

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB1404

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Ward

3. Committee: Appropriations

4. Title: Department of Small Business and Supplier Diversity; Small Business Procurement Enhancement.

5. Summary: Establishes the Small Business Procurement Enhancement Program with a statewide goal of 42 percent of certified small business utilization in all discretionary spending by state agencies and covered institutions in procurement orders, prime contracts, and subcontracts, as well as a target goal of 50 percent subcontracting to certified small businesses in instances where the prime contractor is not a small business for all new capital outlay construction solicitations that are issued. In addition, the bill provides for a small business set-aside for state agency and covered institution purchases of goods, services, and construction, requiring that purchases up to \$100,000 be set aside for award to certified small businesses and that purchases up to \$10,000 be set aside for award to microbusinesses.

The bill also establishes the Women-owned and Minority-owned Business Procurement Enhancement Program with a statewide goal of 23.1 percent of certified women-owned and minority-owned business utilization in all discretionary spending by state agencies and covered institutions in procurement orders, prime contracts, and subcontracts. The bill creates the Division of Procurement Enhancement within the Department of Small Business and Supplier Diversity for purposes of collaborating with the Department of General Services, the Virginia Information Technologies Agency, the Department of Transportation, and covered institutions to further the Commonwealth's efforts to meet the goals established under the Small Business Procurement Enhancement Program and the Women-owned and Minority-owned Business Procurement Enhancement Program, as well as implementing initiatives to enhance the development of small businesses, microbusinesses, women-owned businesses, and minority-owned businesses in the Commonwealth.

Finally, the bill amends the Virginia Public Procurement Act to permit public bodies to establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for the purchase or lease of goods, or for the purchase of services, insurance, or construction, if the aggregate or the sum of all phases is not expected to exceed \$125,000. Under current law, such purchase procedures may only be established for (i) goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$200,000; (ii) transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000; and (iii) professional services, provided that the

aggregate or the sum of all phases is not expected to exceed \$80,000. The bill has a general delayed effective date of January 1, 2025, and delayed effective dates of July 1, 2025, for covered institutions, and July 1, 2026, for certain university hospitals and medical centers. The provisions of the bill creating the Women-owned and Minority-owned Business Procurement Enhancement Program sunset on July 1, 2031.

6. Budget Amendment Necessary: Yes. Items 70, 81, 111, 334 HB30/SB30 as introduced

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

Expenditure Impact: Department of General Services (Item 70)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	\$250,000	0	GF

Expenditure Impact: Virginia Information Technologies Agency (Item 81)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	N/A	N/A	N/A
2026	\$100,000	1	NGF
2027	\$100,000	1	NGF
2028	\$100,000	1	NGF
2029	\$100,000	1	NGF
2030	\$100,000	1	NGF

Expenditure Impact: Department of Small Business and Supplier Diversity (Item 111)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	\$799,202	5	GF
2026	\$598,403	5	GF
2027	\$598,403	5	GF
2028	\$598,403	5	GF
2029	\$598,403	5	GF
2030	\$1,098,403	5	GF

Expenditure Impact: Department of Social Services (Item 334)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	\$75,712	0.5	GF
	\$75,712	0.5	NGF
2026	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2027	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2028	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2029	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2030	\$73,131	0.5	GF
	\$73,131	0.5	NGF

- 8. Fiscal Implications:** The information in this fiscal impact is preliminary and will be updated with estimates from additional agencies.

The bill establishes a new Procurement Enhancement division within the Department of Small Business and Supplier Diversity (DSBSD). The new division is to administer the Small Business Procurement Enhancement Program, and the Women-owned and Minority-owned Business Procurement Enhancement Program. Under each program, the bill requires that DSBSD monitor and guide state agencies and covered institutions in achieving certain statewide procurement participation goals. DSBSD is to develop the framework for these new programs in consultation with the Department of General Services (DGS), the Virginia Information Technologies Agency (VITA), as well as other state agencies and covered institutions. Impacted agencies and institutions are required to submit their procurement plans to DSBSD. DSBSD is required to produce a progress report annually by November 30.

