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HOUSE BILL NO. 2303

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation)

(Patron Prior to Substitute—Delegate Wardrup)

House Amendments in [] — February 4, 2001

A BILL to amend and reenact § 33.1-191 of the Code of Virginia, relating to contracts with the Virginia Department of Transportation; penalties for violation of terms or conditions of permits or contracts.

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-191 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-191. Contracts.

Every contractor whose bid is accepted shall, before commencing work, enter into a contract with the Commonwealth Transportation Commissioner, which shall fully set out the time when work shall commence and when the contract shall be completed, as well as the time and manner for the payment for the work. [The contract shall require that the contractor comply with all requirements, conditions, and terms of the contract, including but not limited to environmental permits that are part of the contract. If the contractor violates a contract provision that results in environmental damage, or violates environmental laws or environmental permits, the Department may recover either (i) the loss or damage that the Department suffers as a result of such violation, or (ii) any liquidated damages established in such contract, plus (iii) reasonable attorney's fees and expert witness fees. Any damages and costs collected under this section shall be deposited into the Transportation Trust Fund and used for transportation purposes as determined by the Commonwealth Transportation Board.] Whenever the Commissioner or his designee publicly opens and announces all bids received for each invitation to bid, it shall be announced at the same time if the lowest read bid exceeds the maximum tolerance of the Department's estimate for the work represented by that bid.

[Every contractor whose bid is accepted and enters into a contract with the Department pursuant to this section, shall comply with all requirements, conditions, and terms of the contract, including but not limited to environmental permits that are part of the contract. If the contractor violates a contract provision that results in environmental damage, environmental laws or environmental permits, the Department may recover the Department's costs associated with the violation and assess penalties against the contractor. Such penalties may include, but shall not necessarily be limited to imposition of civil penalties, suspension from bidding, and/or debarment. The Department may provide for such penalties by terms of contracts or by Departmental policies or both. The Assistant Commissioner for the Environment, Transportation Planning, and Regulatory Affairs shall administer any such program of penalties as authorized by this section. Any civil penalties imposed and collected under this section shall be deposited into the Transportation Trust Fund and used for transportation purposes as determined by the Commonwealth Transportation Board. Any civil penalties imposed under this section shall be pursuant to specifications or policies adopted by the Department, and shall not be applied to violations that occurred before such specifications or policies were adopted.]

ENGROSSED

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