

**FINAL REPORT OF THE  
JOINT SUBCOMMITTEE TO STUDY**

**The Appropriate Balance of Power  
between the Legislative and  
Executive Branches**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 8**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2006**

**MEMBERS OF THE JOINT SUBCOMMITTEE TO STUDY  
THE APPROPRIATE BALANCE OF POWER BETWEEN THE LEGISLATIVE  
AND EXECUTIVE BRANCHES**

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## EXECUTIVE SUMMARY

At the 2004 Regular Session, the General Assembly agreed to House Joint Resolution No. 13 and established a joint subcommittee to study the appropriate balance of power between the legislative and executive branches to support a two-term Governor in the Commonwealth.

The joint subcommittee elected Delegate R. Steven Landes and Senator Jeannemarie Devolites Davis as its chairman and vice-chairman, respectively. The joint subcommittee held four meetings during the 2004 interim and received extensive testimony from a number of individuals from the public and private sector.

The joint subcommittee identified a number of responsibilities and functions of the Governor and the General Assembly for review in concert with a constitutional amendment to allow the Governor to succeed himself. The joint subcommittee conducted a preliminary review of several restructuring proposals to (i) lengthen the session to 60 days in the odd-numbered years, (ii) shift the budget cycle to begin the biennial budget July 1 of the odd-numbered year, (iii) provide for annual budgets, (iv) create an independent economic and revenue forecasting commission, (v) allow for legislative veto or suspension of administrative regulations, and (vi) increase legislative oversight of the boards of visitors of the public institutions of higher learning and the Commonwealth Transportation Board. Because of the complexity of the issues involved with these proposals, the joint subcommittee agreed that more time was needed to conduct a proper analysis and unanimously recommended seeking continuation of the study for one year.

In addition to recommending its continuation, introduced and passed as HJR 707 in 2005, the joint subcommittee agreed to endorse three legislative initiatives for consideration at the 2005 Regular Session of the General Assembly:

- A constitutional amendment to allow the Governor to succeed himself for one four-year term. Introduced as HJR 652 and SJR 401 and failed to pass.
- A bill to provide for a more formalized and expanded confirmation process that includes review of the resumes and statements of economic interests of gubernatorial appointees by a joint subcommittee of the two Committees on Privileges and Election. Introduced as HB 2144 and SB 999 and passed.
- A bill to require the Secretary of the Commonwealth to distribute the financial disclosure statement forms to officers appointed by legislative authorities serving on executive branch boards. Introduced as HB 2136 and passed.

A full report of the joint subcommittee's 2004 activities and recommendations has been published as House Document 22 (2005).

Pursuant to HJR 707, the joint subcommittee met four times during the 2005 interim to continue its evaluation of the issues cited above with an emphasis on developing proposals to balance the executive and legislative branch powers in conjunction with any expansion of the governor's term of office. Its recommendations included:

- Proposed constitutional amendments to provide a six-year term for the governor, a legislative veto of administrative rules and regulations, legislative appointments to the State Board of Education, and more flexibility to extend regular sessions. Introduced as HJR 145 and SJR 100. These measures were referred to the House and Senate Committees on Privileges and Elections and continued to the 2007 Session.
- A constitutional amendment to provide for a brief organizational session in December to prepare for the regular session. Introduced as HJR 146 and SJR 101 and continued to 2007 by the House and Senate Privileges and Elections Committees.
- A resolution to create a revenue forecasting committee in the legislative branch with authority to employ forecasting expertise from the private sector. Introduced as HJR 147 and SJR 102. HJR 147 passed the House and was continued to 2007 by the Senate Committee on Rules. SJR 102 was stricken at the Patron's request.
- A bill to provide for legislative appointments to the Commonwealth Transportation Board effective on approval of the constitutional amendment to provide for a six-year term for the governor. Introduced as SB 437 and incorporated into SB 304 that passed. The Governor vetoed SB 304 and HB 673 providing for General Assembly election of non-at-large members of the Commonwealth Transportation Board.
- A bill to provide that appointments of legislative members on several entities will be made by legislative authorities. Introduced as HB 1186 and SB 330 and passed.

Delegate Purkey again introduced as HJR 1 a constitutional amendment to allow the Governor to succeed himself for one four-year term. The resolution was referred to the House Committee on Privileges and Elections and continued to 2007.

# I. INTRODUCTION

## Authority

House Joint Resolution 13 (HJR 13), passed by the 2004 General Assembly, created the Joint Subcommittee to Study the Appropriate Balance of Power Between the Legislative and Executive Branches to Support a Two-Term Governor in the Commonwealth. The subcommittee consisted of six legislators (four Delegates and two Senators) and six citizen members (two appointed by the Speaker of the House of Delegates, two appointed by the Senate Committee on Rules and two selected by the Chairman of the Subcommittee to participate in the deliberations). The subcommittee elected Delegate R. Steven Landes and Senator Jeannemarie Devolites Davis as its chairman and vice chairman, respectively. HJR 13 gave the subcommittee the following responsibilities:

- examine the history of the Governor's power in the Commonwealth;
- compare the powers of the governors of other states;
- determine the balance of power established between the executive and legislative branches in other states, particularly in those states that transitioned from a one-term governor to a two-term governor; and
- consider constitutional and statutory options for the equitable distribution of power between the legislature and executive branch to support a two-term Governor in the Commonwealth.

In accordance with HJR 13, the Chairman submitted to the Division of Legislative Automated Systems an executive summary and report of its findings and recommendations for publication as House Document 22 (2005).

At the subcommittee's recommendation, introduced as HJR 707 and passed, the 2005 Regular Session of the General Assembly continued the subcommittee for another year and renamed it the Joint Subcommittee to Study the Appropriate Balance of Power Between the Legislative and Executive Branches. A copy of HJR 707 is attached as Appendix A. HJR 707 directed the joint subcommittee to continue its review of the proposals to:

- lengthen the session to 60 days in the odd-numbered years;
- shift the budget cycle;
- provide for annual budgets;
- create an independent economic and revenue forecasting commission;
- allow for legislative veto or suspension of administrative regulations;
- increase legislative oversight of the boards of visitors of the public institutions of higher learning and the Commonwealth Transportation Board; and
- establish an appropriate balance of powers between the legislative and executive branches.

HJR 707 directed the Chairman of the subcommittee to submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2006 Regular Session of the General Assembly and to state whether the joint subcommittee intended to submit a report of its findings and recommendations for publication as a document.

Information about both the HJR 707 and HJR 13 subcommittees, including meeting materials and reports, can be found on the Internet (<http://dls.state.va.us/powers.htm>).

