

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 242

An Act to amend and reenact § 11-45 as it is currently effective and as it may become effective of the Code of Virginia and to create the Patrick Hospital Authority; to provide for appointment and terms of office of members of the Authority and for election of certain officers; to prescribe the powers and duties of the Authority including the power to borrow money and issue bonds; and to authorize any county or municipality to exercise certain powers in cooperation with the Authority.

[H 1552]

Approved April 2, 2000

Be it enacted by the General Assembly of Virginia:

1. § 1. *There is hereby created a public body politic and corporate to be known as the "Patrick Hospital Authority," hereinafter referred to as the "Authority," with such public and corporate powers as are hereinafter set forth. The Authority may sue and be sued, plead and be impleaded, and shall have the power and authority to contract and be contracted with and to exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter provided.*

§ 2. *The Authority shall be composed of nine members, two of whom shall be licensed members of the medical profession, all of whom shall be appointed by the Patrick County Board of Supervisors, hereinafter referred to as the "Board." The terms of the members shall be three years; provided, however, that three of the initial members shall serve three-year terms, three of the initial members shall serve two-year terms and three of the initial members shall serve one-year terms so that no more than three members shall be appointed in any one year. Members may be reappointed and shall serve without compensation, but they shall be entitled to reimbursement for necessary travel and other expenses incurred while engaged in the performance of their duties. Each member shall continue to hold office until his successor has been appointed and qualified. The Board shall have the right to remove any member or officer, for malfeasance or misfeasance, incompetency, or gross neglect of duty. Vacancies shall be filled by appointment of the Board for unexpired terms, or in the case of an increase in the size of the Authority, filled by appointment of the Board, which appointments may be for an initial term of less than three years. Members shall take an appropriate oath of office and same shall be filed with the county clerk. Members shall elect on an annual basis one of their number as chairman and another as vice-chairman and shall also elect a secretary and treasurer for terms to be determined by them, who may or may not be one of the members. The same person may serve as both secretary and treasurer. The members shall make such rules, regulations and bylaws for their own government and procedure as they shall determine; they shall meet regularly at least once a month and may hold such special meetings as they deem necessary.*

§ 3. *The Authority shall be deemed to be a public instrumentality, exercising public and essential governmental functions to provide for the public health, welfare, convenience and prosperity of the residents of the County of Patrick and such other persons who might be served by the Authority (its service area) and to provide improved medical care and related services to such residents and persons and is hereby authorized to exercise the powers conferred by the following sections.*

§ 4. *The Authority may plan, design, construct, renovate, enlarge, equip, maintain and operate projects for the purpose of providing medical care and related services and other appropriate purposes. The Authority may lease, sell or otherwise convey any or all of its projects to others who agree to provide for the operation of the same if the Authority determines that such sale, lease or other conveyance will assist, promote or further the purposes and intent of this act, subject to the provisions of § 5 below.*

"Projects" as used in this act shall mean any medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all medical facilities and equipment, including, without limitation, hospitals, nursing homes, continuing care facilities, self-care facilities, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the treatment of sick, disturbed or infirm persons, together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Operating project" as used in this act shall mean any project operated by the Authority or directly controlled by the Authority and shall include, without limitation, parking facilities operated by the

Authority or an agent therefor and medical office buildings with respect to which the Authority exercises the normal powers of a landlord.

§ 5. The Authority may acquire property, real or personal, by purchase, gift or devise, on such terms and conditions, and in such manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its purposes, and sell, lease and dispose of the same, or any portion thereof or interest therein, whenever it shall become expedient to do so and in any manner it deems appropriate, including without limitation by the granting of mortgages and other liens, the conveyance of property to related entities and the disposition of property no longer necessary or desirable for its operations; provided, however, that the Authority may not sell or otherwise dispose of all, or substantially all, of its property providing hospital care, other than to an entity controlled by the Authority, without the approval of the Board, expressed in a resolution. For purposes of the previous sentence, the granting of mortgages, deeds of trust, security interests, and other liens as security for indebtedness or other obligations of the Authority shall not be considered a sale or other disposition nor shall approval of the Board be required for any sale or other disposition resulting from the execution or foreclosure or other enforcement of such liens or other security devices.

