

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: HB2324- ER

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Peace

3. Committee: Passed Both Houses

4. Title: Major information technology project procurement; terms and conditions, etc.

5. Summary: Requires, in any contract for a major information technology project, terms and conditions relating to the indemnification obligations and liability of a contractor to be reasonable and to not exceed in aggregate twice the value of the contract. The bill also provides that there shall be no limitation on the liability of a contractor for (i) any intentional or willful misconduct, fraud, or recklessness of a supplier or any employee of a supplier or (ii) claims for bodily injury, including death, and damage to real property or tangible personal property resulting from the negligence of a supplier or any employee of supplier.

6. Budget Amendment Necessary: Yes

7. Fiscal Impact Estimates:

7a. Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|-------------|
| 2019 | 0 | 0 | n/a |
| 2020 | \$125,000 | 1 | IFA |
| 2021 | \$125,000 | 1 | IFA |
| 2022 | \$125,000 | 1 | IFA |
| 2023 | \$125,000 | 1 | IFA |
| 2024 | \$125,000 | 1 | IFA |
| 2025 | \$125,000 | 1 | IFA |

8. Fiscal Implications: According to the Virginia Information Technologies Agency (VITA), they will need one additional FTE to meet the standards set forth in this legislation. Each major IT project will likely require a risk assessment prior to issuance of the Request for Proposal (RFP) to determine if an exceptional risk to the Commonwealth exists. If the risk assessment determines that the project presents an exceptional risk and the limitation of liability amount needs to be greater than the two times the value of the contract, research will need to be conducted to determine a reasonable maximum alternative. A recommendation will need to be developed, which documents the risks and determines the alternative limitation to submit to the Secretary of Administration for approval. Any approved exceptions will have to be tracked and a report published annually.

9. Specific Agency or Political Subdivisions Affected: Virginia Information Technologies Agency

10. Technical Amendment Necessary: No

11. Other Comments: Companion bill to SB1329.