

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB1108-S1

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

2. Patron: Carr

3. Committee: Finance and Appropriations

4. Title: Virginia Public Procurement Act; construction management and design-build contracting.

5. Summary: The bill, as substituted, amends Chapter 43.1 of Title 2.2 (§§ 2.2-4379 through 2.2-4383) Construction Management and Design-Build Contracting. The substitute bill adds certain requirements for covered institutions, including posting all documents that are open to public inspection exchanged between the Department of General Services (DGS) and the covered institution on the central electronic procurement website eVA. Additionally, the bill requires inclusion of DGS and Division of Engineering and Buildings (DEB) in the process for the selection of a contractor for construction management/design-build projects exceeding \$65 million. Projects that are not state-funded may be appealed to their governing board after a DEB denial of construction management/design-build method for a project. Projects that are funded with state funds that have been denied by DEB may be appealed to their governing board if they are greater than \$65.0 million, in this case, the board must approve the project's procurement method by a 2/3rd vote and DEB must present its reasoning for the denial. The bill provides that general fund projects that have been denied by DEB that are less than \$65.0 million may not be appealed. The bill also requires state public bodies, covered institutions, and local public bodies to provide documentation of the processes used for the final selection of a contract to all the unsuccessful applicants upon request. In summation, this bill further sets out the requirements to use construction management or design-build contracts by state public bodies, local public bodies, and covered institutions.

Finally, the bill requires the Department of General Services, with the assistance of staff of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations, assess implementation of construction management and design-build projects and report its findings and recommendations to the General Assembly by November 1, 2029.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Indeterminate, see item 8

8. Fiscal Implications: The fiscal impact of this bill is indeterminate. The Department of General Services (DGS) must be included in the process for the selection of a contractor for

covered institutions' general fund construction projects over \$65 million. If general projects exceed \$65 million and are denied the CM/DB (construction management/design build) delivery method by DEB, covered institutions may appeal to their governing board to override the decision by majority vote of the board. If the construction project is not general fund, the institution can appeal the decision by obtaining approval from the governing board. DEB must present their reasoning for the denial of the use of construction management/design build (CM/DB) for the construction project. Any costs incurred by the proceedings will be charged to the capital project. DGS indicates that the provisions to advertise certain documents on eVA will not incur a fiscal impact.

This bill has an indeterminate fiscal impact to public institutions of higher education. They indicate the bill's provisions to appeal construction management/design-build denials may prolong construction schedules of capital projects and lead to higher total project costs. If a covered institution wanted to proceed with a high-cost CM/DB project and DEB denied the use of CM/DB, the covered institution and DEB would enter into the appeals process with the covered institution's governing board. The schedule of the project would be delayed and costs would increase due to escalation.

9. Specific Agency or Political Subdivisions Affected: The bill impacts public bodies, covered institutions, and local public bodies.

10. Technical Amendment Necessary: No

11. Other Comments: This bill is similar to SB18 as amended.