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HOUSE BILL NO. 2448

Offered January 19, 2011

A BILL to amend and reenact §§ 2.2-3104.01, 2.2-4376.1, 56-573.3, and 56-575.17:1 of the Code of Virginia, relating to political contributions; prohibition during procurement process.

Patron—Gilbert

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3104.01, 2.2-4376.1, 56-573.3, and 56-575.17:1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3104.01. Prohibited conduct; bids or proposals under the Virginia Public Procurement Act, Public-Private Transportation Act, and Public-Private Education Facilities and Infrastructure Act.

A. Neither the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an *executive branch* agency with jurisdiction over the matters at issue, shall knowingly solicit or accept a contribution, gift, or other item with a value greater than \$50 from any bidder, offeror, or private entity, or from an officer or director of such bidder, offeror, or private entity, who has submitted a bid or proposal to an *executive branch agency that is directly responsible to the Governor* pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) (i) during the period between the submission of the bid and the award of the public contract under the Virginia Public Procurement Act or (ii) following the submission of a proposal under the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002 until the execution of a comprehensive agreement thereunder.

B. The provisions of this section shall apply only for public contracts, proposals, or comprehensive agreements where the stated or expected value of the contract is \$5 million or more. The provisions of this section shall not apply to contracts awarded as the result of competitive sealed bidding as defined in § 2.2-4301.

C. Any person who *knowingly* violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund.

§ 2.2-4376.1. Contributions and gifts; prohibition during procurement process.

A. No bidder or offeror who has submitted a bid or proposal to a ~~state~~ *an executive branch agency that is directly responsible to the Governor* for the award of a public contract pursuant to this chapter, and no individual who is an officer or director of such a bidder or offeror, shall knowingly provide a contribution, gift, or other item with a value greater than \$50 or make an express or implied promise to make such a contribution or gift to the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an *executive branch* agency with jurisdiction over the matters at issue, during the period between the submission of the bid and the award of the public contract under this chapter. The provisions of this section shall apply only for public contracts where the stated or expected value of the contract is \$5 million or more. The provisions of this section shall not apply to contracts awarded as the result of competitive sealed bidding.

B. Any person who *knowingly* violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund.

§ 56-573.3. Contributions and gifts; prohibition during approval process.

A. No private entity that has submitted a bid or proposal to a ~~public entity~~ *an executive branch agency that is directly responsible to the Governor* and is seeking to develop or operate a transportation facility pursuant to this chapter, and no individual who is an officer or director of such private entity, shall knowingly provide a contribution, gift, or other item with a value greater than \$50 or make an express or implied promise to make such a contribution or gift to the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an *executive branch* agency with jurisdiction over the matters at issue, following the submission of a proposal under this chapter until the execution of a comprehensive agreement thereunder. The provisions of this section shall apply only for any proposal or an interim or comprehensive agreement where the stated or

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59 expected value of the contract is \$5 million or more.

60 B. Any person who *knowingly* violates this section shall be subject to a civil penalty of \$500 or up
61 to two times the amount of the contribution or gift, whichever is greater. The attorney for the
62 Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected
63 shall be payable to the State Treasurer for deposit to the general fund.

64 § 56-575.17:1. Contributions and gifts; prohibition during approval process.

65 A. No private entity that has submitted a bid or proposal to a ~~public entity~~ *an executive branch*
66 *agency that is directly responsible to the Governor* and is seeking to develop or operate a qualifying
67 project pursuant to this chapter, and no individual who is an officer or director of such a private entity,
68 shall knowingly provide a contribution, gift, or other item with a value greater than \$50 or make an
69 express or implied promise to make such a contribution or gift to the Governor, his political action
70 committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an *executive*
71 *branch* agency with jurisdiction over the matters at issue, following the submission of a proposal under
72 this chapter until the execution of a comprehensive agreement thereunder. The provisions of this section
73 shall apply only for any proposal or an interim or comprehensive agreement where the stated or
74 expected value of the contract is \$5 million or more.

75 B. Any person who *knowingly* violates this section shall be subject to a civil penalty of \$500 or up
76 to two times the amount of the contribution or gift, whichever is greater. The attorney for the
77 Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected
78 shall be payable to the State Treasurer for deposit to the general fund.