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## SENATE BILL NO. 1314

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology  
on February 4, 2009)

(Patron Prior to Substitute—Senator Colgan)

A BILL to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 22, consisting of sections numbered 2.2-2462 through 2.2-2467, relating to the Board for Purchases of Services from People with Severe Disabilities.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 22, consisting of sections numbered 2.2-2462 through 2.2-2467, as follows:

## Article 22.

## Board for Purchases of Services from People with Severe Disabilities.

## § 2.2-2462. Definitions.

As used in this article:

"Board" means the Board for Purchases of Services from People with Severe Disabilities.

"Direct labor" means all work required for the provision of services purchased, excluding supervision, administration, and inspection.

"People with severe disabilities" means an individual or class of individuals under a physical, mental, or sensory disability, which constitutes a substantial barrier to employment.

"Political subdivision" means any county, city, town, or other local or regional political subdivision.

"Procurement list" means a list consisting of services provided by entities that the Board determines are suitable for procurement by state agencies and political subdivisions of the Commonwealth.

"Qualified nonprofit entity for people with severe disabilities" means an entity that (i) is organized under the laws of the Commonwealth as a vocational services provider, operated in the interests of people with severe disabilities, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individuals, (ii) complies with any applicable occupational health and safety standard prescribed by the Department of Labor and Industry, and (iii) during the provision of any services procured by a state agency or political subdivision, employs people with severe disabilities for not less than 60 percent of the time during the first year and 75 percent of the time in subsequent years of man hours of direct labor required for the provision of such services.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government.

§ 2.2-2463. The Board for Purchases of Services from People with Severe Disabilities established; purpose.

A. The Board for Purchases of Services from People with Severe Disabilities (the Board) is established as a policy board in the executive branch of state government. The purpose of the Board shall be to encourage state agencies and political subdivisions of the Commonwealth to purchase services provided by persons with severe disabilities as a means of increasing employment opportunities.

B. The Board shall have a total membership of ten nonlegislative members appointed by the Governor as follows: (i) one official or employee representing each of the following secretariats: Administration, Education, Health and Human Resources, Public Safety, and Transportation; (ii) one representative from the Virginia Association of Counties; (iii) one representative from the Virginia Municipal League; (iv) two members who are not officers or employees of state or local government and who have experience with the problems incident to the employment of people with severe disabilities; and (v) one member who is not an officer or employee of state or local government and who represents people with severe disabilities employed in qualified nonprofit entities.

C. After initial staggered terms, members shall serve a term of four years; however, no member shall serve more than two consecutive four-year terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Board shall meet not less than four times each year. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

E. Members shall serve without compensation. However, all members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in

60 §§ 2.2-2813 and 2.2-2825 from funds appropriated for the Board by the General Assembly and any  
61 funds received by the Board from other sources.

62 § 2.2-2464. Powers and duties of the Board.

63 The Board shall have the power and duty to:

64 1. Establish and publish a procurement list of services provided by qualified nonprofit entities for  
65 people with severe disabilities;

66 2. Determine the fair market price of services that are contained on the procurement list and offered  
67 for sale to state agencies and political subdivisions by any qualified nonprofit entity for people with  
68 severe disabilities. The Board shall revise from time to time in accordance with changing market  
69 conditions the price determinations for services included on the procurement list;

70 3. Select through a competitive process a central nonprofit entity to facilitate the distribution, by  
71 direct allocation, subcontract, or any other means, of the procurement orders of state agencies and  
72 political subdivisions for services on the procurement list among qualified nonprofit entities for people  
73 with severe disabilities. The entity so selected shall be reimbursed from funds appropriated to the Board  
74 or the Board shall submit to the Department of Planning and Budget for prior approval any associated  
75 fee structure to be paid to the central non-profit entity;

76 4. Develop guidelines regarding specifications for services on the procurement list and the time of  
77 delivery for such services; and

78 5. Study problems related to the employment of people with severe disabilities and the development  
79 and adaptation of production methods that would enable a greater utilization of people with severe  
80 disabilities.

81 6. Establish, in consultation with executive branch entities and institutions with procurement policy  
82 responsibilities, guidelines for the procurement of services available from the procurement list. Such  
83 guidelines shall be consistent with prevailing law and regulations.

84 § 2.2-2465. Procurement from qualified nonprofit entities for people with severe disabilities.

85 A. The Board shall publish a procurement list of services provided by qualified nonprofit entities for  
86 people with severe disabilities that are currently provided and/or available to state agencies and  
87 political subdivisions.

88 B. State agencies or political subdivisions may procure services and renew service contracts on the  
89 procurement list created by the Board without competition. Such services shall be procured at the price  
90 established by the Board from a qualified nonprofit entity for people with severe disabilities if the  
91 service is available within the period required by the state agency or political subdivision. State  
92 agencies and political subdivisions shall use the fair market price established by the board for  
93 determination of reasonableness when procuring services from a qualified nonprofit entity for people  
94 with severe disabilities.

95 § 2.2-2466. Report.

96 On or before November 30 of each year, the Board shall report to the Governor and the General  
97 Assembly on the activities of the Board.

98 § 2.2-2467. Staffing.

99 The Governor shall appoint an executive director who shall be authorized to employ such staff as  
100 necessary from funds appropriated to the Board by the General Assembly and any funds received by the  
101 Board from other sources to enable the Board to achieve its goals. All agencies of the Commonwealth  
102 shall provide assistance to the Board, upon request, subject to availability of agency resources and  
103 reimbursement by the Board for all expenses incurred.

104 2. That the initial terms of the members of the Board shall be staggered as follows: (i) three  
105 members shall be appointed to a term of two years, (ii) four members shall be appointed to a term  
106 of three years, and (iii) three members shall be appointed to a term of four years.

107 3. That the provisions of this act shall not become effective unless an appropriation of general  
108 funds effectuating the purposes of this act is included in the general appropriation act passed by  
109 the 2009 session of the General Assembly, which becomes law.