

## 2023 BSA State Legislative Summary: PROCUREMENT

- In 2023, about 300 new procurement bills were introduced, compared to 154 new bills in 2022—a 100% increase from 2022.
- States enacted 45 bills and another 52 were passed by at least one state legislative chamber. An additional 55 were heard or passed by a committee or subcommittee.
- The most common topics of all introduced bills were environmental, social, and governance issues (ESG); state/US-preference; foreign government regulations; procedure; and requirements.
- Maryland and New York both passed legislation to further support small, minority-, and women-owned businesses.
- Out of the 42 states that introduced legislation, 23 enacted procurement legislation. Thirteen ESG-related bills were enacted in seven states. Two bills were vetoed. Arizona Governor Katie Hobbs (D) vetoed two procurement bills related to prohibiting public contracts with organizations that either (1) discriminate against firearms and (2) have ESG policies.

Notably, West Virginia enacted legislation to require state agencies to adopt cloud services. A Hawaiian multi-part technology bill, which included cloud-computing adoption, passed the first chamber. Minnesota introduced a bill, which did not move, to require metrics on adopting cloud services. It also included a legacy software provision. Other software licensing bills appeared in Arizona, Iowa, Massachusetts, New Hampshire, Rhode Island, and West Virginia. The legacy software bill passed a committee in New Hampshire and passed the first chamber in Arizona. Massachusetts introduced, and heard in committee, a bill to give preference to technology vendors that carry cybersecurity insurance.

Several states—Mississippi, Missouri, New York, Oregon, Texas, and Virginia—continued to introduce bills to modernize procurement. Texas introduced a bill requiring state contractors to participate in E-verify. New York introduced legislation to enact the Local Government Procurement Modernization and Transparency Act, which would allow local governments to use the internet for procurement. New York's bill, and the bills in Mississippi, Missouri, New York, and Oregon, would encourage more local governments to use state procurement websites. Vermont heard a bill in committee to require the completion of a one-stop portal for businesses. New York also introduced a bill requiring certain software and related contracts to have requirements to increase access for individuals with disabilities. Other outlier bills include a net-neutrality bill in Rhode Island and software procurement process bill in West Virginia.

In 2023, the number of states with bills increased from 38 to 42, and the number of states that enacted legislation grew from 18 to 22. As previously forecasted, states continued to introduce legislation related to vendor preferences and ESG standards. ESG topics in this context include minority- and veteran-owned businesses, environmental practices, and firearm/energy industry support. In Republican-controlled legislatures, ESG bills typically limit organizations from requiring ESG practices,

whereas in Democratic-controlled legislatures, bills typically encourage it. However, notable exceptions exist, including the split legislature in Virginia, which enacted legislation related to ESG for small businesses, supplier diversity, and environmental practices.

Alabama, Idaho, and North Dakota all passed legislation prohibiting local and state government agencies from contracting with organizations that engage in boycotts against various industries. BSA anticipates the states will continue their interest in regulating ESG policy next year. In Republican legislatures, it will likely restrict regulations against ESG policies in organizations, whereas in Democratic legislatures, it will likely support such policies.

Although the general interest in foreign country legislation has declined from 2022, significantly more legislation surfaced in 2023 than in 2021, with 38 bills introduced. Legislation ranged from banning public contracts and investments with foreign countries of concern, specific countries (China, Iran, Russia, etc.), companies that boycott Israel, or countries specifically targeting applications. Nine such bills were enacted in seven states with predominantly in Republican-controlled legislatures.

Several states reviewed their procurement requirements and procedures with 37 bills. Nine states—Hawaii, Kentucky, Maryland, Mississippi, New York, Oklahoma, South Dakota, Tennessee, and Virginia—enacted laws that modified existing requirements or procedures, mostly relating to monetary thresholds for contracts.

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