

17102765D

HOUSE JOINT RESOLUTION NO. 674

Offered January 11, 2017

Prefiled January 10, 2017

Establishing a joint subcommittee to study the best method to implement the recommendations of the Joint Legislative Audit and Review Commission concerning the Virginia Public Procurement Act. Report.

 Patrons—Massie and Peace

Referred to Committee on Rules

WHEREAS, the Virginia Public Procurement Act (VPPA) was enacted by the General Assembly in 1982 giving centralized authority to the Department of General Services for oversight of state procurement; and

WHEREAS, the public policies of the VPPA include (i) that public bodies in the Commonwealth obtain high-quality goods and services at reasonable cost, (ii) that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, (iii) that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, (iv) that competition be sought to the maximum feasible degree, (v) that procurement procedures involve openness and administrative efficiency, (vi) that individual public bodies enjoy broad flexibility in fashioning details of such competition, (vii) that the rules governing contract awards be made clear in advance of the competition, (viii) that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and (ix) that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered; and

WHEREAS, since its enactment, the VPPA has been amended every year in an effort to achieve the public policies enumerated by the General Assembly while at the same time recognizing that the public procurement process is a nuanced, layered, and complex process; and

WHEREAS, in 2014 the Joint Legislative Audit and Review Commission (JLARC) directed its staff to review the development and management of state contracts because of the interest generated by problems that arose from several high-profile contracts requiring the evaluation of whether the state's policies ensure that contracts provide good value to the state and mitigate the risks to agencies and the public; and

WHEREAS, the JLARC study found that "state entities in Virginia spent more than \$6 billion through contracts in fiscal year 2015, mostly for goods and services related to transportation, construction, and information technology and that several laws and policies govern how agencies procure and use contracts and that the contracting process is decentralized, as most contracts are procured, developed, and managed by individual agencies"; and

WHEREAS, the JLARC study also found that "approximately 10 percent of contracts analyzed for this study—12 contracts valued at \$1.8 billion—fell significantly short of meeting agencies original expectations; that while some less significant deviation from original expectations is to be expected, especially with complex contracts, almost two-thirds of the contracts were at least slightly behind schedule, over budget, or did not meet agencies needs; that these contracts were procured under different state statutes and therefore the authority of different oversight agencies; in some cases, the public was negatively impacted; and that most performance problems appear to be within the control of agencies or vendors and may therefore be preventable through more robust contracting processes"; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the best method to implement the recommendations of the Joint Legislative Audit and Review Commission concerning the Virginia Public Procurement Act. The joint subcommittee shall have a total membership of 11 members that shall consist of six legislative members, four nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; four nonlegislative citizen members, one of whom shall be a procurement officer of a locality, one of whom shall be a procurement officer of a public institution of higher education, and two of whom shall represent contractors in the Commonwealth, to be appointed by the Speaker of the House of Delegates; and the Secretary of Administration or his designee, who shall serve ex officio with voting privileges. The

INTRODUCED

HJ674

59 nonlegislative citizen members of the joint subcommittee shall be citizens of the Commonwealth of
60 Virginia. Unless otherwise approved in writing by the chairman of the joint subcommittee and the
61 respective Clerk, the nonlegislative citizen members shall be reimbursed only for travel originating and
62 ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion
63 joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.
64 The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall
65 be members of the General Assembly.

66 In conducting its study, the joint subcommittee shall review the JLARC recommendations and
67 suggest legislative changes that improve contract administration.

68 Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates.
69 Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be
70 provided by the Division of Legislative Services. Technical assistance shall be provided by the
71 Department of General Services. All agencies of the Commonwealth shall provide assistance to the joint
72 subcommittee for this study, upon request.

73 The joint subcommittee shall be limited to four meetings for the 2017 interim, and the direct costs of
74 this study shall not exceed \$18,880 without approval as set out in this resolution. Of this amount, \$400
75 is allocated for speakers, materials, or resources. Approval for unbudgeted nonmember-related expenses
76 shall require the written authorization of the chairman of the joint subcommittee and the respective
77 Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both
78 Clerks shall be required.

79 No recommendation of the joint subcommittee shall be adopted if a majority of the House members
80 or a majority of the Senate members appointed to the joint subcommittee (i) vote against the
81 recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the
82 joint subcommittee.

83 The joint subcommittee shall complete its meetings by November 30, 2017, and the chairman shall
84 submit to the Division of Legislative Automated Systems an executive summary of its findings and
85 recommendations no later than the first day of the 2018 Regular Session of the General Assembly. The
86 executive summary shall state whether the joint subcommittee intends to submit to the General
87 Assembly and the Governor a report of its findings and recommendations for publication as a House or
88 Senate document. The executive summary and the report shall be submitted as provided in the
89 procedures of the Division of Legislative Automated Systems for the processing of legislative documents
90 and reports and shall be posted on the General Assembly's website.

91 Implementation of this resolution is subject to subsequent approval and certification by the Joint
92 Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or
93 delay the period for the conduct of the study, or authorize additional meetings during the 2017 interim.