

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB1287

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

2. Patron: Runion

3. Committee: General Laws

4. Title: Virginia Public Procurement Act; preference for recycled materials.

5. Summary: Requires the Department of General Services (DGS), in determining the award of any contract for materials to be purchased for use by agencies of the Commonwealth, to procure using competitive sealed bidding and give preference to bidders that supply materials containing recycled content, so long as such materials offer a cost competitive advantage over materials that do not contain recycled content. The bill directs DGS to promulgate regulations to implement such provision and establish a system that requires an incremental increase in the percentage of recycled content included in materials in order for a bidder to be given preference in the procurement process, as follows: (i) 10 percent recycled content by January 1, 2025; (ii) 20 percent recycled content by January 1, 2028; and (iii) 30 percent recycled content by January 1, 2030. The bill eliminates the existing preference given to bidders whose goods contain the greatest amount of recycled content in the event of a tie bid and after existing price preferences have been taken into account.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: Indeterminate, see Item 8.

8. Fiscal Implications: This bill would modify existing practices for preferences granted to bidders with utilize recycled content. Under existing law, when goods are being offered, and existing price preferences have already been taken into account, preference is given to the bidder whose goods contain the greatest amount of recycled content. The bill removes this provision.

For the purposes of this fiscal impact statement, it is assumed that the new provision in the bill directs DGS to procure contracts for materials to be purchased for use by agencies of the Commonwealth using competitive sealed bidding and that in determining the award of such procurement, will give preference to bidders that supply materials containing recycled content, so long as such materials offer a cost competitive advantage over materials that do not contain recycled content. The bill directs DGS to establish an increasing scale of how much recycled content must be in the materials in order to qualify for the preference, starting at 10 percent by January 1, 2025 and reaching 30 percent by January 1, 2030.

As defined under the Virginia Public Procurement Act (VPPA), "goods" means all material, equipment, supplies, printing, and automated data processing hardware and software. It is unclear if the new provision in this legislation applies to goods or just materials as a subset of "goods". The fiscal impact of this distinction is indeterminate.

Under the VPPA, goods may be procured by competitive sealed bidding or competitive negotiation (§2.2-4303). This legislation appears to restrict the procurement of materials by competitive sealed bidding. The impact of this provision on future procurements that may have been done by competitive negotiation is indeterminate.

It is unclear if the new provision in this legislation applies to all agencies' contracts for the purchase of materials or applies only to DGS when purchasing materials for use by agencies of the Commonwealth. Any fiscal impact is indeterminate and would depend on the agencies involved, the types of materials procured, the number of available vendors, and other market conditions.

- 9. Specific Agency or Political Subdivisions Affected:** This bill as written impacts the DGS and all state agencies subject to the Virginia Public Procurement Act. This bill does not apply to higher education institutions operating under Management Agreements and Memoranda of Understanding in the operational area of procurement (currently 13 Level III and Level II institutions). This bill does not apply to local governments who have exempted themselves from the VPPA.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: February 7, 2022
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