

2022 BSA State Legislative Summary: PROCUREMENT

- 2022 saw about a 278 percent increase in the number of procurement-related bills and resolutions over 2021 from 98 bills to 370 bills. Moreover, there was a 46 percent increase in states introducing procurement bills and resolutions in 2022.
- Forty-two of those bills were enacted, or about 11 percent, and four were vetoed. Three of the vetoes were by Maryland Governor, Larry Hogan. Maryland and Florida vetoed cybersecurity procurement because it was duplicative and financial constraints, respectively.
- The states considered 45 bills regarding vendor preferences; typically, these are about veteran or minority preference for state contracts or state preferences for all contracts, including location of business or environmental practices.
- The states introduced 37 bills about general procurement process updates; however, 20 of those were in Hawaii. Five process bills were enacted: two in Maryland, two in Hawaii, and one in Mississippi.
- Russia-related procurement bills, in response to the War in Ukraine, represented about 8 percent (29 bills); however a third of those (10) made it to the governor's desk. Nine of those bills were enacted and one was vetoed.
- Cybersecurity procurement bills only accounted for 15 bills, but a third made it to the governor's desk. However, of those five bills that made it to the governor's desk, two were vetoed.

In 2022, 12 more states introduced procurement-related legislation than in 2021, which accounted for a 46 percent increase. Not only did more states introduce legislation, but the overall quantity of procurement-related legislation increased from 98 to 370. A slight increase was likely caused by the 37 Russia-related sanction bills and resolutions as a result of the war in Ukraine.

The states introduced 45 bills related to the states' preferences for vendors ranging from equity preferences (e.g., veteran- or minority-owned businesses) to social issue preferences (e.g., general positive environmental practices or discrimination against the firearm industry). Colorado, Connecticut, and Maryland enacted laws to address minority-owned businesses discrepancies, while California, Minnesota, and New Jersey considered similar measure. However, those measures failed to gain momentum in Mississippi and New York. Several states including Illinois, Kentucky, and Michigan contemplated adding a preference for state-based businesses, while Hawaii repealed its preference for state-based products.

Thirty-seven bills related to the general procurement process, 21 related to procurement systems or administration, and six were about procurement payments and assessments. These general procurement bills accounted for about 17 percent of bills. Of note, Alabama exempted related

purchase for Department of Health, Alcoholic and Beverage Control Board, and the state's Department of Transportation. Mississippi revised its bid threshold requirements, while Hawaii will require departments to justify publicly cancelling a bid invitation or request for proposal. In Hawaii However, cybersecurity procurement bills accounted for only 4 percent of bills (15). Only Washington, DC passed legislation and resolutions about COVID-19.

Based on the previous session, BSA does not anticipate the number of Russia-related sanctions to increase, barring any major developments there. Furthermore, the likelihood of additional COVID-19 bills remains low. However, there is a high likelihood that states will continue to introduce minority- and veteran-owned business preference procurement legislation and procurement bills related to social issues and vendors.

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