## **Study Scope**

The subcommittee focused its attention on revenue forecasting processes in Virginia and other states, the legislative role in the appointment process, increasing flexibility to extend sessions, and a December organizational session to better manage workflow. The subcommittee met four times during the 2005 interim and received testimony from a number of individuals from the public and private sectors.

The subcommittee developed recommended legislation proposing constitutional amendments to increase the governor's term to six years while providing for legislative appointees on the Commonwealth Transportation Board and the State Board of Education, a legislative veto of administrative rules and regulations, more flexibility to extend regular sessions, and a brief organizational session in December. Other entities with members appropriate for legislative appointment were identified. The subcommittee also explored creating a revenue forecasting committee in the legislative branch with authority to employ forecasting expertise from the private sector.

## **II. SUBCOMMITTEE MEETINGS AND ACTIVITIES**

### **June 28, 2005**

The joint subcommittee resumed its work by developing a study plan and reviewing the revenue forecasting process in Virginia and in other states. During its first year, the subcommittee recommended the introduction of a constitutional amendment to allow Virginia voters to decide whether the Governor should be allowed to succeed himself in office. The constitutional amendment, introduced as HJR 652 and SJR 401, was defeated in the Committees on Privileges and Elections. During committee deliberations, committee members appeared unwilling to consider the amendment without other proposals that would counterbalance the shift of power in favor of the Governor caused by successive terms. The defeat of these measures meant that the earliest date a constitutional amendment could appear on the ballot would be 2008, if the General Assembly approves a new amendment during the 2006 or 2007 session and then again during the 2008 session. However, such a delay would not affect which Governor would first be eligible to serve two consecutive terms because the original amendment

was prospective and applied to Governors elected in 2009 and thereafter. The subcommittee agreed to revisit the constitutional amendment while looking at other proposals that would more equitably balance the fundamental powers between the two branches.

## **Revenue Forecasting in Virginia and Other States**

John Bennett, the Secretary of Finance, provided the subcommittee with an overview of the revenue forecasting process in Virginia and in other states and problems other states had experienced such as a budget impasse in Missouri. The requirement for the Governor to submit a six-year revenue estimate dates back to 1975 in Virginia. Although the statutory provisions have been amended eight times since its inception, the heart of the revenue forecasting process has remained basically the same. The most significant changes to the statute occurred in 1984 when the revenue forecasting process was codified and the General Assembly created two statutory advisory groups to assist in reviewing economic data and revenue forecasts.

The revenue forecasting process begins with the assessment of the national economy. The Department of Taxation maintains contracts with two leading national forecasting firms (Global Insight and Economy.com). Global Insight provides detailed quarterly projections of economic variables, such as employment, income, and housing construction, at the national and regional levels. Information from Economy.com serves as a check on the data supplied by Global Insight.

Materials containing economic data and at least two possible economic forecasts (a standard and an alternate) are considered by the Advisory Board of Economists in mid-October. The advisory board is comprised of academic and professional economists who review the economic forecasts and identify the most likely economic scenario on which to base Virginia's revenue forecast. Although no legislative members serve on the advisory board, staff from House Appropriations, Senate Finance, Legislative Services and the Joint Legislative Audit and Review Commission (JLARC) attend the meetings and have an opportunity to comment and ask questions. The Department of Taxation uses the Virginia economic outlook approved by the advisory board to develop a preliminary revenue forecast. For each significant revenue source, the Department uses forecasting equations developed from past statistical relationships between economic variables and revenues to predict future revenues. For example, growth in total personal income is used to predict sales tax growth. The results are adjusted to account for changes in federal and state laws.

The Department of Taxation prepares the General Fund revenue forecast for 24 distinct revenue sources, including individual income tax withholding and the sales and use tax. Other agencies produce forecasts for specific revenue sources, such as lottery profits and profits from the sale of alcoholic beverages. In mid-November, the Advisory Council on Revenue Estimates reviews the standard and alternate revenue forecasts. The advisory council consists of legislative members representing the leadership of the houses, the chairmen of the money committees, and business leaders from various



industries. Review by the advisory council serve as a reality check on the preliminary forecast with members providing comment on what is currently happening in their industrial sectors and Virginia's economy. The Governor and his staff review the comments from the advisory council, the latest available revenue collections and any new economic data before finalizing the revenue forecast on which the introduced budget will be based. By tradition, the Governor provides an update of the revenue forecast during the legislative session, based on revenue collections between December 1 and later in January.

The revenue-forecasting processes in other states vary significantly. In general, the processes can be grouped into five broad categories based upon who develops the forecasts:

- exclusively executive (5 states, including Georgia and West Virginia);
- executive, with legislative participation/review (6 states, including Virginia and Delaware);
- joint legislative and executive (22 states, including Maryland and Kentucky);
- separate legislative (13 states, including Alabama and Colorado); and
- independent (4 states, including South Carolina and Texas).

The Secretary noted that the variation in the relative roles of legislature, Governor and various independent groups in the revenue forecasting process are attributable to each state's unique constitutional structure and budget process. However, all states use the same basic forecasting model for generating revenue projections. Because forecasting models rely on historical data and trends to predict future revenues, states often face forecasting inaccuracies during peaks and troughs of business cycles. The forecasts tend to overestimate revenue in economic downturns and to underestimate revenues in economic upturns. The Secretary also pointed out that states that have competing forecasts developed by different groups have a built-in bias for decision-makers to choose the higher forecast. The subcommittee agreed to examine at a future meeting the correlation between Gross Domestic Product (GDP) and revenues and the correlation between revenue collections in the first quarter and collections for the remainder of the year.

## **Study Plan**

The subcommittee adopted a study plan for the 2005 interim that essentially included the items deferred from the subcommittee's last meeting in January. The subcommittee agreed to examine proposals to:

- provide for 60-day sessions in odd-numbered years without the two-thirds supermajority vote;

- increase legislative appointments on executive boards and commissions that have significant contractual authority, including the State Board of Education, the Commonwealth Transportation Board, and public institutions of higher learning;
- allow by a constitutional amendment the legislature to nullify or suspend administrative regulations without concurrence of the Governor; and
- establish an independent economic and revenue forecasting commission whose members are appointed by the legislature and the Governor.

## **August 22, 2005**

At its second meeting, the subcommittee discussed the appropriate role of the General Assembly in the appointment process of members who serve on state boards and commissions with contractual or grant authority. The joint subcommittee opened the forum to representatives of the boards and commissions to comment on the advantages and disadvantages of adding legislative appointees to the membership of those bodies.

