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SENATE BILL NO. 1028

Offered January 9, 2019

Prefiled October 22, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 2.2-4321.3, relating to the Virginia Public Procurement Act; local labor use requirement for certain construction contracts; civil penalty.*

Patrons—Marsden; Delegate: Kory

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. **That the Code of Virginia is amended by adding a section numbered 2.2-4321.3 as follows:**

§ 2.2-4321.3. Local labor use requirement for certain construction contracts; civil penalty.

A. As used in this section:

"Commission" means the Virginia Employment Commission.

"Employee" means any person hired or permitted to perform hourly work for wages by a construction business. "Employee" does not include (i) employees of a public body, (ii) independent contractors, or (iii) salaried supervisory personnel necessary to assure efficient execution of the employees' work.

"Local labor market" means every locality in Virginia and any county outside of Virginia if any portion of that county is within 75 miles of the border of Virginia.

B. Each public body, when engaged in procuring contracts for construction with a projected cost in excess of \$500,000 paid for in whole by state or local funds, shall include in its specifications a requirement that at least 60 percent of the employees employed by contractors and subcontractors for the construction project be from the local labor market.

C. In the event that a contractor or subcontractor is unable to meet the requirements of subsection B, the contractor or subcontractor shall inform the Commission of the number of qualified employees needed and provide a job description of the positions to be filled.

D. If, within three days of being contacted by the contractor or subcontractor pursuant to subsection C, the Commission is unable to refer the necessary number of qualified applicants to the contractor or subcontractor, the Commission shall issue a waiver to the contractor or subcontractor (i) stating the unavailability of the necessary number of qualified applicants and (ii) permitting the contractor or subcontractor to fill the remaining positions using employees who are from outside the local labor market. The Commission shall send a copy of the waiver to both the public body and the contractor or subcontractor.

E. For purposes of ascertaining compliance with the requirements of this section:

1. The public body shall submit a copy of any contract that is subject to the requirements of this section to the Department of Labor and Industry; and

2. The contractor or subcontractor shall file with the Department of Labor and Industry (i) copies of its payroll reports or other comparable documents that show (a) the number of employees employed by the contractor or subcontractor to work on the construction project; (b) the county, city, or town and state wherein such employees reside; and (c) the occupation of each such employee and (ii) a copy of any waiver granted by the Commission.

F. Any contractor or subcontractor that violates any provision of this section shall be subject to a civil penalty of \$100 per violation. Such penalty shall be collected by the Department of Labor and Industry payable to the State Treasurer for deposit to the general fund.

INTRODUCED

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