

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: SB318

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

2. Patron: Ruff

3. Committee: General Laws and Technology

4. Title: Department of Small Business and Supplier Diversity; implementation of certification programs.

5. Summary: This bill changes the definition of small business, beginning July 1, 2019, to meet the small business size standards established by the regulations of the U.S. Small Business Administration. The bill provides that any business entity that the Department of Small Business and Supplier Diversity (the Department) has certified as a small business prior to July 1, 2019, shall have such certification extended for a three-year period. The bill also provides that the Director of the Department adopt regulations that will, beginning July 1, 2019, establish a three-year certification period for small businesses to be based on the dominant business activity of each small business entity. The bill (i) includes a definition of "dominant business activity"; (ii) provides for the Department to enter into a memorandum of understanding with appropriate agencies establishing provisions for the sharing of information consistent with the requirements of state and federal law; (iii) requires the Director to enter into one or more contracts with one or more independent certifying entities to assist in the certification of small, women-owned, and minority-owned businesses and provides for the termination of such contracts based on performance or a written determination by the Director that continuing the contract is not practicable, and (iv) requires the Secretary of Commerce and Trade to evaluate the effect of the implementation of the new definition at three-year intervals, reporting to the Governor and General Assembly by December 1, 2022, and December 1, 2025.

6. Budget Amendment Necessary: Yes, to Items 120 and 259 of HB30/SB30. See item 8, below

7. Fiscal Impact Estimates: Preliminary, see item 8.

7a. Expenditure Impact: Item 120 – Department of Small Business and Supplier Diversity

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2018	n/a	n/a	n/a
2019	\$203,325	n/a	GF
2020	\$149,325	n/a	GF
2021	\$149,325	n/a	GF
2022	\$149,325	n/a	GF

2023	\$149,325	n/a	GF
2024	\$149,325	n/a	GF

7b. Expenditure Impact: Item 259– Department of Accounts

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2018	n/a	n/a	n/a
2019	n/a	n/a	n/a
2020	\$1,200,000	n/a	NGF/GF
2021	n/a	n/a	n/a
2022	n/a	n/a	n/a
2023	n/a	n/a	n/a
2024	n/a	n/a	n/a

7c. Expenditure Impact: Department of General Services – Indeterminate

8. Fiscal Implications: It is anticipated that this bill will have an expenditure impact on the Department of Accounts (DOA). DOA anticipates requiring a one-time appropriation of \$1.2 million in FY 2020 to implement changes to the Commonwealth’s accounting system, Cardinal. Cardinal is currently supported through an internal service fund, with state agencies charged based on usage. If a nongeneral fund budget amendment is provided to DOA for this bill, then other state agencies will be impacted, as the cost will be spread to those agencies in the rates assessed for usage. At this time, the general fund/nongeneral fund split is approximately 27 percent general fund or \$324,000. Nongeneral fund agencies would be required to absorb the nongeneral fund share, or \$876,000. Appropriation should be provided in Central Appropriations for the general fund share of the resultant rate increase paid by other general fund supported state agencies. Alternatively, a direct general fund budget amendment of \$1.2 million in FY 2020 could be provided to DOA for the costs associated with this bill. If DOA’s one-time expense is charged to state agencies, then DOA will require a nongeneral fund appropriation. Alternatively, DOA could be provided with a one-time general fund appropriation for implementation of the necessary systems changes. Additionally, it is anticipated that this bill will have a general fund impact of \$203,325 in FY2019 and \$149,325 in FY2020 and each year thereafter on the Department of Small Business and Supplier Diversity (DSBSD), and an indeterminate impact on the Department of General Services (DGS).

This bill changes the Virginia definition of a small business to meet the small business size standards established by the regulations of the U.S. Small Business Administration. Currently in Virginia, a business is considered a small business if it has 250 or fewer employees or \$10 million or less in gross receipts averaged over a three-year period. The federal definition establishes small business size standards on an industry-by-industry basis. The North American Industry Classification System (NAICS) is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data. There are approximately 1,170 different NAICS codes that specify individual size definition for number of employees and gross receipts.

Additionally, the bill requires DSBSD to contract with one or more independent certifying entities to assist the department in the certification of small, women-owned, and minority-owned

businesses and employment services organizations. According to DSBSD, certifying entities with whom DSBSD can contract do not certify businesses as small or micro, which is the designation most of the department's applicants seek. Also, they do not certify service disabled veteran businesses or employment service organizations, which is another subset of certification that the department manages.

Thus, DSBSD anticipates performing the necessary certifications in-house, which will result in an increased workload for its certification officers. It is also anticipated that changes to its database application will be necessary. Updates to the agency's certification portal will be necessary to comply with the new definition and to utilize the NAICS codes. DSBSD received an estimate of \$54,000 from its current system vendor.

To certify small businesses under the provisions of this bill, according to DSBSD, its certification officers would have to verify that each company applying for certification meets the size standard for each NAICS code identified by the applicant. The department anticipates that this verification process would require additional time and resources to complete, as each NAICS code would need to be checked for appropriate size limits for employees and gross receipts and cross-referenced with the vendor's application documentation. DSBSD anticipates potential delays in the certification process, and will require two additional staff to maintain 60-business day processing times. Delays in processing may affect an applicant's ability to secure contacts in a timely manner.

In order to maintain the 60-day processing time, DSBSD anticipates requiring an additional \$149,325 in general fund support in each year to fill two vacant certification positions.

The Department of Accounts (DOA) estimates that this bill will require changes to the Commonwealth's accounting system, Cardinal. The Cardinal system classifies a small business based on size and gross receipts, not by commodity. The provisions in this bill will require changes to Cardinal to reflect this classification by commodity. DOA estimates a one-time cost of \$1.2 million to implement these changes. Expenses related to Cardinal are charged to a nongeneral fund account supported with revenue from charges to state agencies based on usage, or internal service fund.

In addition to the one-time cost impact of \$1.2 million, DOA has also indicated that this change to Cardinal, effective July 1, 2019, would likely impede DOA's efforts to complete the replacement of the Commonwealth Integrated Payroll/Personnel System (CIPPS) scheduled for completion by June 2019. DOA stated that the agency is not staffed to complete both system changes simultaneously prior to the required effective dates.

DGS has indicated that the fiscal impact of the bill depends upon DSBSD's interpretation and implementation of the bill. If businesses will be certified based on the dominant business activity (commodity) only and it does not result in the business being considered small for other business activities (commodities), then the statewide procurement policy will need to be changed. Also, the Commonwealth's central electronic procurement system will require system changes in order to accommodate and support the new definition. In addition, the bill allows for existing DSBSD certified small businesses to retain their existing certification under the previous definition for up

to three years. This will require the Commonwealth's central electronic procurement system to support both types of certifications from DSBSD. DGS estimates a one-time cost of \$850,000 to implement the needed changes.

Alternatively, if DSBSD interprets the proposed language that the certification for small will be based on the business' dominant business activity (commodity) and that the business would then be considered small for all business activities (commodities) offered then no fiscal impact is expected to DGS.

Any potential impact on the number of certified small businesses or cost of goods and services being purchased is indeterminate.

During the 2017 General Assembly Session, DGS reported that no additional resources would be required because at the time, the agency anticipated that DSBSD would certify vendors under the proposed definition but that they would be considered small in all business activities (commodities), not just the dominant activity used to certify.

9. Specific Agency or Political Subdivisions Affected: Departments of Small Business and Supplier Diversity; Department of Accounts; Department of General Services; state agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is similar to HB513 and HB1300.