

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB1287

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

2. Patron: Runion

3. Committee: General Laws and Technology

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 plastic materials to be purchased for use by agencies of the Commonwealth, to procure using competitive sealed bidding and give preference to bidders that supply plastic materials containing plastic recycled content, so long as such materials offer a cost competitive advantage over materials that do not contain plastic recycled content. The bill directs DGS to promulgate regulations to implement such provision by consulting with the Virginia Manufacturers Association to define the term “cost competitive” and by establishing 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.

6. Budget Amendment Necessary: See Item 8.

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

8. Fiscal Implications: For the purposes of this fiscal impact statement, it is assumed that the new provision in the bill directs DGS to procure contracts for plastic 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 plastic materials containing recycled content, so long as such plastic materials offer a cost competitive advantage over materials that do not contain plastic recycled content. The bill directs DGS to establish an increasing scale of how much plastic 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 assumed that plastic materials are a subset of “goods”. 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 plastic 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 plastic materials or applies only to DGS when plastic purchasing materials for use by agencies of the Commonwealth. Any fiscal impact is indeterminate and would depend on the agencies involved, the types of plastic materials procured, the number of available vendors, and other market conditions.

- 9. Specific Agency or Political Subdivisions Affected:** This bill as written impacts 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.

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