

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 897

*An Act to amend and reenact §§ 11-45 and 15.1-1241 of the Code of Virginia, relating to community development authorities; procurement exemption.*

[H 805]

Approved April 10, 1996

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 11-45 and 15.1-1241 of the Code of Virginia are amended and reenacted as follows:**

§ 11-45. Exceptions to requirement for competitive procurement.

A. Any public body may enter into contracts without competition for the purchase of goods or services (i) which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or (ii) which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

B. Any public body may enter into contracts without competition for (i) legal services, provided that the pertinent provisions of Chapter 11 (§ 2.1-117 et seq.) of Title 2.1 remain applicable; or (ii) expert witnesses and other services associated with litigation or regulatory proceedings.

C. Any public body may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

D. An industrial development authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.1-1374 (d).

E. The Department of Alcoholic Beverage Control may procure alcoholic beverages without competitive sealed bidding or competitive negotiation.

F. Any public body administering public assistance programs as defined in § 63.1-87, the fuel assistance program, community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.1-745 et seq.) may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 11-41.

G. Any public body may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

H. The Department of Health may enter into contracts with laboratories providing cytology and related services without competitive sealed bidding or competitive negotiation if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

I. The Director of the Department of Medical Assistance Services may enter into contracts without competitive sealed bidding or competitive negotiation for special services provided for eligible recipients pursuant to § 32.1-325 E, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

J. The Virginia Code Commission may enter into contracts without competitive sealed bidding or competitive negotiation when procuring the services of a publisher, pursuant to §§ 9-77.7 and 9-77.8, to publish the Code of Virginia or the Virginia Administrative Code.

K. The Executive Director of the Virginia Health Services Cost Review Council may enter into agreements or contracts without competitive sealed bidding or competitive negotiation for the compilation, storage, analysis, and evaluation of patient level data pursuant to Article 2 (§ 9-166.1 et seq.) of Chapter 26 of Title 9, if the Executive Director has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination.

*L. A community development authority formed pursuant to subsection B of § 15.1-1241, with members selected pursuant to subdivision 5 of that subsection, may enter into contracts without competition with respect to the exercise of any of its powers permitted by § 15.1-1250.03; however, this exception shall not apply in cases where any public funds other than special assessments and incremental real property taxes levied pursuant to § 15.1-1250.03 are used as payment for such contract.*

*M. Virginia Correctional Enterprises may enter into contracts without competitive sealed bidding or competitive negotiation when procuring materials, supplies, or services for use in and support of its production facilities, provided such procurement is accomplished using procedures which ensure the efficient use of funds as practicable and, at a minimum, shall include obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.*

§ 15.1-1241. One or more political subdivisions may create authority.

A. The governing body of a political subdivision may by ordinance or resolution, or the governing bodies of two or more political subdivisions may by concurrent ordinances or resolutions or by agreement, create a water authority, a sewer authority, a sewage disposal authority, or a garbage and refuse collection and disposal authority, or any combination or parts thereof under an appropriate name and title, containing the word "authority," which shall be a public body politic and corporate. Such ordinance, resolution or agreement shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at a referendum as hereinafter provided, if one be ordered.

B. The owners of at least fifty-one percent of the land area or assessed value of land which is within the boundaries of a proposed authority district in any city; or, which (i) in any county with a population of at least 75,000, contains at least 250 acres, (ii) in any county with a population of less than 50,000 through which an interstate highway passes, *and which* contains at least 3000 acres, a portion of which lies within two miles of the centerline of the right-of-way of an interstate highway, or (iii) in any county with a population between 50,000 and 75,000 through which an interstate highway passes, contains at least 250 acres, may petition for the creation of a community development authority therein, which shall be a public body politic and corporate. However, in any eligible county, the minimum acreage required for a proposed authority district shall be 100 acres for commercial property or for mixed use commercial- and residential-zoned property. Counties over 50,000 in population may modify minimum district size limits where amounts financed equal or exceed three million dollars. *Proposed districts which are within any two or more of a city, a qualifying county or a town may be formed by concurrent ordinances of each locality, and such localities may contract with one another for administration of the district. In counties not otherwise authorized above, and in any town, the county board or town council, following a public hearing, may adopt an ordinance electing to assume the powers conferred by this subsection. If such an ordinance is adopted, the county may thereafter consider petitions for the creation of community development authorities for districts pursuant to this chapter and shall have all of the powers, duties and limitations of this chapter applicable to such authorities.* Such petitions shall:

1. Set forth the name and describe the boundaries of the proposed district;
2. Describe the services and facilities proposed to be undertaken by the development authority within the district;
3. Describe a proposed plan for providing and financing such services and facilities as proposed within the district;
4. Describe the benefits which can be expected from the provision of such services and facilities by the development authority within the district;
5. Provide that the members of the development authority selected under the applicable provisions of § 15.1-1249 shall consist of a majority of petitioning landowners or their designees or nominees; and
6. Request the local governing body to establish the proposed development authority for the purposes set forth in the petition.

~~Upon the filing of such a petition, the governing body may decide whether to hold a public hearing.~~ An ordinance or resolution creating such development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be given by publication once a week for three successive weeks in a newspaper of general circulation within the locality, and the hearing shall not be held sooner than ten days after completion of such publication. The petitioning landowners shall bear the expense of such publication. An ordinance or resolution adopted or approved under this subsection shall not be inconsistent with the petition creating the development authority. Nor shall such ordinance or resolution permit the community development authority to provide services which are provided by, or are obligated to be provided by, any authority then in existence whose charter requires or permits service within the proposed community development district, unless the existing authority first certifies to the governing body that the services provided by the proposed community development authority will not have a negative impact upon the operational or financial condition of such existing authority. Such certification shall not be unreasonably withheld by the existing authority. After the public hearing, the local governing body shall deliver a true copy of its proposed ordinance or resolution creating the

development authority to the petitioning landowners or their attorney in fact. Any petitioning landowner shall then have thirty days in which to withdraw his signature on the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are withdrawn as provided herein, the local governing body may pass the proposed ordinance or resolution in conformance herewith only upon certification that the petition continues to meet the provisions of this subsection with respect to minimum acreage or assessed value as the case may be. The local governing body, upon approving the resolution creating the district, shall direct that a copy of the resolution be recorded in the land records of the circuit court for the locality in which the district is located for each parcel included in the district and be noted on the land books of the locality. For the purposes of this subsection, "parcel" is to be defined as tax map parcel.