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## SENATE BILL NO. 1028

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology  
on January 14, 2019)

(Patron Prior to Substitute—Senator Marsden)

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.*

**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 salaried or supervisory personnel, or any hourly employee necessary to ensure efficient management of the project covered by the construction contract.

"Local labor market" means every locality in Virginia and any county outside of Virginia if any portion of that county is within 50 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, and when a local labor procurement requirement is in place that includes that locality, shall include in its specifications a requirement that at least 75 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 in a manner described by the Commission of the number of qualified employees needed for posting a job description of the positions to be filled in the Virginia Workforce Connections.

D. If, within four business days of being contacted by the contractor or subcontractor pursuant to subsection C, the Commission is unable to refer the necessary number of candidates 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 candidates 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. The data relating to workforce development and training collected pursuant to subdivision E 2 shall be available for review by the Commission.

G. Any contractor or subcontractor that violates any provision of this section shall be subject to a civil penalty of \$250 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.

**2. That the provisions of this act shall not become effective unless reenacted by the 2020 Session of the General Assembly.**