

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-4324, as it is currently effective, of the Code of Virginia and to amend the*  
 3 *second enactment of Chapter 749 and the second enactment of Chapter 782 of the Acts of Assembly of*  
 4 *2024, relating to Virginia Public Procurement Act; preference for Virginia goods; school nutrition*  
 5 *programs; sunset extension.*

6 [H 1086]

7 Approved

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

9 **1. That § 2.2-4324, as it is currently effective, of the Code of Virginia is amended and reenacted as**  
 10 **follows:**

11 **§ 2.2-4324. (Effective until July 1, 2027) Preference for Virginia goods, U.S. goods, and Virginia**  
 12 **residents.**

13 A. In the case of a tie bid, preference shall first be given to goods produced in Virginia and preference  
 14 shall then be given to goods produced in the United States; otherwise the tie shall be decided by lot.

15 B. In the case of procurement of goods by manufacturers:

16 1. If ~~(i)~~ the lowest responsive and responsible bidder is not a resident of Virginia and ~~(ii)~~ (i) the bid of any  
 17 Virginia resident is within 10 percent of such bid; or (ii) *the bid is for agricultural products that are*  
 18 *produced or processed in Virginia and intended for school nutrition programs, including fresh fruits,*  
 19 *vegetables, and dairy products, and is within 20 percent of such bid, the lowest responsive and responsible*  
 20 *bidder that is a Virginia resident pursuant to clause (i) or (ii) shall be granted the option to match the price of*  
 21 *the lowest responsive and responsible bidder.*

22 2. If the lowest responsive and responsible bidder is a resident of a state other than Virginia and such state  
 23 under its laws allows a resident of that state a percentage preference or price-matching preference for the  
 24 procurement of goods, a like preference shall be granted to responsive and responsible bidders who are  
 25 residents of Virginia.

26 3. An eligible bidder that is a Virginia resident shall be granted the greater of either preference pursuant to  
 27 this subsection.

28 C. Whenever the lowest responsive and responsible bidder is a resident of any other state and such state  
 29 under its laws allows a resident contractor of that state a percentage preference, a like preference shall be  
 30 granted to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest  
 31 bidder. If the lowest responsive and responsible bidder is a resident of any other state and such state under its  
 32 laws allows a resident contractor of that state a price-matching preference, a like preference shall be granted  
 33 to responsive and responsible bidders who are residents of Virginia. If the lowest bidder is a resident  
 34 contractor of a state with an absolute preference, the bid shall not be considered. The Department of General  
 35 Services shall post and maintain an updated list on its website of all states with an absolute preference for  
 36 their resident contractors and those states that allow their resident contractors a percentage preference,  
 37 including the respective percentage amounts. For purposes of compliance with this section, all public bodies  
 38 may rely upon the accuracy of the information posted on this website.

39 D. Notwithstanding the provisions of subsections A, B, and C, in the case of a tie bid in instances where  
 40 goods are being offered, and existing price preferences have already been taken into account, preference shall  
 41 be given to the bidder whose goods contain the greatest amount of recycled content.

42 E. For the purposes of this section, a firm or corporation shall be deemed to be a resident of Virginia if  
 43 such firm or corporation has been organized pursuant to Virginia law or maintains a principal place of  
 44 business within Virginia.

45 F. To the extent that this section conflicts with federal law or regulations and application of this section to  
 46 a project or procurement would render a public body ineligible to receive federal funds for such project or  
 47 procurement, such project or procurement shall be exempt from the provisions of this section.

48 **2. That the second enactment of Chapter 749 and the second enactment of Chapter 782 of the Acts of**  
 49 **Assembly of 2024 are amended and reenacted as follows:**

50 **2. That the provisions of this act shall expire on July 1, ~~2027~~ 2028.**