

Virginia Legislative Update

End of Session Report **March 14, 2016**

Newly Approved Laws That May Impact Virginia Construction Businesses

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The Virginia General Assembly adjourned last week, leaving behind several newly approved laws that will impact the rights and obligations of companies in the construction industry beginning July 1, 2016.

PUBLIC PROCUREMENT

HB 907 Term Contracts for A&E Services. Provides higher monetary caps on architectural and engineering services term contracts for transportation district commissions and localities with populations greater than 78,000 (amends Code § 2.2-4303.1).

HB 1108 Experience Modification Restriction. Prohibits the use of any experience modification factor as a condition of eligibility to participate in a solicitation for construction services, even for those projects not covered by the VPPA. "Experience modification factor" is defined as a value assigned to an employer by a rate service organization per its uniform experience rating plan required by Code § 38.2-1913 (amends Code §§ 2.2-4302.1, 4302.2, 11-9.8)

HB 1166 Small Purchase Procedures. Authorizes the establishment of purchase procedures not using competitive sealed bidding or competitive negotiation for a single or term contract less than \$25,000 for transportation-related construction and for goods less than \$100,000 (amends Code § 2.2-4303).

SB 169 Request for Proposals for Architectural or Engineering Services. Provides that offerors in the selection process for architectural or engineering services shall not be required to list any exceptions to proposed contractual terms and conditions until after the qualified offerors are ranked (amends Code § 2.2-4302.2).

SB 418 Authorizing Cooperative Procurement for Artificial Turf. Authorizes the purchase of installation of artificial turf and track surfaces and all associated and necessary construction using cooperative procurement (amends Code § 2.2-4304).

SB 465 Consideration of Alternative Technical Concepts during RFP Process. Provides the submission and consideration of "alternative technical concepts" during the RFP process for a design-build transportation project. "Alternative technical concepts" are defined as proposed changes to agency-supplied design, scope or construction criteria that provide a solution that is equal to or better than the requirements in the RFP (amends Code § 33.2-209).

EMPLOYMENT

HB 4 / HJ 2 Constitutional Amendment for Voter Referendum; Right to Work. Provides for a referendum at the November 8, 2016, election to approve or reject an amendment to the Virginia Constitution stating that Any agreement or combination between any employer and any labor union or labor organization whereby nonmembers of the union or organization are denied the right to work for the employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment

monopoly in any enterprise, is against public policy and constitutes an illegal combination or conspiracy and is void (amends Virginia Constitution Article I).

HB 66 Grants for Earning Workforce Training Credentials; New Economy Industry Credential Assistance Training Grants. Establishes a program that would pay grants of \$2,000 to individuals who complete eight hours of community service and who subsequently complete a noncredit workforce training program and earn a credential in a high-demand field. The grant would be limited to payment of tuition charged for the training program, the cost of any required textbooks, and the cost of any examination required to earn the credential (creates new Title 23.38:10 *et seq.*).

HB 691 Additional Hours to Report Work-Related Injuries. Extends from eight to 24 hours the time period in which an employer is required to notify the Virginia Department of Labor and Industry of any work-related incident resulting in hospitalization, amputation, or loss of an eye (amends Code § 40.1-51.1).

WAGES

HB 145 Prevailing Wage Provisions. Prohibits states agencies from requiring contractors to pay wages, salaries, benefits, or other remuneration to persons in connection with a public works project at a rate that is based on the wages and benefits at prevailing wage rates. 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 (amend Code § 2.2-4321.2).

HB 264 Prohibiting Localities from Requiring Contractors to Provide Certain Compensation or Benefits. Prohibits localities from establishing provisions 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 its employees as part of a contract with the locality. The prohibition would not apply to contracts for economic development incentives in which the company receiving the incentives is required to maintain a certain stated wage level for its employees.

WORKERS' COMPENSATION

HB 44 Injuries Presumed to be in Course of Employment. Revises the provision creating a presumption, in the absence of a preponderance of evidence to the contrary, that an injury is work related if the factual circumstances indicate an accident arose during employment and the employee dies without regaining consciousness, dies at the accident location, or is found dead at the employment site (amends Code § 65.2-105).

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