



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Virginia

Legislative Status Report

November 1, 2016

Bill #
(Click the bill number to
read the entire bill)

Subject

Status

ACEC/VA Position

HB145	<p>Virginia Public Procurement Act; public works contracts; prevailing wage provisions. Prohibits state agencies from requiring bidders, offerors, contractors, or subcontractors to pay, or require the payment of, wages, salaries, benefits, or other remuneration to persons employed to perform services in connection with a public works project at a rate that is based on the wages and benefits prevailing for the corresponding classes of labors and mechanics employed. A corresponding prohibition is made applicable to state agencies providing grants or other financial assistance for public works projects, unless otherwise required under federal law. The measure further states that it is the policy of the Commonwealth not to implement, adopt, enforce, or require any program, policy, or provision that requires a public works contract that requires the payment of wages or other remuneration at a rate based on the prevailing wage, whether modeled on the federal Davis-Bacon Act or similar state law.</p>	Vetoed by Governor	Monitor
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HB264	<p>Prohibiting certain local government practices that would require contractors to provide certain compensation or benefits. Prohibits local governing bodies from establishing provisions related to procurement of goods, professional services, or construction that would require a wage floor or any other employee benefit or compensation above what is otherwise required by state or federal law to be provided by a contractor to one or more of the contractor's employees as part of a contract with the locality. Localities shall not be prohibited from entering into contracts for economic development incentives in which the company receiving the incentives is required to maintain a certain stated wage level for its employees.</p>	Vetoed by Governor	Monitor
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HB279 SB573 (identical bills)	<p>Career and technical education; three-year licenses. Directs the Board of Education to provide for the issuance of three-year licenses to qualified individuals to teach high school career and technical education courses in specific subject areas for no more than 50 percent of the instructional day or year, on average.</p>	Passed by both houses, signed by Governor 4/1/16	Support
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HB499	<p>Professions and occupations; standards for regulation. Provides that a professional and occupational regulatory board cannot abridge the right of every person to engage in any lawful profession, trade, or occupation of his choice unless (i) it is clearly found that such abridgment is necessary for the protection or preservation of the health, safety, and welfare of the public and (ii) any such abridgment is no greater than necessary to protect or preserve the public health, safety, and welfare.</p>	Passed with amendments; signed by Governor 3/25/16	Support with amendments
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HB501
SB465
(identical bills)

Request for Proposal of design-build projects. Allows for the submission and consideration of alternative technical concepts, defined in the bill, during the Request for Proposal process of a design-build transportation project.

Passed by both
houses, signed by
Governor 3/1/16

No position

HB558

Onsite sewage systems and private wells; evaluation and design. Directs the State Health Commissioner to develop a plan for the orderly reduction and elimination of evaluation and design services for onsite sewage systems and private wells, which shall provide for the protection of the public health as the Department transitions to accepting only applications that are supported by private site evaluations and designs from a licensed professional engineer or licensed onsite soil evaluator or, for any work subject to regulations governing private wells in the Commonwealth, by a licensed water well system provider.

Passed by both
houses, signed by
Governor 3/11/16

Monitor

HB578
SB169
(identical bills)

Virginia Public Procurement Act; Request for Proposal for architectural or engineering services. Provides that in the case of the selection process for a Request for Proposal for architectural or engineering services, the public body shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or applicable capital outlay standards, until after the qualified offerors are ranked.

Passed by both
houses, signed by
Governor 3/11/16

ACEC/VA
sponsored bill

HB682

Waiver of teacher licensure requirements; trade and industrial education programs. Permits division superintendents to apply to the Department of Education for an annual waiver of the teacher licensure requirements for any individual whom the local school board hires or seeks to hire to teach in a trade and industrial education program who has obtained or is working toward an industry credential relating to the program area and who has at least 4,000 hours of recent and relevant employment experience, as defined by the Board pursuant to regulation.

