

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: SB1305

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

2. Patron: McPike

3. Committee: Finance and Appropriations

4. Title: Virginia Public Procurement Act; public works contracts; subcontractor workforce requirements.

5. Summary: Requires all public bodies in a locality with a population in excess of 25,000 and covered institutions, defined in the bill, to include in every construction contract of more than \$500,000 certain provisions related to the outsourcing of subcontracted work, which contractor shall agree to during the performance of such contract. Such provisions mandate that a contractor shall only utilize subcontractors that certify in writing to the contract that they will outsource no more than 10 percent of the cost of the work subcontracted for, excluding the provision of materials, with specified exceptions. The bill provides guidelines by which a contractor, in writing, may approve a subcontractor's request to exceed the 10 percent threshold established in the legislation. Upon receipt of the contractor's written submission, the public body or covered institution may exercise the appropriate contract terms and conditions to enforce the outsource requirements as provided for in this section.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate, see Item 8.

8. Fiscal Implications: This legislation adds administrative requirements to contractors working on construction contracts of \$500,000 or greater. To the extent that such requirements may increase contractors' operating costs, the contractors may pass those costs along to the public body contracting for the work. Such costs are currently indeterminate.

The engrossed version of this bill applies to "all public bodies in a locality with a population in excess of 25,000 and covered institutions." It is unclear from the legislation whether the intent of the bill is to be limited to local public bodies with a population greater than 25,000 or if the bill applies to all public bodies (including state-level public bodies) located in such a locality. The bill appears to apply to certain public institutions of higher education, regardless of location. Under either interpretation of the locality-related provision, the fiscal impact on covered institutions is indeterminate, consistent with the explanation above.

9. Specific Agency or Political Subdivisions Affected: This bill as written applies to all public bodies "in a locality with a population in excess of 25,000" subject to the Virginia Public Procurement Act. It also applies to any public institution of higher education operating

(i) subject to a management agreement set forth in Article 4 (§23.1-1004 et seq.) of Chapter 10 of Title 23.1, (ii) under a memorandum pursuant to §23.1-1003, or (iii) under the pilot program authorized in the appropriation act.

10. Technical Amendment Necessary: The engrossed version of this bill applies to “all public bodies in a locality with a population in excess of 25,000 and covered institutions.” It is unclear from the legislation whether the intent of the bill is to be limited to local public bodies with a population greater than 25,000 or if the bill applies to all public bodies (including state-level public bodies) located in such a locality.

11. Other Comments: None.

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