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SENATE BILL NO. 651

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rules
on January 24, 2014)

(Patrons Prior to Substitute—Senators Norment and Petersen [SB 220])

A BILL to amend and reenact § 2.2-510 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-510.2, relating to the Office of the Attorney General; employment of outside counsel where a conflict of interests exists.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-510 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-510.2 as follows:

§ 2.2-510. Employment of special counsel generally.

No special counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, official, justice of the Supreme Court, or judge of any circuit court or district court except in the following cases:

1. When the Governor determines that, because of the nature of the legal service to be performed, the Attorney General's office is unable to render such service, then the Governor shall issue an exemption order stating with particularity the facts and reasons leading to the conclusion that the Attorney General's office is unable to render such service. The Governor may then employ special counsel to render such service as he may deem necessary and proper. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department to be represented or whose members, officers, inspectors, investigators, or other employees are to be represented pursuant to this section.

2. In cases of legal services in civil matters to be performed for the Commonwealth, where it is impracticable or uneconomical for the Attorney General to render such service, he may employ special counsel whose compensation shall be paid out of the appropriation for the Attorney General's office.

3. In cases of legal services in civil matters to be performed for any state department, institution, division, commission, board, bureau, agency, entity, official, justice of the Supreme Court, or judge of any circuit court or district court where it is impracticable or uneconomical for the Attorney General's office to render such service, special counsel may be employed but only as set forth in subsection C of § 2.2-507, upon the written recommendation of the Attorney General, who shall approve all requisitions drawn upon the Comptroller for warrants as compensation for such special counsel before the Comptroller shall have authority to issue such warrants.

4. In cases where the Attorney General certifies to the Governor that ~~it would be improper for the Attorney General's office to render legal services due to a conflict of interests, or that he is unable to render certain legal services,~~ the Governor may employ special counsel or other assistance to render such services as may be necessary.

§ 2.2-510.2. Employment of outside counsel where a conflict of interests exists.

In cases where the Attorney General certifies to the Governor that it would be improper for the Attorney General's office to render legal services due to a conflict of interests, the Attorney General shall negotiate an agreement with outside counsel to render the necessary legal services for the matter. The agreement shall include a reasonable per hour fee for the necessary legal services rendered. Compensation shall be expended from funds appropriated to the Attorney General's office.