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HOUSE BILL NO. 1358

Offered January 9, 2008

Prefiled January 9, 2008

A *BILL to amend and reenact §§ 2.2-1111 and 2.2-5513 of the Code of Virginia, relating to the procurement of services by certain state agencies; commercial activities.*

Patron—Cline

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That 2.2-1111 and 2.2-5513 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1111. Purchases to be made in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and regulations of Division; exempt purchases.

A. All purchases made by any department, division, officer or agency of the Commonwealth shall be made in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and such regulations as the Division may prescribe.

B. The regulations adopted by the Division shall:

1. Include a purchasing plan that shall be on file at the Division and shall be available to the public upon request;

2. Require that before any public body procures any computer system, equipment or software, it shall consider whether the proposed system, equipment or software is capable of producing products that facilitate the rights of the public to access official records under the Freedom of Information Act (§ 2.2-3700 et seq.) or other applicable law;

3. Require state public bodies to procure only shielded outdoor light fixtures and provide for waivers of this requirement when the Division determines that a bona fide operational, temporary, safety or specific aesthetic need is indicated or that such fixtures are not cost effective over the life cycle of the fixtures. For the purposes of this subdivision, "shielded outdoor light fixture" means an outdoor light fixture that is (i) fully shielded so that no light rays are emitted by the installed fixture above the horizontal plane or (ii) constructed so that no more than two percent of the total luminaire lumens in the zone of 90 to 180 degrees vertical angle is permitted, if the related output of the luminaire is greater than 3200 lumens. In adopting regulations under this subdivision, the Division shall consider national standards for outdoor lighting as adopted by the Illuminating Engineering Society of North America (IESNA).

For any project initiated on or after July 1, 2003, the Virginia Department of Transportation shall design all lighting systems in accordance with current IESNA standards and recommended practices. The lighting system shall utilize fixtures that minimize glare, light trespass, and skyglow, all as defined by the IESNA, while still providing a comfortable, visually effective, safe, and secure outdoor environment in a cost-effective manner over the life cycle of the lighting system.

4. Establish the conditions under which a public body may use, as a basis for the procurement of goods and nonprofessional services, a particular vendor's contract-pricing that has been negotiated and accepted by the U.S. General Services Administration;

5. Establish procurement preferences for products containing recycled oil (including reprocessed and rerefined oil products) and recycled antifreeze no later than December 31, 2002;

6. Establish conditions under which a public body shall demonstrate a good faith effort to ensure that state contracts or subcontracts for goods or services that involve the manual packaging of bulk supplies or the manual assemblage of goods where individual items weigh less than 50 pounds be offered to nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped; and

7. Require that on or before October 1, 2009 2008, and every two years thereafter, the Director of the Department of General Services shall solicit from each state agency and public institution of higher education a list of procurements falling under the Department's authority services that were competed with the private sector that appear on the Commonwealth Competition Council's commercial activities list and were, until that time, being performed by each state agency and public institution of higher education during the previous two years, and the outcome of that competition. The Director shall make the lists available to the public on the Department of General Services' website.

C. The Division may make, alter, amend or repeal regulations relating to the purchase of materials, supplies, equipment, nonprofessional services, and printing, and may specifically exempt purchases below a stated amount or particular agencies or specified materials, equipment, nonprofessional services,

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59 supplies and printing.

60 § 2.2-5513. Responsibilities of Governor to ensure efficiency in government.

61 A. The Governor shall cause to be conducted an examination of the commercial activities that are
62 being performed by state employees at state agencies and institutions to ensure such activities are being
63 accomplished in the most cost-efficient and effective manner.

64 B. The examination required by subsection A shall be completed at least once in every two-year
65 period and may be conducted entirely by a commercial source through a solicitation process as provided
66 in the Virginia Public Procurement Act (§ 2.2-4300 et seq.) or the Public-Private Education Facilities
67 and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

68 C. The examination required by subsection A shall consider at least three commercial activities as the
69 Governor or the commercial source may identify.

70 D. Upon determination that outsourcing a commercial activity may result in reduced costs or
71 otherwise provide a measurable benefit to the Commonwealth and to assure such activities are being
72 accomplished in the most cost efficient and effective manner, the Governor shall cause that commercial
73 activity to be competed in accordance with the Virginia Public Procurement Act or by using the
74 processes described in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1
75 et seq.). *However, upon a written determination made in advance by a state agency that the*
76 *procurement of services from a commercial source is neither practicable nor fiscally advantageous, such*
77 *service may continue to be performed by the state agency.*