

26105942D

HOUSE BILL NO. 1289**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on _____)

(Patron Prior to Substitute—Delegate Wiley)

A BILL to amend and reenact §§ 2.2-4301 and 54.1-2208.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 22 of Title 54.1 a section numbered 54.1-2208.5, relating to professions and occupations; regulation of geologists.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4301 and 54.1-2208.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 22 of Title 54.1 a section numbered 54.1-2208.5 as follows:

§ 2.2-4301. Definitions.

As used in this chapter:

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition, "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value," as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" is the method of contractor selection set forth in § 2.2-4302.2.

"Competitive sealed bidding" is the method of contractor selection set forth in § 2.2-4302.1.

"Construction" means building, altering, repairing, improving, or demolishing any structure, building, or highway; and any draining, dredging, excavation, grading, or similar work upon real property.

"Construction management contract" means the same as that term is defined in § 2.2-4379.

"Design-build contract" means the same as that term is defined in § 2.2-4379.

"Employment services organization" means an organization that provides employment services to individuals with disabilities that is an approved Commission on the Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Goods" means all material, equipment, supplies, printing, and automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.

"Job order contracting" means a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation depending on the needs of the public body procuring the construction services. A minimum amount of work may be specified in the contract. The contract term and the project amount shall not exceed the limitations specified in § 2.2-4303.2.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of professional services.

"Potential bidder or offeror," for the purposes of §§ 2.2-4360 and 2.2-4364, means a person who, at the time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance, or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, *geology*, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. "Professional services" shall also

HOUSE SUBSTITUTE

HB1289HC2

include the services of an economist procured by the State Corporation Commission.

"Public body" means any legislative, executive, or judicial body, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty; and empowered by law to undertake the activities described in this chapter. "Public body" shall include (i) any independent agency of the Commonwealth, and (ii) any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

"Public contract" means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the Invitation to Bid.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials; or the rental of equipment, materials, and supplies.

§ 54.1-2208.3. Waiver of examination.

The Board may waive the examination requirement for licensure as a professional geologist for an applicant who (i) otherwise meets the requirements of this article ~~and who also meets any of the following conditions:~~

~~1. Makes written application to the Board and has at least 12 years of geological work that includes the geological work as specified in subsection B of § 54.1-2208.2.~~

~~2. Makes; (ii) submits a written application to the Board; and (iii) holds an unexpired certificate of registration, certification, or license to engage in the practice of geology issued to him on the basis of comparable requirements by a proper authority of a state, territory, or possession of the United States or the District of Columbia.~~

§ 54.1-2208.5. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for geologists licensed by the Board. Such regulations shall require the completion of eight hours annually in continuing education for any license renewal or reinstatement. Except as provided in subdivision C 5, such continuing education shall be completed during the time prior to the renewal or reinstatement of a license and shall only be valid for such renewal or reinstatement. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship.

B. The Board's regulations shall include a requirement that a continuing education activity completed by a licensee may be accepted by the Board provided that such activity:

- 1. Consists of content and subject matter directly related to the practice of geology;*
- 2. Has a clear purpose and objective that maintains, improves, or expands the skills and knowledge relevant to the practice of geology and is in areas related to business practices, including project management, risk management, and ethics, that have demonstrated relevance to the practice of geology;*
- 3. Is taught by instructors who are competent in the subject matter, either by education or experience, for an activity involving an interaction with an instructor;*
- 4. Contains an assessment at the conclusion of the activity by the sponsor of such activity that verifies that the licensee has successfully achieved the purpose and objective for any self-directed activity; and*
- 5. Results in documentation that verifies the licensee's successful completion of the activity.*

C. The Board's regulations shall include requirements related to the computation of continuing education credit, including:

1. That 50 minutes of a continuing education activity equals one hour of continuing education and, for a continuing education activity that consists of segments that are less than 50 minutes, those segments shall be totaled for computation of continued education credit for that activity;

2. The number of hours required to successfully complete any continuing education activity shall be predetermined by the sponsor, and a licensee shall not claim more credit for any continuing education activity than was predetermined by the sponsor at the time the activity was completed;

3. A licensee shall not receive credit for any continuing education activity that was not completed in its entirety and no credit shall be given for partial completion of a continuing education activity;

4. A licensee applying for renewal or reinstatement shall not receive credit for completing a continuing education activity with the same content more than once during the time period prior to the renewal or reinstatement; and

122 5. A licensee who completes continuing education hours in excess of the hours required by subsection A
123 may carry up to eight hours of continuing education credit forward to meet the requirements of subsection A
124 for the next license renewal.