§6. The Authority may fix and revise from time to time and charge and collect rates, rentals, fees and other charges for the services and facilities furnished by the Authority, and establish and revise from time to time regulations, in respect to the use, occupancy or operation of any such facility or part thereof, or service rendered.

§ 7. The Authority may accept loans, grants or assistance from the federal government, the Commonwealth, any municipality thereof, or from any other sources, public or private, to carry out any of its purposes and may enter into any agreement or contract regarding or relating to the acceptance or use or repayment of any such loan, grant or assistance.

§ 7.1. The Authority shall have the following powers to carry out the purposes and intent of this act:

(1) To provide or assist in providing medical care and related services in its service area.

(2) To promote, develop, improve and increase the commerce and economic development of the County of Patrick and its environs.

(3) To assist in or provide for the creation of stock and nonstock corporations and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign corporations, partnerships, associations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any association, partnership, or individual or any other domestic or foreign corporation organized for any purpose.

(4) To provide to corporations, partnerships, associations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this act.

(5) To make loans and provide other assistance to corporations, partnerships, associations, joint ventures or other entities.

(6) To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others.

(7) To transact its business, locate its offices and control, directly or through stock or nonstock corporations or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this act as set forth in § 3 above, including without limitations the power to own or operate, directly or indirectly, medical facilities in its service area.

(8) To participate in joint ventures with individuals, corporations, partnerships, associations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this act.

(9) To conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the Authority or for the exercise of any of its powers.

(10) To exercise all other powers granted to nonstock corporations pursuant to § 13.1-826 of the Code of Virginia as amended.

§ 7.2. Notwithstanding the Virginia Freedom of Information Act (§ 2.1-340 et seq.), the Authority shall be permitted to conduct executive or closed meetings to discuss or consider the condition, acquisition or use of real or personal property or plans for the future of the Authority which could affect the value of property, real or personal, owned or desirable for ownership by the Authority; for discussion or consideration of matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing and operational strategies that will affect competitive position; and the discussion or consideration of members of its medical staff, and qualifications and appointments thereto. The Authority shall follow the provisions of § 2.1-344.1 when convening executive or closed meetings.

The Authority shall not be required to disclose records pertaining to the qualifications for or

continued membership on its medical staff; proprietary information gathered by or in the possession of the Authority from third parties; contract cost estimates prepared for confidential use and awarding contracts for construction or the purchase of goods or services; data, records, or information of a proprietary nature produced or collected by or for the Authority or members of its staff; financial statements not publicly available which may be filed with the Authority from third parties; customer account information; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies that affect competitive position.

The Authority's exemptions from the Virginia Freedom of Information Act (§ 2.1-340 et seq.) shall be limited to those activities specifically described in this section and those exemptions otherwise granted under the provisions of the Act. Except as specifically provided in this section, the Authority shall be subject to the provisions of the Virginia Freedom of Information Act.

Notwithstanding the exemptions from the Virginia Freedom of Information Act granted by this section, the Authority shall comply with all applicable state reporting requirements.

§ 7.3. The provisions of the Virginia Public Procurement Act (§ 11-35 et seq.) shall not apply to the Authority in the exercise of any power conferred under this chapter. The Authority shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods or services.

§ 8. The Authority may borrow money and issue bonds as hereinafter provided.

§ 9. In addition to the powers granted by general law or by charter, any county or municipality in the Commonwealth is empowered to cooperate with the Authority as follows:

(a) To make such appropriations and provide such funds for the operation of and carrying out the purposes of the Authority as the governing body may deem proper, either by outright donation or by loan, or the governing body may agree with such Authority to take such action.

(b) To dedicate, sell, convey or lease any of its interest in property, or grant easements, licenses or any other privileges therein to any such Authority.

(c) To cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with property of or any facility or project of such Authority.

(d) To furnish, dedicate, close, pave, install, grade or regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake.

