

Department of Planning and Budget 2015 Fiscal Impact Statement

1. **Bill Number:** HB2323

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

2. **Patron:** Jones

3. **Committee:** Passed Both Houses

4. **Title:** Information technology projects and services in the Commonwealth.

5. **Summary:** Provides the Chief Information Officer with the authority to approve and make decisions related to information technology projects, procurements, and standards without requiring the approval of the Secretary of Technology. The bill also provides that the Secretary of Technology is responsible for communicating regularly with the Governor and other Secretaries regarding information technology services, initiatives, and investments in the Commonwealth. These changes are recommendations of the Joint Legislative Audit and Review Commission. The bill also transfers to the Secretary of Technology the responsibility for designating, at the discretion of the Governor, a state agency or public institution of higher education as the business sponsor responsible for implementing enterprise information technology projects. The bill provides that the director of every department in the executive branch of state government shall be responsible for securing the electronic data held by his department and shall comply with the Commonwealth's information technology security and risk management program as developed by the Chief Information Officer. The Chief Information Officer is directed to provide all such directors with the information, guidance, and assistance required to ensure they understand and adhere to the security policies. The bill also forbids the Comptroller from issuing a warrant for the purchase of any information technology or telecommunications goods and services made in violation of Title 2.2, Chapter 20.1, *Code of Virginia* or the Virginia Public Procurement Act.

6. **Budget Amendment Necessary:** No.

7. **Fiscal Impact Estimates:** Final; no state fiscal impact.

8. **Fiscal Implications:** This legislation shifts several responsibilities from the Secretary of Technology to the Chief Information Officer (CIO), including but not limited to final approval for the Commonwealth Project Management Standard, statewide technical and data standards for information technology, and the technology investment management standard. The Virginia Information Technologies Agency (VITA) indicates that the CIO is already involved in with these actions, thus no additional workload or cost is anticipated.

Under the proposed legislation, the Secretary of Technology would be responsible for designating the state agency or public institution of higher education as the business sponsor responsible for implementing an enterprise information technology project and defining the responsibilities of lead agencies implementing such projects. This is currently a CIO responsibility. This responsibility is only needed in the event that more than one agency could potentially be the sponsor of the enterprise project in question, in which case the Secretary would be responsible for assigning an agency as the leader for the project. Shifting this responsibility is not expected to create a fiscal impact.

The provision requiring agency head directors to be responsible for securing their agency IT data codifies an existing administrative requirement that all executive branch agency directors are responsible for securing the electronic data of his agency. This requirement already exists in the Virginia Information Technologies Agency (VITA) Security Standard SEC-501.

9. Specific Agency or Political Subdivisions Affected: Secretary of Technology, Virginia Information Technologies Agency, and Department of Accounts

10. Technical Amendment Necessary: The Department of Accounts (DOA) notes that the provision forbidding the Comptroller from issuing a warrant for the purchase of any information technology or telecommunications goods and services made in violation of Title 2.2, Chapter 20.1, *Code of Virginia* or the Virginia Public Procurement Act is currently unenforceable as written. Agencies currently process vendor payments through the Commonwealth Accounting and Reporting System (CARS) without prior review and approval by DOA. Agency Fiscal Officers are responsible for ensuring compliance with applicable state and federal law and policy prior to execution of the disbursement. Agencies submit their expenditure transactions to DOA and DOA ensures that agency expenditures do not exceed available cash and appropriation levels. DOA cannot, prior to payment, discern if a specific expenditure was made in accordance with procurement laws and therefore cannot withhold payment. DOA currently executes post disbursement compliance reviews to determine if agencies properly complied with applicable policy and laws. Due to the voluminous nature of vendor payment transactions executed through CARS, DOA is unable to verify if those transactions are made in accordance with procurement laws without a significant increase in staff and other resources. Accordingly, DOA requests the following clarification:

Line 473, strike “when” and insert “upon receiving notice from the Chief Information Officer or his designee that”

11. Other Comments: DOA notes that the timing of notification from the CIO described in the requested technical amendment will be critical. Once an agency receives and utilizes or consumes goods and/or services provided in good faith by a Commonwealth vendor, the Commonwealth is typically contractually obligated to provide payment.

The provision of this bill related to agency head directors securing agency IT data is similar to SB1121, as enrolled.

Per the Joint Legislative Audit and Review Commission's (JLARC) "Virginia's Information Technology Governance Structure" report released in September 2014, and Auditor of Public Account (APA) reports, many agencies lack the resources to fully comply with VITA's Information Security Standards and to perform the required security plans and management. JLARC found that 48 out of 69 state agencies were not fully in compliance with the security audit standards. In addition, at the time of VITA's formation, many state agency IT personnel were transferred to VITA. Resources have not been committed to replace agency IT personnel transferred at the time of VITA's formation.

C: Secretary of Finance, Secretary of Technology

Date: March 6, 2015

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