

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 11-40 of the Code of Virginia, relating to the Public Procurement Act;*
3 *cooperative procurement.*

4
5 Approved

[H 382]

6 **Be it enacted by the General Assembly of Virginia:**
7 **1. That § 11-40 of the Code of Virginia is amended and reenacted as follows:**

8 § 11-40. Cooperative procurement.

9 A. Any public body may participate in, sponsor, conduct, or administer a cooperative procurement
10 agreement with one or more other public bodies, or agencies of the United States, for the purpose of
11 combining requirements to increase efficiency or reduce administrative expenses. Any public body which
12 enters into a cooperative procurement agreement with a county, city, or town whose governing body has
13 adopted alternative policies and procedures pursuant to § 11-35 C or § 11-35 D of this chapter shall
14 comply with the alternative policies and procedures adopted by the governing body of such county, city,
15 or town.

16 B. Subject to the provisions of §§ 2.1-440, 2.1-442 and 2.1-447, any department, agency, or
17 institution of the Commonwealth may participate in, sponsor, conduct, or administer a cooperative
18 procurement arrangement with private health or educational institutions or with public agencies or
19 institutions of the several states, territories of the United States, or the District of Columbia, for the
20 purpose of combining requirements to effect cost savings or reduce administrative expense in any
21 acquisition of equipment, instrumentation, or medical care supplies. In such instances, deviation from the
22 procurement procedures set forth in the Virginia Public Procurement Act (§ 11-35 et seq.) and the
23 administrative policies and procedures established to implement the Act will be permitted, if approved
24 by the Director of the Division of Purchases and Supply; however, such acquisitions shall be procured
25 competitively. Nothing herein shall prohibit the payment by direct or indirect means of any
26 administrative fee that will allow for participation in any such arrangement.

27 C. *A public body which is also a utility operator may purchase services through or participate in*
28 *contracts awarded by one or more utility operators which are not public bodies for utility marking*
29 *services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A*
30 *purchase of services under this subsection may deviate from the procurement procedures set forth in this*
31 *chapter upon a determination made in advance by the public body and set forth in writing that*
32 *competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the*
33 *contract is awarded based on competitive principles.*