

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** HB833

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

**2. Patron:** Carroll Foy

**3. Committee:** General Laws

**4. Title:** Virginia Public Procurement Act; public works contracts; prevailing wage rate; penalty.

**5. Summary:** Requires contractors and subcontractors under any public contract for public works with a state agency to pay wages, salaries, benefits, and other remuneration at the prevailing wage rate to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract for public works. The bill requires the Department of Labor and Industry to determine the prevailing wage rate for such public contracts and provides that any prevailing wage rate determined by the Department shall not be less than the applicable prevailing wage rate determination made by the U.S. Secretary of Labor under the provisions of the federal Davis-Bacon Act. The bill provides that a contractor or subcontractor who knowingly or willfully employs any mechanic, laborer, or worker to perform work to be done under the public contract at a rate that is less than the prevailing wage is guilty of a Class 1 misdemeanor and that such contractor or subcontractor shall be liable to such individuals for the payment of all wages due plus interest and shall be disqualified from bidding on public contracts with any public body until full restitution has been paid to such individuals.

**6. Budget Amendment Necessary:** Yes. Item 120. See item 8.

**7. Fiscal Impact Estimates:** Preliminary; Indeterminate, see Item 8.

**7a. Expenditure Impact:** Department of Labor and Industry

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	N/A	N/A	N/A
2021	408,544	4	GF
2022	408,544	4	GF
2023	408,544	4	GF
2024	408,544	4	GF
2025	408,544	4	GF
2026	408,544	4	GF

**8. Fiscal Implications:** This legislation will likely have a fiscal impact on state procurement, however, the amount is currently indeterminate. Any project funded in whole or in part by

federal dollars must already adhere to the Davis-Bacon Act, including its federal prevailing wage provisions. For projects without any federal funding, this legislation would implement a prevailing wage requirement that contractors and subcontractors must adhere to. If bids or negotiations would otherwise be less than the prevailing wage level, this bill would result in increased costs for state projects.

The Department of Labor and Industry (DOLI) indicates that additional staff will be needed to perform the responsibilities required by the bill, as such activities are not currently administered by the agency. DOLI anticipates that it will require an estimated \$306,408 to \$510,680 in additional general fund dollars to support three to five staff members to survey Union and non-Union contractors in each locality to determine the prevailing wage and respond to potential challenges related to the determination of the prevailing wage and \$102,136 to support one staff member to respond to requests from state agencies when contacted prior to bid dates for contracts, which would involve researching and providing the appropriate data based on prevailing wages in the location of the contract, and collecting the pay scales from the various contracts let by state agencies, for a total of \$408,544 to \$612,816, to support four to six staff.

HB30/SB30, as introduced, provides \$206,093 and two positions in each year from the general fund to support the enforcement of the state's labor laws. As stand-alone legislation, DOLI anticipates that the funding and positions provided in HB30/SB30 will be sufficient to address a portion of the staffing needs associated with this bill, and a budget amendment for \$204,272 to support the remaining two of the minimal four staff DOLI anticipates needing to implement the provisions of the bill would be necessary.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry, all state public bodies unless the body has received an exemption from the VPPA, such as through the Higher Education Restructuring Act or the Appropriation Act. This bill will not apply to local governments.

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

**11. Other Comments:** None.