

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB818

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: Torian

3. Committee: General Laws

4. Title: Virginia Public Procurement Act; prompt payment of bills by state agencies; subcontractors.

5. Summary: Provides that no state agency shall furnish a final payment to any prime contractor without first ensuring that all subcontractors to such prime contractor have been paid in full.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: See Item 8.

8. Fiscal Implications: This legislation would require state agencies to ensure that prime contractors (as used in this Article, a contractor is defined as the entity that has a direct contract with any state agency or any agency of local government as discussed in § 2.2-4352) have paid in full all subcontractors to the prime contractor on such contract before the state agency furnishes a final payment to the prime contractor.

As defined in Article 4, Chapter 43, Title 2.2, Code of Virginia, a subcontractor means “any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.”

Per similar prior analyses by the Department of General Services, this provision would apply to all vendors that the Commonwealth completes a purchase order with. If contractors do not desire to assume this practice as part of a contract with the Commonwealth, then these provisions may affect the pool of vendors competing for the Commonwealth’s business, which would in turn affect the prices of goods and services. Any such impact is indeterminate as this time.

State agencies may have additional costs related to ensuring compliance with these provisions. State agencies may not be aware of all of the subcontractors used by a contractor. It is unclear what action a state agency would need to take in the event of a dispute between a contractor and subcontractor regarding the subcontractor’s payment in full. Should the state agency erroneously withhold a final payment, the agency could be subject to interest penalties, if applicable under §2.2-4355.

9. Specific Agency or Political Subdivisions Affected: Any authority, board, department, instrumentality, institution, agency or other unit of state government.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: January 31, 2022

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