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HOUSE BILL NO. 667

Offered January 11, 2012

Prefiled January 11, 2012

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; prohibitions during procurement process.

Patron—Surovell

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 (i) 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, nor (ii) the mayor or chief executive officer of a locality or school superintendent or any member of a local governing body, planning commission, or school board 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 (i) an executive branch agency that is directly responsible to the Governor or (ii) a political subdivision as defined in § 15.2-2701 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 (a) 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, or (b) the mayor or chief executive officer of a locality or school superintendent or any member of a local governing body, planning commission, or school board, 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 (i) public entity that is an executive branch agency directly responsible to the Governor or (ii) political subdivision as defined in § 15.2-2701 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

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59 item with a value greater than \$50 or make an express or implied promise to make such a contribution
60 or gift to (a) the Governor, his political action committee, or the Governor's Secretaries, if the Secretary
61 is responsible to the Governor for an executive branch agency with jurisdiction over the matters at issue,
62 or (b) the mayor or chief executive officer of a locality or school superintendent or any member of a
63 local governing body, planning commission, or school board, following the submission of a proposal
64 under this chapter until the execution of a comprehensive agreement thereunder. The provisions of this
65 section shall apply only for any proposal or an interim or comprehensive agreement where the stated or
66 expected value of the contract is \$5 million or more.

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

71 § 56-575.17:1. Contributions and gifts; prohibition during approval process.

72 A. No private entity that has submitted a bid or proposal to a public entity that is (i) an executive
73 branch agency directly responsible to the Governor or (ii) a political subdivision as defined in
74 § 15.2-2701 and is seeking to develop or operate a qualifying project pursuant to this chapter, and no
75 individual who is an officer or director of such a private entity, shall knowingly provide a contribution,
76 gift, or other item with a value greater than \$50 or make an express or implied promise to make such a
77 contribution or gift to (a) the Governor, his political action committee, or the Governor's Secretaries, if
78 the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the
79 matters at issue, or (b) the mayor or chief executive officer of a locality or school superintendent or any
80 member of a local governing body, planning commission, or school board, following the submission of
81 a proposal under this chapter until the execution of a comprehensive agreement thereunder. The
82 provisions of this section shall apply only for any proposal or an interim or comprehensive agreement
83 where the stated or expected value of the contract is \$5 million or more.

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