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HOUSE BILL NO. 1426

Offered January 24, 2000

A BILL to amend and reenact §§ 53.1-41, 53.1-47, and 53.1-48 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 53.1-45.6, and to repeal §§ 53.1-49 and 53.1-51 of the Code of Virginia, relating to the Department of Corrections; Virginia Correctional Enterprises.

Patrons—O'Brien, Shuler, Albo, Armstrong, Barlow, Baskerville, Black, Blevins, Bolvin, Brink, Broman, Bryant, Cantor, Cox, Cranwell, Deeds, Devolites, Diamonstein, Drake, Dudley, Grayson, Hall, Hargrove, Harris, Howell, Hull, Ingram, Joannou, Johnson, Jones, J.C., Jones, S.C., Katzen, Keister, Kilgore, Landes, Larrabee, Louderback, Marshall, May, McClure, McDonnell, McEachin, McQuigg, Moran, Morgan, Moss, Nixon, Orrock, Parrish, Purkey, Putney, Reid, Rhodes, Rollison, Ruff, Rust, Sherwood, Suit, Tata, Tate, Van Landingham, Van Yahres, Wagner, Wardrup, Weatherholtz, Williams and Woodrum; Senators: Byrne, Colgan, Edwards, Hanger, Hawkins, Houck, Maxwell, Miller, K.G., Mims, Newman, Norment, Potts, Puckett, Puller, Quayle, Saslaw, Schrock and Ticer

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-41, 53.1-47, and 53.1-48 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 53.1-45.6 as follows:

§ 53.1-41. Opportunities for work and vocational training.

To the extent feasible, it shall be the duty of the Director to provide persons sentenced to the Department with opportunities to work and to participate in vocational training programs as operated by the Department of Correctional Education in accordance with § 22.1-339 et seq. Such work opportunities may include business, industrial, agricultural, highway maintenance and construction, and work release programs as hereafter specified in this article. In addition, prisoners may be employed to improve, repair, work on or cultivate public property or buildings. *The Director shall ensure, whenever possible, that work opportunities, including but not limited to Virginia Correctional Enterprises, are open to the entire inmate population on a competitive basis.*

§ 53.1-47. Purchases by agencies, localities and certain nonprofit organizations.

~~Articles and services produced or manufactured by persons confined in state correctional facilities:~~

~~1. Shall be purchased by all departments, institutions and agencies No department, institution or agency of the Commonwealth which are is supported in whole or in part with funds from the state treasury for their its use or the use of persons whom they assist it assists financially. Except as provided in § 53.1-48, no such articles or services shall be purchased by any department, institution or agency of the Commonwealth from any other source; and shall be required to purchase articles and services produced or manufactured by persons confined in state correctional facilities.~~

~~2. May B. Articles and services produced or manufactured by persons confined in state correctional facilities may be purchased by any county, district of any county, city or town and by any nonprofit organization, including volunteer lifesaving or first aid crews, rescue squads, fire departments, sheltered workshops and community service organizations.~~

§ 53.1-45.6. Virginia Correctional Enterprises; bidding practices.

Virginia Correctional Enterprises ("VCE") shall not (i) use any special bidding practices not available to other bidders; (ii) use any drawings, specifications, quotations or other proprietary information developed by private companies in developing a bid; or (iii) employ design personnel, including, but not limited to, certified interior designers. In conducting its operations, VCE shall be subject to the Virginia Public Procurement Act (§ 11-35 et seq.).

§ 53.1-48. Exceptions as to purchases.

~~The A. Only the Director of the Division of Purchases and Supply may shall be authorized to exempt a department, institution or agency of the Commonwealth from the provisions of § 53.1-47 in any case where, in the opinion of the Director, the article so produced or manufactured does not meet the reasonable requirements of such department, institution or agency, or the requisition made cannot be complied with on account of an insufficient supply of the articles or supplies required, or otherwise. Determinations regarding requests for exemptions from the provisions of § 53.1-47 shall be made within thirty days of receipt by the Director of Purchases and Supply. In any case where the Director of Purchases and Supply grants an exemption from the provisions of § 53.1-47, he shall submit a written justification for the exemption to the Director of the Department of Corrections.~~

~~B. The use of actual or implied threats by VCE or any of its employees relative to conducting business with any state department, institution or agency, or the enforcement of the the provisions of~~

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60 § 53.1-47 shall be strictly prohibited.

61 2. That the Virginia Correctional Enterprises Advisory Board and the Department of Corrections
62 shall report to the Governor and General Assembly regarding the status and progress made
63 towards elimination of the mandatory source requirement provided in § 53.1-47 on or before
64 December 1 in each of the following years: 2001, 2002 and 2003.

65 3. That The Director of the Division of Purchases and Supply shall adopt and publish guidelines
66 for reviewing requests for exemptions from the provisions of § 53.1-47 on or before January 1,
67 2001.

68 4. That §§ 53.1-49 and 53.1-51 of the Code of Virginia are repealed.

69 5. That the provisions the first and fourth enactments of this act shall become effective on January
70 1, 2002, except that §§ 53.1-41, 53.1-45.6, and 53.1-48 of the first enactment of this act shall
71 become effective on July 1, 2000.