

## Department of Planning and Budget 2011 Fiscal Impact Statement

**1. Bill Number:** HB2156

<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, B.

**3. Committee:** Referral Pending

**4. Title:** Department of General Services to require state agency to procure certain services from private sector

**5. Summary:** Requires the Director of the Division of Purchases and Supply (DPS) of the Department of General Services (DGS) to require each state agency, except law-enforcement agencies, to procure nonprofessional services from the private sector if such services are listed in the Commonwealth Competition Council's commercial activities list. The bill provides that upon a written determination made in advance by a state agency that the procurement of 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 the Commonwealth Competition Council to update its commercial activities list annually rather than every two years. The bill contains technical amendments.

**6. Budget Amendment Necessary:** Yes

**7. Fiscal Impact Estimates:** Indeterminate (see Item 8)

**8. Fiscal Implications:** This bill amends the procurement process by requiring state agencies to search for commercial activities provided through the private sector from a list developed by the Commonwealth Competition Council as replacement for services provided by staff in state agencies. The list is extensive and covers most services currently being accomplished by state agencies with state resources. Included on the list are fiscal services, warehousing, trucking, as well as emergency planning, horse racing regulation, local maternal and child health services, transportation safety services, and voter services.

If an agency believes such privatization is not financially beneficial, it would have to perform an analysis of that activity to determine whether it is practicable and fiscally advantageous to continue to perform the service within the state agency. The number of services that an agency might have to provide can vary greatly; therefore, the agency costs of the reviews and analyses cannot be determined. However, if an agency hires a consultant at approximately \$150 per hour and it takes three weeks to analyze and cost out one activity, the agency will spend \$18,000 for the assessment. If 100 such reviews were completed, the cost would be \$1.8 million. Since there are approximately 650 commercial services listed in the report,

many of which occur in multiple agencies, the cost of implementation is unknown but potentially could be significant. Since no agency is currently funded for this type of cost, only large agencies could possibly absorb the cost of a review.

This extensive analysis must address not only the cost of current state employees versus the private sector but it must also consider the cost of discontinuing the state program. These costs would include the impact of the Workforce Transition Act, including but not limited to severance pay, unemployment compensation, and early retirement compensation.

Currently, the commercial activities list is updated every two years. The legislation calls for annual updates of the commercial activities list. Annual updates of the list will increase the workload of the responsible agency, the Department of Planning and Budget.

- 9. Specific Agency or Political Subdivisions Affected:** All executive branch agencies **except** Level III (VT, UVA, W&M, and VCU) and Level II (RU, VMI, JMU, GMU, LU, and ODU) institutions operating under Management Agreements and Memorandums of Understanding. **These institutions are not subject to the Virginia Public Procurement Act and do not fall under the authority of DGS/DPS.** Additionally, the bill does not apply to procurement of technology services that fall under the authority of VITA.

**10. Technical Amendment Necessary:** No

- 11. Other Comments:** The commercial activities list developed by the Commonwealth Competition Council (CCC) was self-described as a preliminary list that still contains an unknown number of commercial activities that are or may be deemed “inherently governmental.” The bill as introduced assumes that the effort to examine all commercial activities for potential privatization has been completed.

The bill does not consider how outsourcing of non-professional services may disrupt state operations. The bill does not address how activities that are performed by or that affect more than one agency should be coordinated.

Governor McDonnell signed into effect Executive Order 2 on January 16, 2009 - Establishing the Governor’s Commission on Government Reform and Restructuring. The Executive Order directs the Commission to conduct a thorough review of Virginia state government including potential privatization of government operations where appropriate. While the Commission is well under way with its mission, this bill, if enacted, would impact the work of that Commission.

**Date:** 1/14/11

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