(e) To plan or replan, zone or rezone any part of such county or municipality in connection with the use of any property of such Authority or any property adjacent to the property of such Authority or any of its facilities or projects which it is otherwise empowered to undertake, in accordance with general laws.

(f) To cause services to be furnished to the Authority of the character which such county or municipality is empowered to furnish.

(g) To purchase any of the bonds of such Authority or legally invest in such bonds any funds belonging to or within the control of such county or municipality and exercise all the rights of any holder of such bonds.

(h) To do any and all things necessary or convenient to aid or cooperate in the planning, undertaking, construction or operation of any of the plans, projects or facilities of such Authority.

(i) To enter into agreements with such Authority respecting action to be taken by such county or municipality pursuant to any of the above powers.

§ 10. The Authority is hereby authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of any project within its service area or for the purpose of paying or refunding, at or prior to the maturity thereof, any bonds previously issued by the Authority, the Commonwealth or any agency or political subdivision thereof. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest from any one or more of the following: (a) its revenues generally; (b) the income and revenues of a particular project (including revenues from the sale of or lease of such project); (c) the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds; (d) the proceeds of the sale or lease of any project or projects, whether or not they are financed from the proceeds of such bonds; (e) funds realized from the enforcement of security interests or other liens securing such bonds; (f) proceeds from the sale of bonds of the Authority; (g) payments due under letters of credit, policies of bond purchase agreements or other credit enhancements securing payment of bonds of the Authority; (h) any reserve or sinking funds created to secure such payment; or (i) other available funds of the Authority; however, bonds issued to finance the construction or acquisition of projects that are not operating projects of the Authority shall not be payable from revenues of the Authority generally or from any revenues derived from operating projects.

"Bonds" as used in this act shall include bonds, notes, revenue certificates and other evidences of indebtedness.

"Cost" as used in this subsection shall mean costs of construction, acquisition of lands, structures,

rights-of-way, franchises, easements and other property rights and interests; costs of demolition, removal or relocation of buildings or structures; costs of labor, materials, machinery and all other kinds of equipment; financing charges; interest on bonds and other borrowing in connection with a project prior to and during construction thereof and for a period not exceeding one year after the completion of such construction; costs of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of costs and of revenues, feasibility studies, administrative expenses, including administrative expenses during the start-up of any facility; provision of working capital to be used in connection with any project; reserve funds and other reserves for the payment of principal and interest on bonds; and all other expenses necessary, desirable or incidental to the construction and acquisition of projects, the financing of the same or placing of the same in operation.

Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the Authority, or a mortgage or a deed of trust or other lien on or a security interest in, any particular project or projects or other property of the Authority.

Neither the members of the Authority nor any person executing any bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof and neither the Commonwealth nor any political subdivision thereof other than the Authority shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the Authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of the Authority are declared to be issued for an essential public and governmental purpose.

§ 11. Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest payable at such time or times at such rate or rates, as may be determined by the Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents, designated by the Authority under guidelines established by the Authority, and may be made redeemable before maturity, at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange and payment of the bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of the Authority.

Prior to the preparation of definitive bonds the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

§ 12. In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust indenture by way of conveyance, deed of trust or mortgage of any project or any other property of the Authority, whether or not financed in whole or in part from the proceeds of such bonds, or by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth or

by both such conveyance, deed of trust or mortgage and indenture or trust agreement. Such trust indenture or agreement, or the resolution providing for the issuance of such bonds may pledge or assign fees, rents and other charges to be received. Such trust indenture or agreement, or resolution providing for the issuance of such bonds, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustees under any trust indenture or agreement of any project, or part thereof, upon any default under the lease or sale of such project, setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of any project or other property of the Authority, the amounts of fees, rents and other charges to be charged, the collection of such fees, rents, and other charges, and the custody, safeguarding and application of all moneys of the Authority, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state which may act as depository of the proceeds of such bonds or of other revenues of the Authority to furnish indemnifying bonds or to pledge such securities as may be required by the Authority. Such trust indenture or agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders.

In addition to the foregoing, such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders, including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of any rights of the Authority in any project owned by, or leases or sales of any projects made by, the Authority. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the cost of a project.

