

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB374

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: Obenshain

3. Committee: Commerce and Labor

4. Title: Project labor agreements; prevailing wage; collective bargaining for employees of local government.

5. Summary: Repeals certain provisions of the Code that (i) require contractors and subcontractors under any public contract with a state agency or certain localities to pay the prevailing wage rate; (ii) authorize any public body, when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works, to require bidders to enter into or adhere to project labor agreements on the public works projects; and (iii) authorize a locality to recognize any labor union or other employee association as a bargaining agent of any public officers or employees or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Indeterminate – see item 8

8. Fiscal Implications: This legislation would modify existing law regarding project labor agreements such that state agencies would be able to require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or related public works projects and otherwise discriminate against bidders, offerors, contractors, subcontractors, or operators for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related public works projects. Separate provisions being added in the bill direct state agencies to ensure that bid specifications, project agreements, or other similar documents do not require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or related public works projects and otherwise discriminate against bidders, offerors, contractors, subcontractors, or operators for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related public works projects. These provisions appear to be in conflict.

This bill also eliminates provisions of the Code allowing counties, cities, and towns to adopt an ordinance or resolution allowing that locality's employees to collectively bargain. As such provisions only apply to counties, cities, and towns, no state fiscal impact is expected.

The bill also repeals the provision of the Code requiring state agencies to ensure that its bid specifications or other public contracts applicable to public works projects require bidders, offerors, contractors, and subcontractors to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract for public works at the prevailing wage rate.

The repeal of this provision will likely impact state procurement, however, the amount is currently indeterminate. The Division of Engineering and Buildings (DEB), which provides cost reviews for state agency capital projects, has previously indicated that the potential increase to state capital project construction costs could be approximately 15 percent, based on comparisons to other states with prevailing wage requirements. Virginia's prevailing wage requirement has only been in place for approximately eight months and sufficient data about the impact of the prevailing wage requirement has not yet been gathered to further refine this estimate. If bids or negotiations would otherwise be less than the prevailing wage level, this legislation would result in reduced costs for state projects in the future. Any contracts executed under existing law would likely still be subject to the existing prevailing wage requirement.

The Virginia Department of Transportation indicates no fiscal impact to their administrative costs from this bill. The fiscal impacts to institutions of higher education are indeterminate at this time. Impact estimates from the Department of Labor and Industry are currently not available.

This bill repeals a misdemeanor offense for any contractor or subcontractor who willfully violates the provisions of the prevailing wage requirement on a public works project. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. However, there is not enough information available to reliably estimate the decrease in jail population as a result of this proposal. Any decrease in jail population will reduce costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry, Department of General Services, Virginia Department of Transportation, institutions of higher education, state agencies

10. Technical Amendment Necessary: Yes – amendments to §2.2-4321.2, specifically sections B. and C. (lines 24 through 46) appear to be in conflict with one another.

11. Other Comments: HB883 is the companion bill to SB374.