## **Appointment Process and Legislative Appointees**

William H. Leighty, Chief of Staff to Governor Mark R. Warner, presented an overview of the current gubernatorial appointment process and the number of appointments made by the legislature to state boards and commissions. The appointment process for the Governor begins with an extensive recruitment effort that includes outreach to legislative members for recommendations and to citizens through the Secretary of the Commonwealth's on-line application system. The process includes a series of checks and balances to ensure that appointees have the "wisdom, wealth, and work" experience needed for the position. For example, in looking for wealth experience, appointees are evaluated for their knowledge and experience in conducting fund-raising activities. The administration continues to oversee the ability of the appointee to perform their duties. To acquaint members with their responsibilities and scope of the authority, the administration encourages agencies to provide training for new board members. Because most board members serve under staggered terms, new members also have the benefit of the experience of seasoned members who bring perspective and history to the board meetings. Anita Rimler, Secretary of the Commonwealth, added that the current administration monitors members' attendance at board meetings. Board members who fail to attend three meetings held during the year are removed routinely by the Governor for absenteeism.

Currently, the legislature has appointments on approximately 63 boards and commissions. Of the 1063 members who serve on these bodies, 416 members are appointed by the General Assembly, 462 are appointed by the Governor, and 185 members are designated ex-officio members or are appointed by another appointing authority. Legislative appointing authorities include the Speaker, the Senate Committee on Rules, and the Joint Rules Committee. Legislative appointing authorities appoint all

the legislators to these collegial bodies, except members appointed to the Chippokes Plantation Farm Foundation, the Military Advisory Council, and the Tourism Train Development Authority.

## **Commonwealth Transportation Board**

The joint subcommittee identified the Commonwealth Transportation Board (CTB) as a board of interest for the possible transfer of some of the appointments to the legislature because of the board's visibility and contractual responsibilities. The CTB was created to establish the administrative policies for Virginia's transportation system. The Board allocates highway funding to specific projects, locates routes and provides funding for airports, seaports and public transportation. The Board is comprised of 17 members: the Secretary of Transportation, the Commonwealth Transportation Commissioner, the Director of the Department of Rail and Public Transportation, and fourteen citizen members appointed by the Governor. Nine of the 14 citizen members must be residents from each of the highway construction districts. The other five citizen members are selected at-large from the Commonwealth, but must represent as a group urban and rural interests.

The joint subcommittee heard from two former members of the Commonwealth Transportation Board (CTB) who expressed support for the current appointment process that gives the Governor the authority to appoint all of the citizen members. Whitt Clement, former Secretary of Transportation, stated that he favored the current process to maintain a clear line of authority for policy boards like the CTB. Rather than splitting appointments between the Governor and the legislature, he recommended that the General Assembly should concentrate on developing a vigorous confirmation process to serve as the primary check on the Governor's appointment power. Although due diligence in the confirmation process should be the legislature's first line of defense in the appointment process, the time constraints of a part-time legislature place additional challenges on exercising due diligence. Kenny Kling, a two-term member of the CTB appointed by Governor Gilmore echoed the comments of Mr. Clement regarding the desirability of a unified Board to implement the policies established by the Governor. However, he conceded that if the Governor were allowed to succeed himself, then the appointment of the members on the CTB should be examined more closely. He also asserted that the General Assembly currently had legislative oversight of policy boards, including the CTB, through control of their budgets in the Appropriation Act. Mr. Kling advised the subcommittee to consider examining the highway construction districts that were created in 1932 to determine if they still represented the same communities of interest.

## **Other Boards and Commissions with Contractual or Grant Authority**

In reviewing the membership information on the boards and commissions with contractual or grant authority, staff pointed to two irregularities with the terms of the members of the Alcoholic Beverage Control (ABC) Board and the appointment authority of the legislative members on the Chippokes Plantation Farm Foundation. In the

enabling legislation of the ABC Board, the terms of the members are specified for five years. However, the enabling legislation is inconsistent with § 2.2-106 that specifies that agency heads serve at the pleasure of the Governor. The Attorney General has opined that the statutory predecessor to § 2.2 -106 applies to the ABC Board and concluded that the net effect of this statute converts the fixed terms of office into terms serving at the Governor's pleasure. 1977 Op. Va. Att'y Gen. 389 (interpreting former § 2.1-41.1).

The subcommittee agreed to continue its discussion of the appointment process by examining certain independent boards, authorities, and bodies created by compacts, and to return to its review of the revenue forecasting process, at its next meeting.

## **September 19, 2005**

At its third meeting, the subcommittee continued its dialogue with representatives from the Office of the Secretary of Finance and the Department of Taxation on ways to improve the current revenue-forecasting process.

### **Revenue-Forecasting Process**

At the June 28, 2005, meeting, the subcommittee discussed various revenue forecasting processes and problems in other states, and Pamela Currey, Deputy Secretary of Finance, responded to the subcommittee members' questions with the following additional information:

1. Is Gross Domestic Product (GDP) a better indicator of the Commonwealth's future tax revenues than the Virginia Department of Taxation's econometric model currently used for revenue projections?

The Tax Department's model proved superior (resulted in a smaller tax deviation) in 12 of the last 15 years. Ms. Currey explained that GDP is not a good indicator for predicting Virginia's revenue because it is very broad and includes factors affecting the global economy. Virginia's econometric model is better because it is designed to capture the activities and phenomena that more directly affect Virginia's economy.

2. Can first quarter tax revenues be used to estimate the general fund revenue for the year?

Although using this type of ratio method is simple and appears reasonable, Ms. Currey pointed out that statistically it is not a good predictor of end-of-the-year revenues. The Tax Department's econometric model proved superior to the first quarter ratio model in 15 of the last 25 years. In fact, if the first quarter ratio model had been used, the Commonwealth would have experienced a budget shortfall in 14 out of the last 25 years. Using the Tax Department's econometric model resulted in only 3 budget shortfalls.

3. How long was Missouri's budget impasse?

The budget impasse in Missouri lasted for six months from November to April.

Members expressed concern that the econometric models for the past few years were underestimating tax revenues and not allocating adequate weight to certain factors, including population growth, money supply, and federal spending. Members also expressed disappointment with the availability of information on the leading indicators of the economy and tax data that would have shown a surge in the economy during the critical months prior to the passage of the budget in May 2004. The administration explained that some of the tax data has a lag time, e.g., two months for sales tax activity and one year or more for federal income tax information for large filers. Legislative members do receive real-time revenue forecasts each month by email. However, the data does not contain in-depth analysis that would assist members in understanding the revenue drivers and the current economic landscape. The joint subcommittee asked staff for the next meeting to determine the cost to establish an independent revenue-forecasting division in the legislative branch that would be responsible for analyzing economic and tax collection data, identify economic trends, and provide independent evaluation of revenue projections.