§ 13. The Authority is hereby authorized to fix, revise, charge and collect fees, rents and other charges for the use of any project. Such fees, rents and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the principal and any interest on bonds secured by or otherwise to be paid by such revenues, as the same shall become due and payable, to create reserves for such purposes and for other purposes of the Authority and to pay the cost of maintaining, repairing and operating the project. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or any such participating political subdivision. The fees, rents and other charges received by the Authority may be applied and set aside from time to time in the order and in the manner as may be provided in such resolution or trust indenture or agreement including application to a sinking fund which may be pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. All pledges of such fees, rents and other charges to payment of bonds shall be valid and binding from the time when the pledge is made. The fees, rents and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. Except as may otherwise be provided in such resolution or such trust indenture or agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

§ 14. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act.

§ 15. Any holder of bonds, notes, certificates or other evidence of borrowing issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, except to the extent of the rights herein given may be restricted by such trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture or agreement or the resolution authorizing the issuance of such bonds, notes or certificates, and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges.

§ 16. The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Authority is authorized to undertake will constitute the performance of an essential governmental function, no authority shall be

required to pay any taxes or assessments upon any project acquired and constructed by it under the provisions of this act; and the bonds, notes, certificates or other evidences of debt issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 17. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with or received by any State or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligation is now or may hereafter be authorized by law.

§ 18. This act shall constitute full and complete authority, without regard to the provisions of any other law, for the doing of the acts and things herein authorized, and shall be liberally construed to effect the purposes hereof. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act.

2. That § 11-45 of the Code of Virginia is amended and reenacted as follows:

§ 11-45. Exceptions to requirement for competitive procurement.

A. Any public body may enter into contracts without competition for the purchase of goods or services (i) which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or (ii) which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

B. Any public body may enter into contracts without competition for (i) legal services, provided that the pertinent provisions of Chapter 11 (§ 2.1-117 et seq.) of Title 2.1 remain applicable; or (ii) expert witnesses and other services associated with litigation or regulatory proceedings.

C. Any public body may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

D. An industrial development authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.2-4902.

E. The Department of Alcoholic Beverage Control may procure alcoholic beverages without competitive sealed bidding or competitive negotiation.

F. Any public body administering public assistance programs as defined in § 63.1-87, the fuel assistance program, community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.1-745 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 11-41.

G. Any public body may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

H. The Department of Health may enter into contracts with laboratories providing cytology and related services without competitive sealed bidding or competitive negotiation if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

I. The Director of the Department of Medical Assistance Services may enter into contracts without competitive sealed bidding or competitive negotiation for special services provided for eligible recipients pursuant to § 32.1-325 E, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

J. The Virginia Code Commission may enter into contracts without competitive sealed bidding or competitive negotiation when procuring the services of a publisher, pursuant to §§ 9-77.7 and 9-77.8, to publish the Code of Virginia or the Virginia Administrative Code.

K. (Effective until July 1, 2003) The State Health Commissioner may enter into agreements or contracts without competitive sealed bidding or competitive negotiation for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

L. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without competition with respect to the exercise of any of its powers permitted by § 15.2-5158; however, this exception shall not apply in cases where any public funds other than special assessments and incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

M. Virginia Correctional Enterprises may enter into contracts without competitive sealed bidding or competitive negotiation when procuring materials, supplies, or services for use in and support of its production facilities, provided such procurement is accomplished using procedures which ensure the efficient use of funds as practicable and, at a minimum, shall include obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

N. The Virginia Baseball Stadium Authority may enter into agreements or contracts without competitive sealed bidding or competitive negotiation for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

O. The Department of Health may procure child restraint devices, pursuant to § 46.2-1097, without competitive sealed bidding or competitive negotiation.

P. With the consent of the Governor, the Jamestown-Yorktown Foundation may enter into agreements or contracts with private entities without competitive sealed bidding or competitive negotiation for the promotion of tourism through marketing provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

Q. The Virginia Racing Commission may designate an entity to administer and promote the Virginia Breeders Fund created pursuant to § 59.1-372.

