

Department of Planning and Budget 2004 Fiscal Impact Statement

- 1. Bill Number** HB918
- House of Origin** ☐ Introduced ☒ Substitute ☐ Engrossed
- Second House** ☐ In Committee ☐ Substitute ☐ Enrolled
- 2. Patron** Phillips
- 3. Committee** General Laws
- 4. Title** Exclude convenience stores and certain gas stations from the Health Department's restaurant regulation
- 5. Summary/Purpose:** The Committee Substitute for HB 918 would exclude from the definition of restaurant, and thereby from regulation as a restaurant, convenience stores or gas stations having 15 or fewer seats at which food is served to the public on the premises, if they are subject to Department of Agriculture and Consumer Services (VDACS) regulation and they are not associated with a national or regional restaurant chain.

6. Fiscal Impact Is Preliminary:

6a. Expenditure Impact:

<i>Dollars</i>			
<i>Fiscal Year</i>	<i>GF</i>	<i>NGF</i>	<i>Positions</i>
2003-04	\$ 0	\$ 0	0.0
2004-05	103,598	0	2.0
2005-06	103,662	0	2.0
2006-07	103,662	0	2.0
2007-08	103,662	0	2.0
2008-09	103,662	0	2.0
2009-10	103,662	0	2.0

6b. Revenue Impact Is Indeterminate: See Item 8, below.

- 7. Budget amendment necessary:** Yes. Item #105, General Food Inspection, budget of Virginia Department of Agriculture and Consumer Affairs

8. Fiscal implications:

Current Situation

VDACS currently has general authority under the *Code of Virginia* to inspect these establishments and may already be inspecting the non-restaurant portion of the facilities. However, VDACS tries not to inspect when VDH is inspecting the same facility.

Unfortunately, current data does not allow a determination of how many of the 600 such facilities currently inspected by VDH are already being inspected by VDACS, but some overlap is assumed.

Virginia Department of Health (VDH)

Expenditure Estimates: Under HB 918, House Substitute, VDH would no longer inspect and permit the food service portion of approximately 600 currently permitted restaurants located in convenience stores or gas stations. (The Virginia Department of Agriculture and Consumer Services already is responsible for inspecting the retail portion of convenience stores.)

The current VDH responsibility for inspecting these 600 operations translates into three environmental health FTEs. However, because the affected establishments are spread all across the Commonwealth, the three FTEs are not discrete positions but rather comprise a very small portion of each local health department's environmental health operation. Since no discrete staff impacts can be identified and other workloads for environmental specialists tend to rise as population rises, no staffing reductions would be feasible.

The number of restaurants, as well as food festivals and other operations that VDH is required to inspect in order to prevent food-borne illness outbreaks continues to grow over time. While VDH may lose up to 600 sites statewide as a result of this bill, the agency is likely to pick up nearly that many in new ventures.

In addition, the \$40 fee does not cover the actual cost of inspection, so that net growth places an additional burden on VDH's state-local cooperative budget. No new GF resources are provided to cover either caseload growth or revenue shortfalls, and thus no net savings are anticipated.

Revenue Estimates: VDH will probably lose between \$10,000 and \$24,000 in revenue from inspection fees, but the amount is small and other anticipated changes in revenues are sufficient to obscure the impact of the loss. Thus, no budget adjustment would be appropriate. Therefore, no revenue change for VDH is reflected in Item 6b, above.

Virginia Department of Agriculture and Consumer Affairs (VDACS)

Revenue Estimates: VDACS has no way of determining how many of the 600 facilities covered by HB 918 are already being inspected with regard to their non-restaurant functions. If they are, then no new fee would be charged.

At the maximum, assessing a \$40 annual inspection fee on these establishments would generate revenue of \$24,000 each year. To the extent that both agencies now inspect the same facilities and VDACS already collects an inspection fee, new revenue to VDACS would be less than revenue lost to VDH.

Because VDACS revenue is so uncertain, no estimate is included in Item 6b above.

Expenditure Estimates: VDACS indicates that new duties cannot be absorbed without reducing performance of other duties and no non-general fund money is available to fund the new responsibilities.

Consistent with current VDACS regulations, two inspections would be conducted per year per establishment, on average. The agency estimates that two new Food Safety Specialist positions would be required to conduct the 1,200 additional inspections per year. The expenditure impact for the first year would be \$103,598 for costs associated with salary, equipment, supplies and training, and \$103,662 for the second year for costs associated with salary and supplies.

Because inspection fee revenue is so uncertain and existing fee revenue is fully required for existing functions, all new VDACS expenses would have to be funded from the general fund, at least in the initial years, until impact could be assessed and it could be determined whether fee revenue could offset a portion of expenditures.

9. Specific agency or political subdivisions affected:

- Virginia Department of Agriculture and Consumer Affairs (VDACS)
- Virginia Department of Health (VDH), including all local health departments
- Independent local health departments in Fairfax County, Richmond, and elsewhere

10. Technical amendment necessary: No

11. Other comments: Expenditures could be reduced if HB 766 becomes law since that bill would eliminate VDACS' inspection requirements for any retail establishment that sells only pre-packaged food items.

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c: Secretary of Health and Human Resources