## **Sessions**

Staff presented the joint subcommittee with the following three options to address time constraints inherent in the present legislative sessions:

- Amend the Constitution to allow 60-day sessions during odd-numbered years without requiring a two-thirds vote.
- Amend the Constitution to permit an organizational session of the General Assembly in December. Many states hold organizational sessions prior to the regular session to swear in members, elect officers, assign members to committees, and adopt rules. The General Assembly could also use this time to confirm some of the gubernatorial appointees and hold elections for seats of incumbent judges and other judicial officers.
- Amend the Constitution to allow the General Assembly to apply to the Governor to call a special session with less than the currently required two-thirds vote of the members elected to each house.

The subcommittee requested staff to prepare draft legislation of the first two options for review at the next meeting. In addition, members discussed the merits of limiting the number of bills a member could introduce as another way to better manage the workflow of the legislative session. However, the subcommittee agreed that this proposal probably lies within the province of the Joint Rules Committee as it deliberates the procedural resolution.

**November 30, 2005**

At its fourth meeting, the subcommittee concluded its work, and finalized its recommendations to the 2006 session.

## **Confirmation of Governor's Appointments**

The subcommittee received a progress report from the Joint Subcommittee on Gubernatorial Appointments. Staff reported that this special joint subcommittee planned to hold its second meeting December 1, was in the process of reviewing resumes and financial statements for appointments communicated by the Governor to date, would work with the new administration to refine the paperwork requirements for review by the subcommittee, and will develop recommendations for interviewing new secretaries and agency heads. The special joint subcommittee was established pursuant to the recommendation of this original 2004 HJR 13 subcommittee to the 2005 General Assembly now codified in § 2.2-106 of the Code. Members suggested that interviews be conducted by the House and Senate standing committees with subject matter jurisdiction meeting in joint sessions. No further legislation is recommended at this time.

## **A Longer Governor's Term and Changes to Maintain Balance of Power between Executive and Legislative Branches**

The subcommittee supported a constitutional amendment to provide a six-year term for the governor. The governor would not be able to serve successive terms but would be allowed to serve more than one term. With a six-year term, he would be better able to implement his program and spearhead economic development efforts. He would not be involved in campaigning for a second term as he might if successive four-year terms were allowed.

To maintain a balance of power between the executive and legislative branches, the subcommittee recommended that the resolution providing for a six-year term for the governor should include constitutional amendments to provide for:

- a legislative veto of administrative rules and regulations;
- legislative appointments to the State Board of Education; and
- more flexibility to extend a session by the same two-thirds vote now required for an extension of up to 30 days or a call for a special session.

## **An Organizational Session**

The subcommittee recommended a separate constitutional amendment to provide for a brief organizational session on the second Wednesday in December or on another date in December designated by joint rule to prepare for the regular session. Matters appropriate to an organizational session would include administering oaths, seating members, selecting officers, adopting procedural rules, organizing committees, confirming gubernatorial appointments made during the interim, and electing judges.

## **Legislative Revenue Forecasting Unit**

The subcommittee recommended that revenue forecasting capacity be established in the legislative branch with authority to employ forecasting expertise from the private sector to the extent funds are made available from the appropriation for operations of the legislature. One imbalance in the powers of the legislative and executive branches is found in the area of revenue forecasting, and the subcommittee supported the establishment of an office in the legislative branch to be responsible for preparing revenue estimates and analyses.

The new joint committee would be composed of seven members: the Speaker and Majority Leader of the House of Delegates, the President pro tempore and Majority Leader of the Senate, and the Chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance or their designees. Joint committee expenses would be reimbursed from funds of the General Assembly. Legal, research, policy analysis, and other services would be provided by the appropriate legislative branch agency upon request of the joint committee.

The joint committee would annually by December 15 obtain and submit to the General Assembly an estimate of anticipated general fund revenues, an estimate of anticipated transportation fund revenues, and estimates of anticipated revenues for each of the remaining major nongeneral funds, for a prospective period of six years. The joint committee's estimates of anticipated general, transportation, and other nongeneral fund revenues shall be based on (i) forecasts of economic activity in the Commonwealth and (ii) review by experts with respect to economic assumptions and technical econometric methodology. Adjustments to the estimates based upon revenue collections after December 1 and changes in economic conditions would be considered and reported to the General Assembly by February 1 of the following year and at such other times as the joint committee deemed appropriate.

## **Other Statutory Changes**

The subcommittee also recommended two bills related to appointments. The first provides for legislative appointments to the Commonwealth Transportation Board, and the second provides for appointments of legislators to several entities to be made by representatives of the legislature rather than by the governor, which is the case for most other appointments of legislators to such entities.

### **III. ACTIONS TAKEN ON SUBCOMMITTEE'S RECOMMENDATIONS AT 2006 SESSION**

#### **A Longer Governor's Term with Balancing Changes**

Identical resolutions (HJR 145 and SJR 100) and one bill (SB 437) were introduced to propose constitutional amendments increasing the Governor's term to six years, while providing for legislative appointments to the State Board of Education and Commonwealth Transportation Board (SB 437), a legislative veto of administrative rules and regulations, and more flexibility to extend sessions. SB 437 providing for legislative appointments to the Commonwealth Transportation Board was incorporated into SB 304 that was passed to become effective July 1, 2006, to govern appointments made thereafter. However, the Governor vetoed SB 304 and its companion HB 673. The constitutional amendment resolutions were referred to the House and Senate Committees on Privileges and Elections and continued to 2007. This action means that the earliest date a constitutional amendment could appear on the ballot would be 2008, if the General Assembly approves a new amendment in the 2007 session and then again in the 2008 session. Pursuant to Va. Const. Article XII, §1, the General Assembly prescribes the effective date of proposed amendments in submitting them to the voters.

Delegate Purkey again introduced as HJR 1 a constitutional amendment to allow the Governor to succeed himself for one four-year term. The resolution was referred to the House Committee on Privileges and Elections and continued to 2007.

#### **An Organizational Session**

Identical resolutions (HJR 146 and SJR 101) were introduced to propose a constitutional amendment to provide for a brief three-day organizational session in December to prepare for the regular session by considering procedural matters, appointments, and the election of justices, judges and other officers. These resolutions were referred to the House and Senate Committees on Privileges and Elections and continued to 2007.



