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SENATE BILL NO. 1044

Offered January 20, 1999

A *BILL to amend and reenact §§ 2.1-373 and 11-45 of the Code of Virginia, relating to the Department for the Aging.*

Patron—Forbes

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.1-373 and 11-45 of the Code of Virginia are amended and reenacted as follows:**

§ 2.1-373. Powers and duties of Department with respect to aging persons; area agencies on aging; Commonwealth Council on Aging.

(a) The mission of the Department for the Aging shall be to improve the quality of life for older Virginians; in this chapter, older Virginians means persons aged sixty or older. The Department's policies and programs shall be designed to enable older persons to be as independent and self-sufficient as possible. The Department shall promote local participation in programs for the aging, evaluate and monitor the services provided for older Virginians and provide information to the general public. In furtherance of this mission, the Department's duties shall include, but not be restricted to:

(1) To study the economic and physical condition of the residents in the Commonwealth whose age qualifies them for coverage under Public Law 89-73 or any law amendatory or supplemental thereto of the Congress of the United States, hereinafter referred to as the aging, and the employment, medical, educational, recreational and housing facilities available to them, with the view of determining the needs and problems of such persons;

(2) To determine the services and facilities, private and governmental and state and local, provided for and available to the aging and to recommend to the appropriate person or persons such coordination of and changes in such services and facilities as will make them of greater benefit to the aging and more responsive to their needs;

(3) To act as the single state agency, under Public Law 89-73 or any law amendatory or supplemental thereto of the Congress of the United States, and as the sole agency for administering or supervising the administration of such plans as may be adopted in accordance with the provisions of such law or laws. As such agency, the Department shall have authority to prepare, submit and carry out state plans and shall be the agency primarily responsible for coordinating state programs and activities related to the purposes of, or undertaken under, such plans or laws;

(4) With the approval of the Governor, to apply for and expend such grants, gifts or bequests from any source as may become available in connection with its duties under this section, and is authorized to comply with such conditions and requirements as may be imposed in connection therewith;

(5) To hold such hearings and conduct such investigations as are necessary to pass upon applications for approval of a project under the plans and laws set out in subdivision (3) hereof, and shall make such reports to the Secretary of the United States Department of Health and Human Services as may be required;

(6) [Repealed.]

(7) To designate area agencies on aging pursuant to Public Law 89-73 or any law amendatory or supplemental thereto of the Congress of the United States and to promulgate rules and regulations for the composition and operation of such area agencies on aging;

(8), (9) [Repealed.]

(10) To provide information to consumers and their representatives concerning the recognized features of special care units. Such information shall educate consumers and their representatives on how to choose special care and may include brochures and electronic bulletin board notices;

(11) To provide staff support to the Commonwealth Council on Aging;

(12) To serve as a focal point for research, policy analysis, long-range planning, and education on aging issues.

(13) *To contract with the Virginia Association of Area Agencies on Aging for the administration of elder rights programs under Public Law 89-73, including the long-term care ombudsman program, insurance counseling and assistance, legal assistance development and elder abuse prevention, and to create an informational center regarding elder rights and information.*

(b) The governing body of any county, city or town may appropriate funds for support of area agencies on aging designated pursuant to subdivision (a) (7) hereof.

(c) All agencies of the Commonwealth shall assist the Department in effectuating its functions in

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60 accordance with its designation as the single state agency as required in subdivision (a) (3) above.

61 § 11-45. Exceptions to requirement for competitive procurement.

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

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

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

72 D. An industrial development authority may enter into contracts without competition with respect to
73 any item of cost of "authority facilities" or "facilities" as defined in § 15.2-4902.

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

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

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

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

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

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

105 K. (Effective until July 1, 1999) The State Health Commissioner may enter into agreements or
106 contracts without competitive sealed bidding or competitive negotiation for the compilation, storage,
107 analysis, evaluation, and publication of certain data submitted by health care providers and for the
108 development of a methodology to measure the efficiency and productivity of health care providers
109 pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a
110 determination in advance, after reasonable notice to the public and set forth in writing, that competitive
111 sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public.
112 The writing shall document the basis for this determination. Such agreements and contracts shall be
113 based on competitive principles.

114 L. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter
115 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without
116 competition with respect to the exercise of any of its powers permitted by § 15.2-5158; however, this
117 exception shall not apply in cases where any public funds other than special assessments and
118 incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

119 M. Virginia Correctional Enterprises may enter into contracts without competitive sealed bidding or
120 competitive negotiation when procuring materials, supplies, or services for use in and support of its
121 production facilities, provided such procurement is accomplished using procedures which ensure the

122 efficient use of funds as practicable and, at a minimum, shall include obtaining telephone quotations.
123 Such procedures shall require documentation of the basis for awarding contracts under this section.

124 N. The Virginia Baseball Stadium Authority may enter into agreements or contracts without
125 competitive sealed bidding or competitive negotiation for the operation of any facilities developed under
126 the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with
127 respect to the sale of food, beverages and souvenirs at such facilities.

128 O. The Department of Health may procure child restraint devices, pursuant to § 46.2-1097, without
129 competitive sealed bidding or competitive negotiation.

130 P. With the consent of the Governor, the Jamestown-Yorktown Foundation may enter into
131 agreements or contracts with private entities without competitive sealed bidding or competitive
132 negotiation for the promotion of tourism through marketing provided a demonstrable cost savings, as
133 reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or
134 contracts are based on competitive principles.

135 Q. The Virginia Racing Commission may designate an entity to administer and promote the Virginia
136 Breeders Fund created pursuant to § 59.1-372.

137 R. The Chesapeake Hospital Authority may enter into contracts without competitive sealed bidding or
138 competitive negotiation in the exercise of any power conferred under Chapter 271, as amended, of the
139 Acts of Assembly of 1966.

140 S. The Hospital Authority of Norfolk may enter into contracts without competitive sealed bidding or
141 competitive negotiation in the exercise of any power conferred under Chapter 53 (§ 15.2-5300 et seq.) of
142 Title 15.2. The Authority shall not discriminate against any person on the basis of race, color, religion,
143 national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability
144 in the procurement of goods and services.

145 *T. The Department for the Aging may enter into contracts without competitive sealed bidding or*
146 *competitive negotiation with currently designated area agencies on aging or their collective*
147 *representative for the administration of elder rights programs under Public Law 89-73.*