

Department of Planning and Budget 2006 Fiscal Impact Statement

1. Bill Number HB1122

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron Cline

3. Committee General Laws

4. Title Procurement of services by certain state agencies.

5. Summary/Purpose:

Requires the Division of Purchases and Supply of the Department of General Services, by regulation, to require all state agencies to procure services from the private sector if the services are listed as a commercial activity on the commercial activities list developed by the Commonwealth Competition Council in accordance with § 2.2-2622. The bill does not apply to the hiring of law-enforcement personnel. The bill also provides an exception to the requirement that government cease performing services that can be obtained from a commercial source when the state agency, upon a written determination, finds that the procurement of services from a commercial source is either not practicable or fiscally advantageous. The bill also requires that the Commonwealth Competition Council annually update its commercial activities list.

6. Fiscal Impact cannot be determined. See Item 8.

7. Budget amendment necessary: See Item 8.

8. Fiscal implications: This proposal will add an additional step to the procurement process by requiring state agencies to search for commercial activities from a list developed by the Commonwealth Competition Council. The list is extensive and covers almost any service currently being accomplished by state agencies with state resources. For example, accounting services, legal services, auditing services, and warehousing, trucking and delivery of Alcoholic Beverage Commission products are all on the list. Also on the list are emergency planning, horse racing regulation, local maternal and child health services, transportation safety services, water protection policy, and voter services.

Agencies would have to perform an analysis for each activity to determine whether it is practical and fiscally advantageous to purchase these services from the private sector. Because the number of agency needs that are on the list can vary extensively, the agency costs of the reviews and analyses cannot be determined, but could be significant. If an agency hires a consultant at approximately \$100 per hour and it takes three weeks to analyze and cost out one activity, the agency cost will be \$12,000. Since there are 650 commercial services listed in the report, many of which occur in multiple agencies, the cost of implementation is unknown but potentially in the tens of millions of dollars.

Currently, the Department of Planning and Budget provides support for the Commonwealth Competition Council. This proposal requires an annual update of the commercial activities list and will increase the department's workload by a half a person, or approximately \$35,000 annually.

9. Specific agency or political subdivisions affected: All state agencies and institutions.

10. Technical amendment necessary: No

11. Other comments: The commercial activities list developed by the Commonwealth Competition Council (CCC) was self-described as a preliminary list that still contains an unknown number of commercial activities that are or may be deemed "inherently governmental." Additionally, the legislation charging the CCC with creating this list already provides that the administration shall examine a minimum of three commercial activities from the list each year to determine whether there is significant savings to be achieved through privatization (§ 2.2-5513.D). Last year, the administration examined real estate operations and services, fleet operations and maintenance, and government mail operations and maintenance. No systematic review of potential cost savings for the remaining (nearly) 650 commercial activities listed has been immediately required or carried out. There has been little or no examination of these 650 activities to identify those that should as a matter of policy continue to be performed by government.

The bill as introduced does not address the potential cost to state government to examine all commercial activities for potential privatization, nor does it consider how performing this analysis may disrupt state operations. The bill does not consider how an examination of activities that are performed by or affect more than one agency should be coordinated. Most importantly, this bill's enactment may result in the state losing critical expertise in hundreds of functions that are ultimately necessary to the proper performance of government, regardless of who ultimately performs them.

The list also contains 143 services that are considered pass-through grants to localities.

Government should review its functions and activities to determine the most efficient and effective way to provide required services, and there are already mechanisms in place to ensure that agencies continue on this path. The Council on Virginia's Future is comprised of the leadership of both parties and both chambers of the legislature as well as experts from the private sector, the governor, and two cabinet officers. This body holds line agencies accountable for improving operations consistent with strategic plans and statewide guidelines. The Commonwealth Competition Council itself examines opportunities for privatization independent of the Governor's required examinations of commercial activities. The problem this bill seems to be addressing is already being addressed elsewhere in the law and in practice.

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cc: Secretary of Administration