

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** HB833

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:** Carroll Foy

**3. Committee:** Passed Both Houses

**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 Commissioner of Labor and Industry is required to determine the prevailing wage rate for such public contracts on the basis of applicable prevailing wage rate determinations 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:** See item 8.

**7. Fiscal Impact Estimates:** Final, see item 8.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	N/A	N/A	N/A
2021	102,136	1	GF
2022	102,136	1	GF
2023	102,136	1	GF
2024	102,136	1	GF
2025	102,136	1	GF
2026	102,136	1	GF

**8. Fiscal Implications:** The above reflects the bill's anticipated impact to the Department of Labor and Industry (DOLI). DOLI indicates that additional staff will be needed to perform the responsibilities required by the bill as enrolled, as such activities are not currently administered by the agency. DOLI anticipates a \$102,136 expenditure impact to support one

additional employee. Although the bill will apply to fewer contracts, DOLI indicates that the additional employee will be needed to track and report the prevailing wages for the planning district where the work is done. The employee will be responsible for responding 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. Additionally, the staff member would be responsible for collecting the pay scales from the various contracts let by state agencies.

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 support the expenditure and workload impact associated with this bill, and does not require additional funding. However, if the aggregate number of bills likely to pass either house is unusually large, it is possible the agency will require additional resources.

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 General Services (DGS) estimates that a prevailing wage rate will increase project costs for state agencies by an average of 12 percent, based on industry data that calculates the cost of projects without a prevailing wage rate and projects with a Davis-Bacon prevailing wage rate requirement. Using the amounts budgeted for Capital Projects from Part 2 of the introduced budget and applying the formula that is based on industry data to agencies subject the Virginia Public Procurement Act, the estimated increase in costs for these projects would be \$20.5 million. Additionally, according to DGS, there are 178 state agency contracts for public works that are above \$250,000. These contracts are collectively valued at \$426.7 million.

The Virginia Department of Transportation (VDOT) indicates that public construction contracts that include Davis-Bacon prevailing wage requirements generally cost more than those that do not include such requirements. While VDOT currently includes Davis-Bacon prevailing wage requirements on Federal Aid construction contracts, HB 833 would extend this requirement to entirely state-funded construction contracts. HB 833, therefore, would likely increase costs on entirely state-funded construction contracts.

It is anticipated that this bill will result in an indeterminate impact to institutions of higher education.

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; Department of General Services; Virginia Department of Transportation; states agencies; institutions of higher education.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.