## **Revenue Forecasting**

Identical resolutions (HJR 147 and SJR 102) were introduced to create a revenue forecasting committee in the legislative branch with authority to employ forecasting expertise from the private sector to the extent of available funds.

SJR 102 was stricken at the Patron's request in the Senate Committee on Rules. HJR 147 was referred to the House Committee on Rules, unanimously reported and passed by the House. The Senate referred the measure to the Senate Committee on Rules where it was continued to 2007.

## **Legislative Appointments**

Identical companion bills (HB 1186 and SB 330) were introduced to designate legislative appointing authorities to appoint legislators who serve on the Tourist Train Development Authority, the Chippokes Plantation Farm Foundation Board, and the Potomac River Basin Commission. The Governor currently makes these appointments, although it is usually customary for the legislature to appoint its own members. The bills also added one House member to the Tourist Train Development Authority so that both houses have representation on that Authority. The bills passed.

## **IV. CONCLUSION**

As directed by House Joint Resolution 707, the joint subcommittee completed its work on November 30, 2005, and its recommended legislation was introduced in the 2006 Session of the General Assembly. Key measures proposing constitutional amendments were continued to the 2007 Session. These measures would extend the Governor's term, provide legislative appointments to the State Board of Education, create a legislative veto of administrative rules and regulations, increase flexibility to extend sessions, and provide for an organizational session. Another measure to create a new revenue forecasting committee in the legislative branch also was continued. Legislation providing for legislative appointments to the Commonwealth Transportation Board passed the General Assembly, but was successfully vetoed by the Governor. Legislation providing for legislative appointments to other authorities identified by the subcommittee passed.

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Robert L. Calhoun

Constance Campanella

Benjamin E. Carter

John Sherman

Tim Robertson

**\*Additional Comments of the Honorable H. Morgan Griffith**

I believe the legislature should not pass a constitutional amendment granting the governor the ability to succeed himself and hold office for two consecutive terms unless there is a balance of power between the executive and legislative branches that in my opinion does not presently exist and that the current Governor does not seem prepared to rectify.

**\*Additional Comments of the Honorable Johnny S. Joannou**

I believe the legislature should not pass a constitutional amendment granting the governor the ability to succeed himself while we have a part-time citizen legislature. If the legislature passes a constitutional amendment to allow the governor to be elected to hold office for two consecutive terms, there must be a balance of power between the executive and legislative branches which in my opinion does not presently exist.

## Appendix A

### HOUSE JOINT RESOLUTION NO. 707

*Continuing and renaming the Joint Subcommittee to Study the Appropriate Balance of Power Between the Legislative and Executive Branches to Support a Two-term Governor in the Commonwealth. Report.*

Agreed to by the House of Delegates, February 5, 2005

Agreed to by the Senate, February 24, 2005

WHEREAS, House Joint Resolution No. 13 (2004) established the Joint Subcommittee to Study the Appropriate Balance of Power Between the Legislative and Executive Branches to Support a Two-term Governor in the Commonwealth; and

WHEREAS, the joint subcommittee received extensive testimony from a number of individuals from the public and private sector, including several former Governors of Virginia, the chairmen of the two major political parties, and the President of the Virginia Chamber of Commerce, on the appropriate length for the Governor's term and its impact on the operations of state government and the Commonwealth's economic vitality; and

WHEREAS, the joint subcommittee identified a number of responsibilities and functions of the Governor and the General Assembly for review in concert with the proposal for a constitutional amendment to allow the Governor to succeed himself in office; and

WHEREAS, the joint subcommittee has recommended for consideration at the 2005 Regular Session of the General Assembly the constitutional amendment to allow the Governor to succeed himself by one four-year term; and

WHEREAS, the joint subcommittee has also recommended a bill to provide for a more formalized and expanded confirmation process that includes review by a joint subcommittee of the two Committees on Privileges and Election of the resumes and statements of economic interests of gubernatorial appointees; and

WHEREAS, the joint subcommittee did not have sufficient time to properly analyze the other proposals to rebalance the institutional powers between the executive and legislative branches, including responsibility for economic and revenue forecasting, oversight of administrative regulations, and appointments to the boards of visitors of public institutions of higher learning and the Commonwealth Transportation Board; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee to Study the Appropriate Balance of Power Between the Legislative and Executive Branches to Support a Two-term Governor in the Commonwealth be continued and renamed. The joint subcommittee shall be renamed the Joint Subcommittee to Study the Appropriate Balance of Power Between the Legislative and Executive Branches. The

joint subcommittee shall have a total membership of 12 members that shall consist of four members of the House of Delegates appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate appointed by the Senate Committee on Rules; four nonlegislative citizen members appointed by the Speaker of the House of Delegates; two nonlegislative citizen members appointed by the Senate Committee on Rules. Nonlegislative citizen members of the joint subcommittee shall be citizens of the Commonwealth of Virginia. The current members appointed by the Speaker of the House of Delegates shall be subject to reappointment. The current members appointed by the Senate Committee on Rules shall continue to serve until replaced. Vacancies shall be filled by the original appointing authority. Unless otherwise approved in writing by the chairman of the joint subcommittee and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required. The joint subcommittee shall elect a chairman and vice chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall continue its review of proposals to (i) lengthen the session to 60 days in the odd-numbered years, (ii) shift the budget cycle, (iii) provide for annual budgets, (iv) create an independent economic and revenue forecasting commission, (v) allow for legislative veto or suspension of administrative regulations, (vi) increase legislative oversight of the boards of visitors of the public institutions of higher learning and the Commonwealth Transportation Board, and (vii) establish an appropriate balance of powers between the legislative and executive branches as the joint subcommittee deems appropriate.

Administrative staff support shall continue to be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall continue to be provided by the Division of Legislative Services. Fiscal analysis and other related services as requested by the joint subcommittee shall be provided by the staffs of the House Committee on Appropriations and the Senate Committee on Finance. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2005 interim, and the direct costs of this study shall not exceed \$8,400 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by November 30, 2005, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2006 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2005 interim.

## Appendix B

### Recommended Legislation to the 2006 Session

#### HOUSE JOINT RESOLUTION NO. 145/SENATE JOINT RESOLUTION NO. 100

*Proposing amendments to Sections 6 and 14 of Article IV, Section 1 of Article V, and Section 4 of Article VIII of the Constitution of Virginia, relating to the legislature's sessions and powers and the Governor's term and powers.*

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Sections 6 and 14 of Article IV, Section 1 of Article V, and Section 4 of Article VIII of the Constitution of Virginia as follows:

#### ARTICLE IV LEGISLATURE

##### Section 6. Legislative sessions.

The General Assembly shall meet once each year on the second Wednesday in January. Except as herein provided for reconvened sessions, no regular session of the General Assembly convened in an even-numbered year shall continue longer than sixty days; no regular session of the General Assembly convened in an odd-numbered year shall continue longer than thirty days; but with the concurrence of two-thirds of the members elected to each house, any regular session may be extended ~~for a period not exceeding thirty days~~. Neither house shall, without the consent of the other, adjourn to another place, nor for more than three days.

