

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: HB2435

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

2. Patron: Marsden

3. Committee: General Laws

4. Title: Virginia Public Procurement Act (VPPA); local labor use requirement for certain construction contracts

5. Summary: This bill adds to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) the requirement that every 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, 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. The bill defines "local labor market" to mean 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. The bill provides that any contractor or subcontractor that cannot meet this requirement and has taken certain necessary steps may obtain a waiver of the requirement from the Virginia Employment Commission.

6. Budget Amendment Necessary: Yes

7. Fiscal Impact Estimates: Preliminary. See Item 8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019			
2020	154,765	2	GF
2021	144,765	2	GF
2022	144,765	2	GF
2023	144,765	2	GF
2024	144,765	2	GF
2025	144,765	2	GF

8. Fiscal Implications: The proposed legislation requires public bodies to include a requirement that at least 60 percent of the employees of contractors and subcontractors be from the local labor market for construction contracts with a projected cost in excess of \$500,000.

Virginia Employment Commission (VEC):

The bill requires a contractor or subcontractor to inform the Virginia Employment Commission (VEC) if it is unable to meet the local labor requirements. VEC shall try to refer the necessary number of qualified applicants to the contractor or subcontractor within three days of being contacted or will issue a waiver to the contractor or subcontractor if unable to do so. According to VEC, one additional staff person would be needed to manage the waiver process at an ongoing annual cost of \$55,000 for salary and benefits and would incur a one-time cost of \$10,000 for necessary IT changes.

Department of Labor and Industry (DOLI):

The bill requires public bodies to submit contracts subject to local labor requirement to DOLI and requires contractors and subcontractors to file copies of payroll reports or other documents showing the number of employees employed to work on the project, their locality or state of residence, occupation, and any waiver granted by VEC. According to DOLI, one additional staff person would be needed at an ongoing annual cost of \$89,765 to receive and track the reports received from contractors and subcontractors and from state and local agencies. According to DOLI, the Department of General Services has approximately 130 such contracts for state entities and the Virginia Department of Transportation has 252 projects. VDOT further reported that there are currently 91 projects within the criteria that are locally administered. Additional projects also exist including those of universities as well as other non-transportation projects at the local level. DOLI anticipates such contracts on average to involve one general contractor and four to five subcontractors. Therefore, DOLI expects to receive and analyze at least 2,000 payroll documents for compliance with the law and issue any violations found.

Other Impacts:

The impact to state agencies procuring construction contracts in excess of \$500,000 is indeterminate. Agencies are required to report all such contracts to DOLI, which places an administrative burden on the agencies.

As an example, the state has approximately 500 new qualifying contraction projects each year, according to the Department of General Services (DGS). DGS expects as much many as 40 hours may be required per project in support of the reporting of all contracts and subcontracts, with an estimated hourly cost of \$100.

Any potential impact of the bill's requirements on the price charged by contractors and subcontractors or their whether to compete for such contracts is also indeterminate.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Employment Commission (VEC), Department of Labor and Industry (DOLI) and all public bodies subject to the VPPA and procuring construction with a projected cost in excess of \$500,000.

- 10. Technical Amendment Necessary:** No.

11. Other Comments: Similar to Senate Bill 1028 (Marsden). This bill does not apply to higher education institutions operating under Management Agreements and Memoranda of Understanding in the operational area of procurement. In addition, the language being added in this bill will not be subject to local governments that have exempted themselves from the VPPA as authorized by §2.2-4343(10).