

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: SB1384

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

2. Patron: Surovell

3. Committee: Floor Substitute

4. Title: Virginia Public Procurement Act; local arbitration agreements.

5. Summary: Allows a participating locality, for any procurement solicitation or contract exceeding \$10,000 for goods and nonprofessional services, to require the bidder or offeror to disclose certain information regarding pre-dispute arbitration clauses, defined in the bill, in employment, civil rights, and consumer disputes, and provides that a locality may consider the policies and practices related to arbitration of each bidder and offeror. The bill also provides that a participating locality shall require the bidder or offeror to provide written or electronic submissions to allow the locality to ascertain (i) whether the bidder or offeror requires persons with whom it is in a work relationship or prospective work relationship to sign or otherwise enter into a contract containing a pre-dispute arbitration clause that could require arbitration for an employment or civil rights dispute and (ii) whether the bidder or offeror requires consumers to sign or otherwise enter into a contract containing a pre-dispute arbitration clause that could cover a consumer or civil rights dispute as a condition of purchasing products or services, downloading mobile applications, or using websites. If the bidder or offeror does require such clauses, the bidder or offeror must provide additional information including a copy of its pre-dispute arbitration clauses and information arising out of consumer, employment, or civil rights disputes for the past five years. The bill does not apply to arbitration provisions in certain contracts, as identified in the bill. The bill authorizes a participating locality to cancel, terminate, or suspend, in whole or in part, the contract of any contractor that has violated a provision of the bill and to declare the contractor ineligible for further contracts with such locality for up to five years, if the contractor does not cure any such violation within 30 days of being notified.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: No state fiscal impact.

8. Fiscal Implications: This legislation provides an option for localities to use during certain procurements, and as such is not expected to generate a state fiscal impact.

9. Specific Agency or Political Subdivisions Affected: This bill as written applies to all local public bodies subject to the Virginia Public Procurement Act (VPPA). This bill will not apply to local governments that have exempted themselves from the VPPA as authorized by Va. Code §2.2-4343(9, 10, 11).

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: February 2, 2021

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