DSBSD anticipates incurring an expenditure impact as a result of this bill, as it requires the creation of a new division within the agency, in addition to the completion of a disparity study every five years. The new division is to work with state agencies and covered institutions to achieve a statewide goal of 23.1 percent discretionary spending with SWaM businesses and at least 42 percent discretionary spending with certified small businesses. To establish the new division and implement the requirements of the bill, DSBSD estimates that five SWaM Contract Compliance Officer positions will be needed, at roughly \$119,680 each, for a total of \$598,403 annually.

Compliance officers will be responsible for assisting state agencies in meeting the established thresholds. These positions will review subcontract plans from prime contractors to ensure compliance with stated goals, and support SWaM subcontractors that have a grievance with a prime contractor and serve on a panel that would determine if a prime contractor should be enjoined from future contract participation for failure to perform against their subcontractor plans. Officers are also to use data collected by DGS's statewide electronic procurement system, known as eVA, to track and monitor performance. In FY2023, there were 646,763 purchase order transactions in eVA and over \$10 billion in expenditures. The agency anticipates that significant coordination with DGS will be required to ensure accurate reporting and statewide goal achievement.

The bill also requires that DSBSD conduct a disparity study every five years. Based on known costs from a previous disparity study conducted in 2020, DSBSD anticipates incurring an expense of \$500,000 every five years. General fund appropriation for the full amount of the first iteration of the disparity study is required in FY 2025

According to the Department of Accounts, changes to the definition of small business are expected to require minor reconfigurations in the Cardinal Financial System. However, such changes are expected to be able to be absorbed within existing funding and appropriation levels and do not require an amendment.

VITA anticipates that this bill could have a significant impact to contract management. According to VITA, the level of detail required (obtaining and maintaining written

explanations, establishing a panel to review failures, additional reporting in eVA , etc.) will require additional funding, estimated at \$100,000 annually, in Supply Chain Management to administer for the roughly 200 statewide contracts. Appropriation is required from VITA's Acquisition Services Special fund to cover this cost.

Based on preliminary expenditure estimates, DGS anticipates that implementing the requirements of the bill may have an estimated one-time general fund impact of \$250,000 for required updates to eVA. DSBSD would have to send DGS additional procurement data through the platform once the bill's provisions are implemented. The system will require an update to the data share algorithm by which eVA receives data from DSBSD, estimated at \$125,000. New reporting functionality will have to be created for the eVA system, also estimated at \$125,000. This reporting functionality would need to be added to the public eVA system and implemented internally within the platform.

The Department of Social Services' Procurement Unit currently has processes in place for these tasks; however, the increased focus on attaining the goal of 42 percent small business usage will require additional processes, documentation, training, and reporting functions. The processes would include a greater use of small businesses which may increase costs of goods and services for the agency. Additional tasks outlined in the legislation, such as tracking and accounting for sub-contract spend, more stringent requirements for vendors to sub-contract to small vendors, and additional validation and monitoring processes would require a senior procurement officer with a salary of \$98,731 to meet these requirements. The annual cost of this position including salary and benefits is \$151,424 (\$75,712 each general fund/nongeneral funds) the first year and \$146,262 (\$73,131 each general fund/nongeneral funds) each year thereafter. First year costs include one-time on-boarding costs of \$5,163.

Any fiscal impact to public institutions of higher education is indeterminate at this time. The institutions have management agreements and memoranda of understanding that provide the institutions with procurement authority that is removed by this bill. It is anticipated that additional staff will be needed to carry out the requirements in this bill. Preliminary estimates range from one to four additional full-time staff.

Any potential impact to the Virginia Retirement System (VRS), especially as concerns investment of the VRS Trust Fund, is unknown at this time.

- 9. Specific Agency or Political Subdivisions Affected:** Departments of Small Business and Supplier Diversity, General Services, Accounts, and Social Services; Virginia Information Technologies Agency; Virginia Retirement System; all state agencies and covered institutions.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.