The Governor may convene a special session of the General Assembly when, in his opinion, the interest of the Commonwealth may require and shall convene a special session upon the application of two-thirds of the members elected to each house. *The failure to confirm a gubernatorial appointee at a special session shall be deemed a refusal to confirm for the purposes of Section 11 of Article V unless the General Assembly states otherwise.*

The General Assembly shall reconvene on the sixth Wednesday after adjournment of each regular or special session for the purpose of considering bills which may have been returned by the Governor with recommendations for their amendment and bills and items of appropriation bills which may have been returned by the Governor with his objections.

No other business shall be considered at a reconvened session. Such reconvened session shall not continue longer than three days unless the session be extended, for a period not exceeding seven additional days, upon the vote of the majority of the members elected to each house.

#### Section 14. Powers of General Assembly; limitations.

The authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted; and a specific grant of authority in this Constitution upon a subject shall not work a restriction of its authority upon the same or any other subject. The omission in this Constitution of specific grants of authority heretofore conferred shall not be construed to deprive the General Assembly of such authority, or to indicate a change of policy in reference thereto, unless such purpose plainly appear.

The General Assembly shall confer on the courts power to grant divorces, change the names of persons, and direct the sales of estates belonging to infants and other persons under legal disabilities, and shall not, by special legislation, grant relief in these or other cases of which the courts or other tribunals may have jurisdiction.

The General Assembly may regulate the exercise by courts of the right to punish for contempt.

*The General Assembly may suspend or nullify any or all portions of any administrative rule or regulation by joint resolution agreed to by a majority of the members elected to each house. When the General Assembly is not in a regular session, the standing committees of each house and joint legislative commissions designated by the General Assembly may suspend any or all portions of any administrative rule or regulation until the end of the next regular session.*

The General Assembly's power to define the accrual date for a civil action based on an intentional tort committed by a natural person against a person who, at the time of the intentional tort, was a minor shall include the power to provide for the retroactive application of a change in the accrual date. No natural person shall have a constitutionally protected property right to bar a cause of action based on intentional torts as described herein on the ground that a change in the accrual date for the action has been applied retroactively or that a statute of limitations or statute of repose has expired.

The General Assembly shall not enact any local, special, or private law in the following cases:

- (1) For the punishment of crime.
- (2) Providing a change of venue in civil or criminal cases.
- (3) Regulating the practice in, or the jurisdiction of, or changing the rules of evidence in any judicial proceedings or inquiry before the courts or other tribunals, or providing or

changing the methods of collecting debts or enforcing judgments or prescribing the effect of judicial sales of real estate.

(4) Changing or locating county seats.

(5) For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests.

(6) Extending the time for the assessment or collection of taxes.

(7) Exempting property from taxation.

(8) Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation, or association to the Commonwealth or to any political subdivision thereof.

(9) Refunding money lawfully paid into the treasury of the Commonwealth or the treasury of any political subdivision thereof.

(10) Granting from the treasury of the Commonwealth, or granting or authorizing to be granted from the treasury of any political subdivision thereof, any extra compensation to any public officer, servant, agent, or contractor.

(11) For registering voters, conducting elections, or designating the places of voting.

(12) Regulating labor, trade, mining, or manufacturing, or the rate of interest on money.

(13) Granting any pension.

(14) Creating, increasing, or decreasing, or authorizing to be created, increased, or decreased, the salaries, fees, percentages, or allowances of public officers during the term for which they are elected or appointed.

(15) Declaring streams navigable, or authorizing the construction of booms or dams therein, or the removal of obstructions therefrom.

(16) Affecting or regulating fencing or the boundaries of land, or the running at large of stock.

(17) Creating private corporations, or amending, renewing, or extending the charters thereof.

(18) Granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity.

(19) Naming or changing the name of any private corporation or association.



(20) Remitting the forfeiture of the charter of any private corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution and the laws passed in pursuance thereof.

The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

## ARTICLE V EXECUTIVE

### Section 1. Executive power; Governor's term of office.

The chief executive power of the Commonwealth shall be vested in a Governor. He shall hold office for a term commencing upon his inauguration on the Saturday after the second Wednesday in January, next succeeding his election, and ending in the ~~fourth~~ *sixth* year thereafter immediately upon the inauguration of his successor. He shall be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of service.

## ARTICLE VIII EDUCATION

### Section 4. Board of Education.

The general supervision of the public school system shall be vested in a Board of Education of nine members, ~~to be~~. *Four members, including one member designated to serve as president of the Board, shall be appointed by the Governor, subject to confirmation by the General Assembly. Three members shall be appointed by the House of Delegates in accordance with the rules of the House, and two members shall be appointed by the Senate in accordance with the rules of the Senate. Each appointment shall be for ~~four years~~ a four-year term beginning February 1, except that those to fill vacancies shall be for the unexpired terms. Terms shall be staggered, so that no more than three regular appointments shall be made in the same year. No person shall be appointed to serve more than two consecutive full terms. Upon being inaugurated in 2010, the Governor shall appoint the president and one additional member. The Governor shall appoint one additional member in each of the two years following 2010. The House of Delegates shall appoint one member in each of the three years following 2010. The Senate shall appoint one member in the second year and one member in the third year following 2010. Succeeding appointments shall be made by the appropriate authority as terms expire. Each member in office on the effective date of this provision shall serve until his successor has been appointed.*

## HOUSE JOINT RESOLUTION NO. 146/SENATE JOINT RESOLUTION 101

*Proposing an amendment to Section 6 of Article IV of the Constitution of Virginia, relating to legislative sessions and organizational sessions.*

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article IV of the Constitution of Virginia as follows:

### ARTICLE IV LEGISLATURE

#### Section 6. Legislative sessions.

*The General Assembly shall meet in an organizational session on the second Wednesday in December of each year or on another day in December designated in accordance with a joint rule of the General Assembly. The business of the organizational session shall be limited to the administration of the oath of office, the seating of members, the selection of officers of each house, the adoption of rules of procedure, the organization of committees, the confirmation of gubernatorial and other appointees, and the election of justices, judges, and other officers. The failure to confirm a gubernatorial appointee at an organizational session shall be deemed a refusal to confirm for the purposes of Section 11 of Article V unless the General Assembly states otherwise. The organizational session shall not continue longer than three days.*

The General Assembly shall meet once each year *in regular session* on the second Wednesday in January. Except as herein provided for reconvened sessions, no regular session of the General Assembly convened in an even-numbered year shall continue longer than sixty days; no regular session of the General Assembly convened in an odd-numbered year shall continue longer than thirty days; but with the concurrence of two-thirds of the members elected to each house, any regular session may be extended for a period not exceeding thirty days. Neither house shall, without the consent of the other, adjourn to another place, nor for more than three days.

