

## **Department of Planning and Budget**

### **2023 Fiscal Impact Statement**

**1. Bill Number:** HB1898

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** McGuire

**3. Committee:** General Laws

**4. Title:** Virginia Public Procurement Act; public institutions of higher education; prohibition on boycotting.

**5. Summary:** Prohibits public bodies from entering into a contract in excess of \$100,000 with any contractor having more than an average of 10 employees for the previous 12 months that boycotts Israel. The bill requires any such contractor seeking to contract with a public body under the provisions of the Virginia Public Procurement Act to certify in writing that it will not, during the performance of the contract, boycott Israel. The bill provides that any contractor that violates the provisions of the bill shall be debarred from contracting with all public bodies of the Commonwealth until it can prove that it no longer boycotts Israel. Such contractor is also subject to a civil penalty in an amount equal to three times the amount of the contract. Public bodies are required to maintain and report to the Department of General Services, for inclusion in a publicly available online database, a list of contractors that violated the prohibition and have been debarred. The bill also prohibits public institutions of higher education from boycotting Israel and directs the governing board of each public institution of higher education to establish guidelines that require (i) any entity under the control of the governing board to certify in writing that it shall not boycott Israel; (ii) a quarterly review and report by the governing board of all such entities to determine whether any such entity has boycotted Israel; (iii) appropriate penalties for any entity that has boycotted Israel; and (iv) all written certifications, quarterly reports, and penalty information to be sent to the State Council of Higher Education for Virginia for inclusion in a publicly available online database.

**6. Budget Amendment Necessary:** See item 8

**7. Fiscal Impact Estimates:** Preliminary – indeterminate, see item 8

**8. Fiscal Implications:**

The fiscal impact to public bodies is indeterminate. These public bodies must receive a written certification each year from each applicable contractor and file it with the Department of General Services (DGS). Since some public bodies could have many contracts that fall

under the requirements of this bill, this provision could entail an enhanced effort to monitor, track, and follow-up on these certifications.

An indeterminate fiscal impact is expected for the Commonwealth Attorneys' Services Council regarding enforcement of the civil penalty for violations of this legislation's provisions. It is impossible to ascertain the number of violators of the bill's provisions, therefore, the amount of revenue generated from the civil penalties is currently indeterminate.

Both the State Council of Higher Education for Virginia (SCHEV) and the Department of General Services (DGS) will be required to establish a database in line with the provisions of this bill. Because of these requirements, SCHEV and DGS will experience an increase in administrative overhead and information technology (IT) costs, but the fiscal impact of establishing these two databases is currently unknown.

- 9. Specific Agency or Political Subdivisions Affected:** The provisions of the bill that amend the Virginia Public Procurement Act (VPPA) apply to all public bodies subject to the VPPA. Additionally, the bill makes local governments that have otherwise exempted themselves from the VPPA as authorized by subdivisions A 9, 10, and 11 of Va. Code § 2.2-4343 subject to the provisions of Va. Code § 2.2-4311.3 (created by the bill). The bill makes institutions of higher education operating under Management Agreements (Level III institutions) subject to the provisions of Va. Code §§ 2.2-4311.3 and 23.1-1304.2 (both created by the bill). The bill makes institutions of higher education operating under Memoranda of Understanding in the operational areas of procurement (Level II institutions) subject to the provisions of Va. Code § 23.1-1304.2 (created by the bill). The bill also affects DGS, SCHEV, and the Commonwealth Attorneys' Services Council.

**10. Technical Amendment Necessary:** No

**11. Other Comments:** This bill is a companion to SB1375.