

## **Department of Planning and Budget**

### **2018 Fiscal Impact Statement**

**1. Bill Number:** HB1196

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

**2. Patron:** Cline

**3. Committee:** General Laws

**4. Title:** Procurement of nonprofessional services by certain state agencies; commercial activities.

**5. Summary:** Requires the Division of Purchases and Supply (DPS) of the Department of General Services (DGS) to promulgate regulations requiring each state agency to procure nonprofessional services from the private sector if such services are listed in the commercial activities list maintained by the Department of Planning and Budget (DPB), with the exception of law-enforcement personnel. The bill provides that, upon a written determination made in advance by a state agency that the procurement of nonprofessional services from a commercial source is neither practicable nor fiscally advantageous, such service may continue to be performed by the state agency. The bill also requires DPB to update its commercial activities list annually rather than every two years.

**6. Budget Amendment Necessary:** Indeterminate – see Item 8.

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

**8. Fiscal Implications:** The fiscal impact of the bill is indeterminate.

The bill amends § 2.2-1501.1, which addresses DPB's development of the commercial activities list. As defined in that section, the commercial activities list includes all services "performed by employees of the Commonwealth" that can normally be obtained from private enterprises. DPB expects to be able to meet this requirement with existing resources.

The bill also amends § 2.2-1111 to require DPS to promulgate regulations requiring all state agencies to procure nonprofessional services listed in the commercial activities list from the private sector. This requirement does not apply to the hiring of law-enforcement personnel or in instances where a written determination is made in advance that the procurement of nonprofessional services from a commercial source is neither practicable nor fiscally advantageous. The bill also defines "nonprofessional services" to exclude certain services such as accounting, architecture, dentistry, professional engineering, and surveying. The bill does not define "state agency," but § 2.2-1111 applies to "any department, division, officer or agency of the Commonwealth." DPS does not have authority to promulgate regulations pertaining to construction or technology services; therefore, the bill's requirements would not apply to such services. It is also unclear if this would apply to the goods and services

provided by Virginia Correctional Enterprises or the Department for the Blind and Visually Impaired.

Agencies would be required to assess all applicable nonprofessional services currently performed by the agency and determine which are included in the commercial activities list. There are over 75 services on the commercial activities list, many of which are conducted by multiple agencies. Services presently performed by state agencies that could potentially be affected include research and evaluation (including auditing and library services), financial (other than accounting or actuarial) and personnel management (including claims processing), psychology and psychiatry, and emergency planning.

All nonprofessional services on the list would either need to be replaced and procured from the private sector or a determination be made that it is neither practical nor fiscally advantageous to do so. Therefore, the number of agency services that would need to be analyzed and any associated costs is unknown.

Costs that would need to be considered in determining whether privatization is fiscally advantageous include employee compensation, any applicable termination costs such as benefits under the Workforce Transition Act, training costs, and costs associated with procuring and administering contracts. If any such services required unique knowledge or practices, training costs might increase as well since it is possible that a different vendor could be selected with each procurement. Any learned or experience-based knowledge could be lost since no one would be available to transfer that type of information.

- 9. Specific Agency or Political Subdivisions Affected:** Department of General Services, Department of Planning and Budget, and all state agencies under the purview of the Department of General Services Division of Purchases and Supply.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

Date: 2/12/2018