The Governor may convene a special session of the General Assembly when, in his opinion, the interest of the Commonwealth may require and shall convene a special session upon the application of two-thirds of the members elected to each house. *The failure to confirm a gubernatorial appointee at a special session shall be deemed a refusal to confirm for the purposes of Section 11 of Article V unless the General Assembly states otherwise.*

The General Assembly shall reconvene on the sixth Wednesday after adjournment of each regular or special session for the purpose of considering bills which may have been returned by the Governor with recommendations for their amendment and bills and items of appropriation bills which may have been returned by the Governor with his objections. No other business shall be considered at a reconvened session. Such reconvened session shall not continue longer than three days unless the session be extended, for a period not exceeding seven additional days, upon the vote of the majority of the members elected to each house.

## **HOUSE JOINT RESOLUTION NO. 147/SENATE JOINT RESOLUTION NO. 102**

*Establishing a joint committee on revenue estimates of the General Assembly.*

WHEREAS, the need for accurate and comprehensive revenue estimates is essential to sound financial planning and budgeting; and

WHEREAS, the legislative branch of government should have the benefit of its own sources of expert revenue estimates to maintain an appropriate balance between the executive and legislative branches; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint committee of the General Assembly be established to oversee the provision of revenue estimates for the General Assembly.

The joint committee shall be composed of seven members: the Speaker and Majority Leader of the House of Delegates, the President pro tempore and Majority Leader of the Senate, and the Chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance or their designees. The members shall serve terms coincident with their terms of office. The joint committee shall elect a chairman and vice chairman from among its membership. A majority of the members of the joint committee shall constitute a quorum. Meetings of the joint committee shall be held upon the call of the chairman or whenever a majority of the members so request.

In every year, the joint committee shall by December 15 obtain and submit to the members of the General Assembly an estimate of anticipated general fund revenues, an estimate of anticipated transportation fund revenues, and estimates of anticipated revenues for each of the remaining major nongeneral funds, for a prospective period of six years.

The joint committee's estimates of anticipated general, transportation, and other nongeneral fund revenues shall be based on (i) forecasts of economic activity in the Commonwealth and (ii) review by experts with respect to economic assumptions and

technical econometric methodology. The joint subcommittee may employ expert assistance to the extent that funds are made available to it.

Adjustments to the estimates based upon revenue collections after December 1 and changes in economic conditions shall be considered by the joint committee and reported to the General Assembly by February 1 of the following year and at such other times as may be deemed appropriate by the joint committee.

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint committee shall be provided by the appropriate legislative branch agency upon request of the joint committee. All agencies of the Commonwealth shall provide assistance to the joint committee upon request. Joint committee expenses shall be reimbursed from the funds of the General Assembly.

### **SENATE BILL NO. 437**

*A BILL to amend and reenact §§ 33.1-1 and 33.1-2 of the Code of Virginia, relating to composition of the Commonwealth Transportation Board; election of certain members by the General Assembly.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-1 and 33.1-2 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation Board; number and terms of members; removal from office; vacancies.

The State Highway and Transportation Board, formerly known as the State Highway and Transportation Commission, is continued and shall hereafter be known as the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the State Highway and Transportation Board or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.

The Board shall consist of seventeen members: the Secretary of Transportation, the Commonwealth Transportation Commissioner, the Director of the Department of Rail and Public Transportation, and fourteen citizen members. The citizen members shall be ~~(i) appointed by the Governor as provided in § 33.1-2, (ii) subject to confirmation by the General Assembly, and (iii) removable from office during their respective terms by the Governor at his pleasure.~~ Appointments of citizen members shall be for terms of four years commencing upon July 1, upon the expiration of the terms of the existing members, respectively. *Citizen members shall be removable from office during their respective terms at the pleasure of their respective appointing authorities.* The initial terms of the members appointed in January, 1987, shall commence when appointed and shall be for

terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be filled ~~by appointment by the Governor for the unexpired term and shall be effective until thirty days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term.~~ No person shall be eligible to serve more than two successive terms of four years, other than the Secretary of Transportation, the Commonwealth Transportation Commissioner, and the Director of the Department of Rail and Public Transportation. A person heretofore or hereafter appointed to fill a vacancy may serve two additional successive terms.

The Secretary of Transportation shall serve as Chairman of the Board. The Secretary shall have voting privileges only in the event of a tie. The Commonwealth Transportation Commissioner shall serve as Vice-Chairman of the Board. The Commissioner shall have voting privileges only in the event of a tie when he is presiding during the absence of the Chairman. The Director of the Department of Rail and Public Transportation shall serve without a vote.

Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation Commissioner" shall mean "Commonwealth Transportation Commissioner"; and all references to "Department of Highways and Transportation" shall refer to the Department of Transportation.

§ 33.1-2. Citizen appointments; residence requirements; statewide interest.

~~Of such Board, one member shall be a resident of the 14 nonlegislative citizen members, nine members shall be appointed by the Governor subject to confirmation by the General Assembly and reside in the following construction districts: the territory now included in the Bristol construction district, one in the Salem construction district, one in the Lynchburg construction district, one in the Staunton construction district, one in the Culpeper construction district, one in the Fredericksburg construction district, one in the Richmond construction district, one in the Hampton Roads construction district, and one in the Northern Virginia construction district. The remaining five members shall be appointed from the Commonwealth at large, but at least as follows: two members who shall reside in standard metropolitan statistical areas and be designated as urban at-large members, and at least, one appointed by the Speaker of the House of Delegates and one appointed by the Senate Committee on Rules; two members who shall reside outside standard metropolitan statistical areas and be designated as rural at-large members, one appointed by the Speaker of the House of Delegates and one appointed by the Senate Committee on Rules; and the additional member at-large to be appointed by the Speaker of the House of Delegates. The at-large members shall be appointed to represent rural and urban transportation needs and be mindful of the concerns of seaports and seaport users, airports and airport users, railways and railway users, and mass transit and mass transit users. Each member so appointed.~~ All members of the Board shall be mindful of the best interest of the Commonwealth at large primarily instead of those of the district from which chosen or of the transportation interest represented.