R. The Chesapeake Hospital Authority may enter into contracts without competitive sealed bidding or competitive negotiation in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966.

S. The Hospital Authority of Norfolk may enter into contracts without competitive sealed bidding or competitive negotiation in the exercise of any power conferred under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2. The Authority shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

T. The Department of Health may enter into contracts without competitive sealed bidding or competitive negotiation for health care services with Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge.

U. The Department for the Aging may enter into contracts with not-for-profit Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or designated area agencies on aging without competitive sealed bidding or competitive negotiation for the administration of elder rights programs.

V. *The Patrick Hospital Authority may enter into contracts without competitive sealed bidding or competitive negotiation in the exercise of any power conferred under the Acts of Assembly of 2000.*

§ 11-45. (Delayed contingent effective date) Exceptions to requirement for competitive procurement.

A. Any public body may enter into contracts without competition for the purchase of goods or services (i) which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or (ii) which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

B. Any public body may enter into contracts without competition for (i) legal services, provided that the pertinent provisions of Chapter 11 (§ 2.1-117 et seq.) of Title 2.1 remain applicable; or (ii) expert witnesses and other services associated with litigation or regulatory proceedings.

C. Any public body may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

D. An industrial development authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.2-4902.

E. The Department of Alcoholic Beverage Control may procure alcoholic beverages without competitive sealed bidding or competitive negotiation.

F. Any public body administering public assistance programs as defined in § 63.1-87, the fuel assistance program, community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.1-745 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 11-41.

G. Any public body may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

H. The Department of Health may enter into contracts with laboratories providing cytology and related services without competitive sealed bidding or competitive negotiation if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

I. The Director of the Department of Medical Assistance Services may enter into contracts without competitive sealed bidding or competitive negotiation for special services provided for eligible recipients pursuant to § 32.1-325 H, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

J. The Virginia Code Commission may enter into contracts without competitive sealed bidding or competitive negotiation when procuring the services of a publisher, pursuant to §§ 9-77.7 and 9-77.8, to publish the Code of Virginia or the Virginia Administrative Code.

K. (Effective until July 1, 2003) The State Health Commissioner may enter into agreements or contracts without competitive sealed bidding or competitive negotiation for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

L. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without competition with respect to the exercise of any of its powers permitted by § 15.2-5158; however, this exception shall not apply in cases where any public funds other than special assessments and incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

M. Virginia Correctional Enterprises may enter into contracts without competitive sealed bidding or competitive negotiation when procuring materials, supplies, or services for use in and support of its production facilities, provided such procurement is accomplished using procedures which ensure the efficient use of funds as practicable and, at a minimum, shall include obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

N. The Virginia Baseball Stadium Authority may enter into agreements or contracts without competitive sealed bidding or competitive negotiation for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

O. The Department of Health may procure child restraint devices, pursuant to § 46.2-1097, without competitive sealed bidding or competitive negotiation.

P. With the consent of the Governor, the Jamestown-Yorktown Foundation may enter into agreements or contracts with private entities without competitive sealed bidding or competitive negotiation for the promotion of tourism through marketing provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

Q. The Virginia Racing Commission may designate an entity to administer and promote the Virginia Breeders Fund created pursuant to § 59.1-372.

R. The Chesapeake Hospital Authority may enter into contracts without competitive sealed bidding or competitive negotiation in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966.

S. The Hospital Authority of Norfolk may enter into contracts without competitive sealed bidding or competitive negotiation in the exercise of any power conferred under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2. The Authority shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

T. The Department of Health may enter into contracts without competitive sealed bidding or competitive negotiation for health care services with Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge.

U. The Department for the Aging may enter into contracts with not-for-profit Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or designated area agencies on aging without competitive sealed bidding or competitive negotiation for the administration of elder rights programs.

V. *The Patrick Hospital Authority may enter into contracts without competitive sealed bidding or competitive negotiation in the exercise of any power conferred under the Acts of Assembly of 2000.*

3. That an emergency exists and this act is in force from its passage.