

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB1361ER

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

2. Patron: Feggans

3. Committee: Passed both houses

4. Title: Virginia Public Procurement Act; Virginia resident preference, report.

5. Summary: Provides preference as it relates to procurement for a bidder who is a resident of Virginia and then a bidder whose goods are produced in the United States, otherwise the tie shall be decided by lot. The conference substitute provides that in procurement of goods by manufacturers, if the lowest responsive and responsible bidder is not a resident of Virginia and the bid of any Virginia resident is within 10 percent of the bid, the Virginia bidder shall be granted to match the price of the lowest responsive and responsible bidder. The lowest responsive and responsible bidder not from Virginia is allowed a price-matching preference or percentage preference for goods procurements, a like preference shall be granted to responsive and responsible bidders that are Virginia residents. The Virginia resident shall be granted whichever preference is greater, the price matching preference or the percentage preference. The bill exempts procurements that include federal funds which would impact eligibility of receiving such funds if these preferences are applied. Additionally, the provisions of the act are set to expire on July 1st, 2027. The Department of General Services is directed to report to the Governor, the General Assembly, and the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology on the efficacy of the act, including retaliatory action taken by other states, and any recommendations regarding this Act by the first day of the 2025 Regular Session of the General Assembly.

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 bill expands the existing tie bid preference for Virginia-produced goods. If the first preference cannot be applied, then the preference goes to goods produced in the United States. Restrictions on available suppliers, generally, may impact the pool of bidders and may impact the price of goods procured.

For procurement of goods by manufacturers, the bill also permits the second-lowest responsive and responsible bidder from Virginia to match the price of the lowest responsive and responsible bid from a non-Virginia resident if the Virginia resident is within 10 percent

of the non-Virginia resident's bid. This provision is not expected to increase price, as the Virginia resident is allowed to match the lowest bid price. Additionally, in the instance that percentage preferences or price-matching preferences from other states are granted to Virginia bidders, bid price would not increase.

- 9. Specific Agency or Political Subdivisions Affected:** This bill applies to all public bodies subject to the Virginia Public Procurement Act (VPPA). This bill does not apply to higher education institutions operating under Management Agreements and Memoranda of Understanding in the operational area of procurement (currently fourteen Level III and Level II institutions). Additionally, the bill will not apply to local governments that have exempted themselves from the VPPA as authorized by V. Code §2.2-4343 (9, 10, 11).

10. Technical Amendment Necessary: No

11. Other Comments: None