2. That this act shall not be construed to affect existing appointments, made by the Governor, for which the terms have not expired. However, any appointments that begin a new term made after July 1, 2006, shall be made in accordance with the provisions of this act.

3. That the provisions of this act shall take effect only upon the approval by the voters of a constitutional amendment that provides for a six-year term for the Governor.

### **HOUSE BILL NO. 1186/SENATE BILL NO. 330**

*A BILL to amend and reenact §§ 3.1-22.8, 15.2-6501, 62.1-67 of the Code of Virginia, relating to the appointment of legislators serving on the Chippokes Plantation Farm Foundation, the Tourist Train Development Authority, and the Potomac River Basin Commission.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-22.8, 15.2-6501, 62.1-67 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-22.8. Administration of Foundation; appointment and terms of board of trustees.

A. The Foundation shall be governed and administered by a board of trustees, consisting of *18 members as follows: four members of the House of Delegates, three of whom shall be members of the House Committee on Agriculture, Chesapeake and Natural Resources and one of whom shall represent Surry County, appointed by the Speaker of the House of Delegates; two members of the Senate, one of whom shall be a member of the Senate Committee on Agriculture, Conservation and Natural Resources and one of whom shall represent Surry County, appointed by the Senate Committee on Rules; the Commissioner of Agriculture and Consumer Services and the Director of the Department of Conservation and Recreation who shall both serve ex officio, without voting privileges; and of fourteen other 10 nonlegislative citizen members appointed by the Governor, subject to confirmation by the General Assembly, as follows: one member shall be appointed from the House Committee on Agriculture for a term concurrent with the term for which he has been elected to office; one member shall be appointed from the House of Delegates who has been elected to represent Surry County for a term concurrent with the term for which he has been elected to office; one member shall be appointed from the Senate Committee on Agriculture, Conservation and Natural Resources for a term concurrent with the term for which he has been elected to office; one member shall be appointed from the Senate who has been elected to represent Surry County for a term concurrent with the term for which he has been elected to office; one member shall be appointed after conferring with the board of supervisors of Surry County, which member may be either a member of said the board of supervisors or from the county at large, for a term of four years; one member shall be appointed after conferring with the dean of the College of Agriculture and Life Sciences at Virginia Polytechnic Institute and State University for a term of four years; and eight members shall be appointed from the*

~~Commonwealth at-large for four-year terms.~~ *Legislative members, the Commissioner of Agriculture and Consumer Services, and the Director of the Department of Conservation and Recreation shall serve terms coincident with their terms of office. Members appointed by the Governor shall serve terms of four years.* Vacancies occurring before the expiration of term shall be filled for the unexpired term. All members appointed may be reappointed.

B. Trustees of the Foundation shall be reimbursed for all reasonable and necessary expenses incurred by them in the performance of their duties on behalf of the Foundation. Such reimbursement shall be paid from the Chippokes Plantation Farm Foundation Fund.

C. The Foundation shall elect from its membership a chairman, vice-chairman, and such other officers as it deems appropriate.

D. The chairman of the Board, the treasurer, and any other person designated by the Board to handle the funds of the Foundation, shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation.

§ 15.2-6501. Board of the Authority; qualifications; terms; quorum; records.

All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Tourist Train Development Authority, hereinafter referred to as "the board." ~~Initial appointments to the board shall begin July 1, 2000.~~ The board shall consist of ~~eight~~ *nine* members ~~appointed by the Governor~~ as follows: *seven members appointed by the Governor of whom three shall be representatives from the governing bodies of Tazewell County, the Town of Bluefield, Virginia, and the Town of Pocahontas; and four shall be nonlegislative citizen members, who shall be residents of or reside in Tazewell County; and one member of the General Assembly House of Delegates representing Tazewell County, who shall be appointed by the Speaker of the House of Delegates if more than one Delegate represents Tazewell County; and one member of the Senate representing Tazewell County, who shall serve as an ex officio, voting member who shall be appointed by the Senate Committee on Rules if more than one Senator represents Tazewell County.* All members shall serve for a term of four years and may be reappointed for one additional term, ~~except the member appointed from the General Assembly~~ *legislative members, who shall serve no more than four years terms coincident with their terms of office and may be reappointed.* The term of any member of the board shall immediately terminate if the member no longer meets the eligibility criteria of the initial appointment. Vacancies shall be filled for the unexpired term. ~~For the initial appointments only, three of the members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.~~

The board shall elect from its membership a chairman, a vice-chairman, and from its membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The members of the board shall receive no ~~salary~~ *compensation.* *All members may be*

*reimbursed for reasonable and necessary expenses incurred in the performance of their duties from such funds as may be available to the Authority.*

Four members of the board shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of Tazewell County and all adjacent counties and the Auditor of Public Accounts and shall be open to public inspection.

§ 62.1-67. Appointment, terms and qualifications of members; alternate members.

~~If and when the Governor shall have executed such compact, The Commission shall consist of three members of the Commission shall be as follows: one legislative member of the Commission on Intergovernmental Cooperation who resides in the Potomac River drainage basin appointed by the Joint Rules Committee, one nonlegislative citizen member appointed by the Governor and shall hold office for terms of four years each, subject to suspension or removal by the Governor who resides in the Potomac River drainage basin, and the executive director of the State Water Control Board. Appointments to fill vacancies shall be made for the respective unexpired terms. Two of the members so appointed shall be residents of the Potomac River drainage basin, one of whom shall be a legislative member of the Commission on Intergovernmental Cooperation, but if either member should cease to be a resident of the basin his term of office shall thereupon terminate and his office shall become vacant. The executive director of the State Water Control Board shall serve as the third member. One of the members shall be designated by the Governor as chairman. The Governor and the Joint Rules Committee shall appoint alternate members for the members of their appointees to the Commission, and each alternate shall have power to act in the absence of the person for whom he is alternate. The Governor shall appoint the first alternates hereunder on or before July 1, 1962, the The legislative member and executive director of the State Water Control Board shall serve terms coincident with their terms of office and the member appointed by the Governor shall serve a term of four years. The terms of each alternate to shall run concurrently with the term of the member for whom he is alternate. All members may be reappointed.~~

2. That this act shall not be construed to affect existing appointments for which the terms have not expired. However, any new appointments made after July 1, 2006, shall be made in accordance with the provisions of this act.