

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: HB2122

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Carroll Foy

3. Committee: Commerce and Labor

4. Title: Virginia Public Procurement Act; public works contracts; prevailing wage; penalty.

5. Summary: This bill requires contractors and subcontractors under any public contract with a state agency for public works to pay wages, salaries, benefits, and other remuneration at the prevailing wage rate to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract for public works. The bill requires the Commissioner of Labor and Industry to determine the prevailing wage rate for such public contracts on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the federal Davis-Bacon Act. The bill provides that a contractor or subcontractor who knowingly or willfully employs any mechanic, laborer, or worker to perform work to be done under the public contract at a rate that is less than the prevailing wage is guilty of a Class 1 misdemeanor and that such contractor or subcontractor shall be liable to such individuals for the payment of all wages due plus interest and shall be disqualified from bidding on public contracts with any public body until full restitution has been paid to such individuals.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Indeterminate, see Item 8.

8. Fiscal Implications: The state fiscal impact is indeterminate. A fiscal impact is expected, however, the implications are unknown since Virginia is not currently a prevailing wage state. Any project funded in whole or in part by federal dollars must already adhere to the Davis-Bacon Act, including its federal prevailing wage provisions. If Virginia becomes a prevailing wage state, it may result in higher prices paid by the Commonwealth on public works contracts.

The proposed legislation imposes a Class 1 misdemeanor for anyone convicted of violating the provisions of the proposed legislation. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. According to the Virginia Criminal Sentencing Commission, not enough information is available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will

decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

- 9. Specific Agency or Political Subdivisions Affected:** All state public bodies unless the body has received an exemption from the VPPA, such as through the Higher Education Restructuring Act or the Appropriation Act. This bill will not apply to local governments who have exempted themselves from the VPPA.

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** None