Passed by both
houses, signed by
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<p>HB741 SB453 (identical bills)</p>	<p>Virginia Board for Asbestos, Lead, and Home Inspectors; licensing of home inspectors. Provides that beginning July 1, 2017, home inspectors must be licensed by the Virginia Board for Asbestos, Lead, and Home Inspectors (the Board). The bill requires the Board to promulgate regulations to implement the provisions of the bill effective no later than July 1, 2017, and exempts the Board's initial adoption of such regulations from the Administrative Process Act (§ 2.2-4000 et seq.), with the exception that the Board must provide an opportunity for public comment prior to adoption.</p>	<p>Passed by both houses, signed by Governor 3/1/16</p>	<p>Monitor</p>
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<p>HB786</p>	<p>Virginia Public Procurement Act; awards as a result of authorized enhancement or remedial measures. Requires any enhancement or remedial measure authorized by the Governor under subsection C of § 2.2-4310 for procurement by state agencies to include a compliance provision for the use of small, women-owned, minority-owned, and service disabled veteran-owned businesses certified by the Department of Small Business and Supplier Diversity. The bill requires that a contract be awarded in accordance with an award priority provided in such enhancement or remedial measure if such priority business participated in and met the requirements of the solicitation. If the contract cannot be awarded on this basis, the contract must be awarded to a qualified business in accordance with the next established award priority, and so on until a contract is awarded on the basis of an established priority. The bill provides that if no qualified priority businesses are participating, the procurement award may be made without regard to the enhancement or remedial measure.</p>	<p>Passed by both houses, signed by Governor 4/1/16</p>	<p>Monitor</p>
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<p>HB823</p>	<p>Governmental agencies contracting for items listed on commercial activities list. Provides that any state governmental agency that purchases goods or services from another governmental agency, including those found on the commercial activities list, shall place the purchase orders for such goods and services on the Department of General Services' central electronic procurement system. The bill requires institutions of higher education authorized in accordance with the Restructured Higher Education Financial and Administrative Operations Act (§ 23.38.88 et seq.) to provide government-to-government purchase order data through interface or integration with the Department of General Services' central electronic procurement system. The bill also requires the Department of General Services to publish on its central electronic procurement system website a government-to-government transaction transparency report.</p>	<p>Passed by both houses, signed by Governor 4/1/16</p>	<p>Support</p>
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<p>HB868 Incorporated into HB1362</p>	<p>Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate report of gifts; definition of procurement transaction; technical amendments. Requires the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts to be filed annually. Lobbyists are required to file by July 1 for the preceding 12-month period complete through the last day of April, and persons subject to the conflict of interests acts are required to file on or before January 15. The bill also requires the Governor, Lieutenant Governor, and Attorney General, members of the Governor's Cabinet, and members of the General Assembly to file on or before May 1 a separate report of gifts received during the period beginning January 1 through adjournment of the regular session of the General Assembly. Effective January 1, 2017, the bill removes from the Code the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts and requires the Virginia Conflict of Interest and Ethics Advisory Council (Council) to prescribe the forms to be used to comply with disclosure requirements.</p>	<p>Passed by both houses, signed by Governor 5/16/16</p>	<p>Monitor</p>
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<p>HB907</p>	<p>Virginia Public Procurement Act; term contracts for architectural and engineering services; limitations. Grants an exemption from the monetary caps for architectural and engineering services to transportation district commissions.</p>	<p>Passed by both houses, signed by Governor 3/7/16</p>	<p>No position</p>
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<p>HB1108</p>	<p>Virginia Public Procurement Act (VPPA) and contracting generally; use of experience modification factor in contracting prohibited. Prohibits the use of any experience modification factor as a condition of any offeror's eligibility to participate in a solicitation for construction. The bill includes the same prohibition for any contract or offer to contract not covered by the VPPA. The bill also provides that it applies to any offer to contract as defined in the bill, Invitation to Bid, or Request for Proposal for construction services issued on or after July 1, 2016. The bill defines "experience modification factor."</p>	<p>Passed by both houses, signed by Governor 4/20/16</p>	<p>Support</p>
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<p>HB1166 SB362 (identical bills)</p>	<p>Virginia Public Procurement Act; small purchase procedures; transportation-related construction. Provides that a public body may establish small purchase procedures not requiring competitive sealed bids or competitive negotiation for single or term contracts for transportation-related construction if the aggregate or sum of all phases is not expected to exceed \$25,000.</p>	<p>Passed by both houses, signed by Governor 4/1/16</p>	<p>Monitor</p>
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Virginia Erosion and Stormwater Management Act; consolidation of programs; opt-out for certain localities; penalties. Combines existing statutory programs relating to soil erosion and stormwater management, directing the State Water Control Board (the Board) to permit, regulate, and control both erosion and stormwater runoff.

