

HOUSE BILL NO. 1523

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Higgins)

A BILL to amend and reenact § 2.2-4345, as it is currently effective and as it may become effective, of the Code of Virginia, relating to state parks; procurement exemption.

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

**1. That § 2.2-4345, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4345. (Effective until date pursuant to Acts 2023, cc. 756 and 778, cl. 5) Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.**

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, 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.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner 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

26 services is not fiscally advantageous to the public. The writing shall document the basis for this  
27 determination. Such agreements and contracts shall be based on competitive principles.

28 3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-  
29 146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

30 4. The Virginia Alcoholic Beverage Control Authority for the purchase of alcoholic beverages.

31 5. The Department for Aging and Rehabilitative Services, for the administration of elder rights  
32 programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the  
33 Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care  
34 ombudsman program or (ii) designated area agencies on aging.

35 6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health  
36 care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal  
37 Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery  
38 of primary health care services in a community (i) as federally qualified health centers designated by the  
39 Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c)  
40 contracts with laboratories providing cytology and related services if competitive sealed bidding and  
41 competitive negotiations are not fiscally advantageous to the public to provide quality control as  
42 prescribed in writing by the Commissioner of Health.

43 7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and  
44 support of its production facilities, provided the procurement is accomplished using procedures that ensure  
45 as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such  
46 procedures shall require documentation of the basis for awarding contracts under this section.

47 8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the  
48 provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect  
49 to the sale of food, beverages and souvenirs at such facilities.

50 9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of  
51 tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the

52 Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on  
53 competitive principles.

54 10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271,  
55 as amended, of the Acts of Assembly of 1966, provided that it does not discriminate against any person  
56 on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical  
57 conditions, age, marital status, or disability in the procurement of goods and services.

58 11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-  
59 5300 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ 15.2-  
60 5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing  
61 legislation, provided that these entities shall not discriminate against any person on the basis of race, color,  
62 religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or  
63 disability in the procurement of goods and services.

64 12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts  
65 of Assembly of 2000, provided that it does not discriminate against any person on the basis of race, color,  
66 religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or  
67 disability in the procurement of goods and services.

68 13. Public bodies for insurance or electric utility services if purchased through an association of  
69 which it is a member if the association was formed and is maintained for the purpose of promoting the  
70 interest and welfare of and developing close relationships with similar public bodies, provided such  
71 association has procured the insurance or electric utility services by use of competitive principles and  
72 provided that the public body has made a determination in advance after reasonable notice to the public  
73 and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally  
74 advantageous to the public. The writing shall document the basis for this determination.

75 14. Public bodies administering public assistance and social services programs as defined in §  
76 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services  
77 under the Children's Services Act (§ 2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control  
78 Act (§ 16.1-309.2 et seq.) for goods or personal services for direct use by the recipients of such programs

79 if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or  
80 services for the use of recipients shall not be exempted from the requirements of § 2.2-4303.

81 15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to  
82 Chapter 471, as amended, of the Acts of Assembly of 1964.

83 16. The Department of Conservation and Recreation for the purchase of items for resale at retail  
84 outlets and food services operations operated by state parks, provided that such procurement is  
85 accomplished in accordance with the provisions of subdivision G 1 of § 2.2-4303 and pursuant to a policy  
86 adopted by the Board of Conservation and Recreation established pursuant to § 10.1-105. Such policy  
87 shall (i) provide for competition to the maximum practicable degree; (ii) prohibit discrimination against a  
88 bidder or offeror based on race, religion, color, sex, sexual orientation, gender identity, national origin,  
89 age, disability, status as a service disabled veteran, or any other basis prohibited by federal or state law  
90 relating to discrimination in employment; and (iii) incorporate the prompt payment principles of § 2.2-  
91 4350 and the payment clauses of § 2.2-4354.

92 B. No contract for the construction of any building or for an addition to or improvement of an  
93 existing building by any local government or subdivision of local government for which state funds of not  
94 more than \$50,000 in the aggregate or for the sum of all phases of a contract or project either by  
95 appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall  
96 be let except after competitive sealed bidding or after competitive negotiation as provided under  
97 subsection D of § 2.2-4303 or Chapter 43.1 (§ 2.2-4378 et seq.). The procedure for the advertising for bids  
98 or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

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