

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: SB1129-ER

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|------------------------|---------------------------------------|-------------------------------------|--|
| 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: Ruff

3. Committee: Passed Both Houses

4. Title: Virginia Public Procurement Act; requirements for use of construction management and design-build contracts.

5. Summary: The bill establishes a statewide policy for governmental procurement of construction management and design-build contracting procurement methods. The bill restricts the use of construction management procurements by local public bodies to projects that are either (i) expected to cost more than \$10 million, or (ii) considered a complex project and written approval is obtained from the local governing body. The bill requires the Department of General Services to evaluate the proposed use of construction management or design-build procurement methods for projects of state public bodies and covered institutions of higher education and recommend whether the method is appropriate for the specific project. Additional requirements for the use of construction management and design-build contracting procurements include the following: (i) a written determination must be provided stating that competitive sealed bidding is not practicable or fiscally advantageous, (ii) a public notice of the Request for Qualifications is posted on the Department of General Services' central electronic procurement website at least 30 days prior to the date set for receipt of qualification proposals, (iii) the contract must be entered into no later than the completion of the schematic phase of design for construction management contracts, (iv) prior alternative procurement method experience cannot be required as a prerequisite for an award, (v) procedures must allow for a two-step competitive negotiation process, and (vi) local public bodies must consider price as a critical basis for award of the contract. In addition, the bill requires that construction management contracts provide that no more than 10 percent of the construction work be performed by the construction manager and that the remaining construction work be performed by subcontractors. The bill also defines "complex project" and "covered institution" and contains reporting requirements regarding the use of construction management and design-build contracting procurements by all public bodies.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Fiscal impact is indeterminate. See Item 8, below.

8. Fiscal Implications: The fiscal impact of this bill is indeterminate. The bill provides criteria for the use of construction management and design-build procurement methods by public bodies and requires the Department of General Services (DGS) to evaluate and make a

recommendation regarding the proposed use of construction management or design-build procurement for projects of state public bodies and covered institutions of higher education.

According to DGS, sufficient data is not available to estimate any potential impact to the Department. Currently, DGS must approve all determinations to procure construction on a construction management or design-build basis for state agencies other than covered institutions of higher education, which have designated Tier 3 procurement authority or are in a pilot program authorized under § 4-9.02 of the Appropriation Act.

The reporting requirements in § 2.2-4383 of the bill are not expected to have a state fiscal impact and are similar to reports currently required pursuant to Chapter 760, 2015 Acts of Assembly, and § 4-4.01 of Chapter 780, 2017 Acts of Assembly.

- 9. Specific Agency or Political Subdivisions Affected:** The Department of General Services, Institutes of Higher Education designated with Tier 3 procurement authority or in a pilot program authorized by the Appropriation Act, and all public bodies.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** This bill is a companion to HB2366.

Date: 3/7/2017
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