The bill requires any locality that operates a municipal separate storm sewer system (MS4) or a Virginia Stormwater Management Program (VSMP) to adopt a Virginia Erosion and Stormwater Management Program (VESMP) that regulates any land-disturbing activity that disturbs an area of 10,000 square feet or more, or 2,500 square feet or more if in a Chesapeake Bay Preservation Area. A locality that lacks an MS4 and for which the Department of Environmental Quality (DEQ) is currently administering a VSMP is required to (i) adopt such a VESMP, (ii) adopt such a VESMP with DEQ conducting plan review and making recommendations on the compliance of each plan with technical criteria, or (iii) continue to operate a separate Virginia Erosion and Sediment Control Program (VESCP) that regulates any disturbance of 10,000 square feet or more and, in a Preservation Area, regulates a disturbance of 2,500 square feet or more and meets certain other requirements. Any eligible locality that chooses the third option is to have a VSMP administered on its behalf by the Board for any land-disturbing activity that disturbs one acre or more of land, including an activity that disturbs a smaller area but is part of a larger development that results in a disturbance of one acre or more. Towns are afforded additional options in relation to the counties in which they are located.

The bill directs certain charges or penalties to the Stormwater Local Assistance Fund, which provides matching grants to local governments for stormwater best management practices. Finally, the bill directs DEQ to evaluate fees related to the consolidated Virginia Erosion and Stormwater Management Program and directs the Board to adopt regulations to carry out the purposes of the bill, delaying the effective date of the bill until the later of July 1, 2017, or 30 days after the adoption of such regulations.

HB1250
SB673
(identical bills)

Passed by both
houses, signed by
Governor 4/20/16

Monitor



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HB1373	Virginia Public Procurement Act; design-build contracts; purchase of intellectual property of proposers by local public bodies. Allows local public bodies to purchase the intellectual property or other work product of a proposer, provided that (i) the local public body makes a determination in advance and set forth in writing that it will be advantageous to purchase the intellectual property of an unsuccessful proposer, (ii) prequalification is limited to five contractors, and (iii) the Request for Proposal includes a notice that the local public body may acquire the intellectual property rights of an unsuccessful proposer.	Failed, left in committee	Oppose
SB562	Health benefit plans; federal law changes. Authorizes health carriers to sell, issue, or offer for sale any health benefit plan that would otherwise not be permitted to be sold, issued, or offered for sale due to conflict with the requirements of the federal Patient Protection and Affordable Care Act (PPACA), to the extent that the requirements of the PPACA are amended by any federal law.	Passed by both houses, signed by Governor 3/7/16	Monitor
SB645	Virginia Freedom of Information Act (FOIA); exempt records concerning critical infrastructure information. Defines the term "critical infrastructure information" for purposes of FOIA. The bill also provides that any public body receiving a request for such records shall notify the Secretary of Public Safety and Homeland Security or his designee of the request and the response made by the public body.	Passed by both houses, signed by Governor 4/6/16	Monitor