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SENATE BILL NO. 447

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact § 2.2-1132 of the Code of Virginia, relating to the Department of General Services; capital outlay projects; LEED standards applicable to certain buildings.

Patrons—Petersen and Puller; Delegates: Bulova, Ebbin, Hull, Marsden, Moran, Scott, J.M., Sickles, Toscano and Watts

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1132 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-1132. Administration of capital outlay construction; exception for certain educational institutions.

A. The Division shall provide assistance in the administration of capital outlay construction projects set forth in the appropriation act, other than highway construction undertaken by the Department of Transportation and the acquisition or improvement of specialized cargo-handling equipment and related port infrastructure including, but not limited to, port construction, renovation, and demolition that is required in a timely manner to meet market demands to enhance commerce through the Virginia Port Authority, the review and approval of plans and specifications, and acceptance of completed projects.

B. The Division may establish standards, as needed, for construction by the Commonwealth and may, with the advice of the Attorney General, establish standard contract provisions and procedures for the procurement and administration of construction and for the procurement and administration of architectural and engineering services relating to construction, which shall be used by all departments, agencies and institutions of the Commonwealth.

1. All departments, agencies and institutions of the Commonwealth shall ensure that the design and construction of state-owned buildings *that encompass a total of area of over 10,000 square feet* comply with the standards governing energy use and efficiency established by the Division. The standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the Commonwealth when project costs are reduced by the contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining the cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

2. All departments, agencies, and institutions of the Commonwealth shall ensure that the design and construction of state-owned buildings *that encompass a total of area of 10,000 square feet or less* comply with the LEED Silver standard established by the United States Green Building Council. Any department, agency, or institution may request that a specific proposed building be exempted from this requirement by appeal to the Division through an appeals process established by the Division. The appeals process shall include a provision requiring that a department, agency, or institution demonstrate that the project requirements would result in a cost that is at least 15 percent higher than the desired design cost if the project were built to the LEED Silver Standard.

For the purposes of this subdivision, "LEED standard" means the United States Green Building Council's Leadership in Energy and Environment Design (LEED) green building rating standard.

C. Notwithstanding any standards established by the Division or law to the contrary except as provided in this subsection, any public institution of higher education that has in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the appropriation act may enter into contracts for specific construction projects without the preliminary review and approval of the Division, provided such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the Division and the Office of the Attorney General. The authority granted in this subsection shall only become effective if the institution meets the conditions prescribed in subsection B of § 23-38.88. The Secretary of Administration shall establish guidelines to assist institutions in evaluating alternative project delivery methods prior to entering into a contract. For projects constructed pursuant to this subsection, the responsibility of the Division of Engineering and Buildings shall be as set forth in subsection C of § 36-98.1.

For purposes of this section, "construction" shall include new construction, reconstruction, renovation, restoration, major repair, demolition and all similar work upon buildings and ancillary facilities owned

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58 or to be acquired by the Commonwealth. It shall not include buildings or other facilities ancillary to the
59 use of state highways that are located within the right-of-way of any state highway, or assets for use by
60 the Virginia Port Authority within the boundaries of property owned or leased by the Virginia Port
61 Authority.