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SENATE BILL NO. 652

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 7, 2018)

(Patron Prior to Substitute—Senator McPike)

A BILL to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 27, consisting of sections numbered 2.2-2491 through 2.2-2496, relating to the Board for Purchases of Services from People with Severe Disabilities; report.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in in Chapter 24 of Title 2.2 an article numbered 27, consisting of sections numbered 2.2-2491 through 2.2-2496, as follows:

Article 27.

Board for Purchases of Services from People with Severe Disabilities.

§ 2.2-2491. Definitions.

As used in this article, unless the context requires a different meaning:

"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 that constitutes a substantial barrier to employment.

"Political subdivision" means the same as that term is defined in § 15.2-2701.

"Procurement list" means a list consisting of services (i) provided by qualified nonprofit entities, (ii) that are currently available, and (iii) that the Board determines are suitable for procurement by state agencies and political subdivisions of the Commonwealth.

"Qualified nonprofit entity" means an entity that (i) is organized under the laws of the Commonwealth and operated in the interests of people with severe disabilities, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code; (iii) complies with any applicable occupational health and safety standards prescribed by the Department of Labor and Industry; and (iv) during the provision of any services under a contract procured by a state agency or political subdivision, employs people with severe disabilities for not less than (a) 60 percent of the man-hours of direct labor required for such services during the first year and (b) 75 percent of the man-hours of direct labor required for such services during any subsequent years they are provided.

"State agency" means the same as that term is defined in § 2.2-4347.

§ 2.2-2492. Board for Purchases of Services from People with Severe Disabilities; purpose; membership.

A. The Board for Purchases of Services from People with Severe Disabilities 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 for such persons.

B. The Board shall have a total membership of 12 members. Ten nonlegislative citizen members shall be 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 Homeland Security, 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 challenges unique 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 by qualified nonprofit entities. The staff directors of the House Committee on Appropriations and the Senate Committee on Finance shall serve as ex officio members with voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

C. After initial staggered terms, nonlegislative citizen members shall be appointed for a term of four years; however, no member shall serve more than two consecutive four-year terms. 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. 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.

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

60 meetings of the Board shall be held at the call of the chairman or whenever the majority of the
61 members so request.

62 E. Members shall serve without compensation. However, all members shall be reimbursed for all
63 reasonable and necessary expenses incurred in the performance of their duties as provided in
64 §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the
65 Department of General Services.

66 **§ 2.2-2493. Powers and duties of the Board.**

67 The Board shall have the power and duty to:

68 1. Establish and publish a procurement list;

69 2. Determine the fair market price of the services included on the procurement list and make
70 revisions to the prices of such services from time to time and in accordance with changing market
71 conditions;

72 3. Select through a competitive process a central nonprofit entity to facilitate the distribution, by
73 direct allocation, subcontract, or any other means, of the procurement orders of state agencies and
74 political subdivisions for services on the procurement list among qualified nonprofit entities;

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

77 5. Study the challenges unique to the employment of people with severe disabilities and the
78 development and adaption of production methods that would enable a greater utilization of people with
79 severe disabilities; and

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

83 **§ 2.2-2494. Procurement from qualified nonprofit entities.**

84 State agencies or political subdivisions may procure services and renew service contracts on the
85 procurement list created by the Board without competition. Such services shall be procured at the price
86 established by the Board from a qualified nonprofit entity if the service is available within the period
87 required by the state agency or political subdivision. State agencies and political subdivisions shall use
88 the fair market price established by the Board for determination of reasonableness when procuring
89 services from a qualified nonprofit entity.

90 **§ 2.2-2495. Report.**

91 On or before November 30 of each year, the Board shall submit to the Governor and the General
92 Assembly an annual executive summary of the interim activity and work of the Board no later than the
93 first day of each regular session of the General Assembly. The executive summary shall be submitted as
94 a report document as provided in the procedures of the Division of Legislative Automated Systems for
95 the processing of legislative documents and reports and shall be posted on the General Assembly's
96 website.

97 **§ 2.2-2496. Staffing.**

98 The Department of General Services, and such other executive branch agencies as the Governor may
99 designate, shall provide staff support to the Board. All agencies of the Commonwealth shall provide
100 assistance to the Board, upon request.

101 **2. That the initial appointments of nonlegislative citizen members of the Board for Purchases of**
102 **Services from People with Severe Disabilities shall be staggered as follows: (i) two members**
103 **representing the secretariats shall be appointed for a term of one year, one member representing**
104 **the secretariats shall be appointed for a term of two years, one member representing the**
105 **secretariats shall be appointed for a term of three years, and one member representing the**
106 **secretariats shall be appointed for a term of four years; (ii) the representative from the Virginia**
107 **Association of Counties shall be appointed for a term of three years; (iii) the representative from**
108 **the Virginia Municipal League shall be appointed for a term of two years; (iv) one member who is**
109 **not an officer or employee of state government and who has experience with the challenges unique**
110 **to the employment of people with severe disabilities shall be appointed for a term of three years**
111 **and one member who is not an officer or employee of state government and who has experience**
112 **with the challenges unique to the employment of people with severe disabilities shall be appointed**
113 **for a term of four years; and (v) the member who is not an officer or employee of state**
114 **government and who represents people with severe disabilities employed in qualified nonprofit**
115 **entities shall be appointed for a term of four years.**