review Commission.

"Functional area" means that grouping of state governmental activities, programs, and agencies that constitutes a single budget function as identified and classified in the Virginia State Government Program Structure.

§ 30-328. *Accountability and Performance Review Commission established; membership; terms; quorum; compensation.*

A. *The Accountability and Performance Review Commission (the Commission) is established as an advisory commission in the legislative branch. The purpose of the Commission shall be to review agencies on an eight-year cycle and advise the General Assembly on the elimination of waste, duplication, and inefficiency on the part of such agencies.*

B. *The Commission shall consist of 14 members, including 10 legislative members, as follows: (i) six members of the House of Delegates to be appointed by the Speaker of the House of Delegates, (ii) four members of the Senate to be appointed by the Senate Committee on Rules, (iii) the Lieutenant Governor, and (iv) three nonlegislative citizen members appointed by the Governor.*

C. *Legislative members and the Lieutenant Governor shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms.*

D. *The Lieutenant Governor shall serve as the chair of the Commission.*

E. *Eight members of the Commission shall constitute a quorum. A final action or recommendation may not be made unless approved by a recorded vote of a majority of legislative members present and voting.*

F. *Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative members shall receive such compensation as provided in § 2.2-2813.*

§ 30-329. *Powers and duties of the Commission.*

*The Commission shall:*

1. *By January 1, 2012, establish a schedule of functional areas of state government for review and evaluation pursuant to this chapter on an eight-year cycle;*

2. *Review and take action necessary to verify reports submitted pursuant to § 30-330;*

3. *Consult with the Joint Legislative Audit and Review Commission, the Auditor of Public Accounts, and the Department of Planning and Budget on the application to the agency of the criteria prescribed in § 30-331;*

4. *Conduct a review of the agency-based criteria prescribed in § 30-331; and*

5. *Submit annually by December 1 to the Governor and General Assembly a report on agencies*

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58 reviewed containing the Commission's findings regarding the criteria prescribed by § 30-331 and any  
59 other information the Commission considers necessary for a complete review of the agency.

60 § 30-330. Submission of agency report to Commission.

61 Pursuant to the schedule established by the Commission, every agency subject to the provisions of  
62 this chapter shall submit to the Commission a report on the application of the criteria in § 30-331 to  
63 such agency by September 1 of the year preceding the year in which the agency is scheduled for review.

64 § 30-331. Criteria for agency reviews.

65 The Commission shall consider the following criteria in determining its findings and  
66 recommendations:

67 1. The efficiency and effectiveness of the agency's operation;

68 2. Identification of (i) the mission, goals, and objectives intended for the agency; (ii) the problem or  
69 need that the agency was intended to address; and (iii) the extent to which the mission, goals, and  
70 objectives have been achieved and the problem or need has been addressed;

71 3. Identification of any activities of that agency that are in addition to those granted by statute and  
72 of the authority for such activities;

73 4. Assessment of the agency's authority relating to fees, inspections, enforcement, and penalties;

74 5. The extent to which less restrictive or alternative methods of performing any function that the  
75 agency performs could adequately protect or provide services to the public;

76 6. The extent to which (i) the jurisdiction of the agency and the programs administered by the  
77 agency overlap or duplicate the jurisdiction or programs of other agencies, (ii) the agency coordinates  
78 with those other agencies, and (iii) the programs administered by the agency can be consolidated with  
79 the programs of other agencies;

80 7. The promptness and effectiveness with which the agency addresses complaints concerning entities  
81 or individuals affected by the agency, including an assessment of the agency's administrative hearing  
82 procedures;

83 8. An assessment of the agency's rule-making process and the extent to which the agency encourages  
84 public participation in the process. Such assessment shall also include the extent to which public  
85 participation has resulted in rules that benefit the public;

86 9. The extent to which the agency has complied with (i) federal and state laws and applicable rules  
87 regarding equality of employment opportunity and the rights and privacy of individuals and (ii) the state  
88 laws and applicable rules of any state agency regarding purchasing guidelines and programs for  
89 historically underutilized businesses;

90 10. The extent to which the agency issues and enforces rules relating to potential conflicts of  
91 interests of its employees;

92 11. The extent to which the agency complies with the Freedom of Information Act (§ 2.2-3700 et  
93 seq.) and follows records management practices that enable the agency to respond efficiently to requests  
94 from public records; and

95 12. The effect of federal intervention or loss of federal funds if the agency is abolished.

96 § 30-332. Public hearings.

97 Before February 1 of the year in which an agency subject to this chapter is scheduled for review, the  
98 Commission shall conduct public hearings concerning but not limited to the application to the agency of  
99 the criteria provided by § 30-331. The Commission may hold the public hearings after the review of the  
100 agency is complete and available to the public.

101 § 30-333. Commission recommendations; fiscal impact; legislation; monitoring.

102 A. The Commission report shall contain recommendations on (i) the abolition, continuation, or  
103 reorganization of each affected agency; (ii) the need for the performance of the functions of the agency;  
104 (iii) the consolidation, transfer, or reorganization of programs within other agencies that are not under  
105 review when the programs duplicate functions performed in agencies under review; and (iv)  
106 improvements that may be made to operations of the agency, including management recommendations  
107 that do not require an amendment to the agency's enabling statute.

108 B. The Commission shall include the estimated fiscal impact of its recommendations and may  
109 recommend appropriation levels for certain programs to improve the operations of the agency.

110 C. The Commission shall recommend legislation to implement its recommendations.

111 § 30-334. Operation and construction of chapter; subcommittees.

112 A. The operation of this chapter shall not restrict the power of the General Assembly to study or act  
113 on any matter at any time.

114 B. The operation of this chapter shall not imply or require the termination of any state agency or  
115 program.

116 C. Nothing in this chapter shall be construed to restrict the Joint Legislative Audit and Review  
117 Commission or the standing committees from holding hearings on any subject as may be required, nor  
118 shall operation of this chapter limit the Commission or committees from such other activities as may be  
119 authorized by law or custom.

120 2. That the initial terms of the nonlegislative citizen members of the Accountability and  
121 Performance Review Commission appointed by the Governor shall be as follows: one member  
122 appointed for a term of one year, one member appointed for a term of two years, and one  
123 member appointed for a term of three years.

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