

## Department of Planning and Budget 2012 Fiscal Impact Statement

**1. Bill Number:** SB129

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Stanley**3. Committee:** General Laws and Technology**4. Title:** State mandates on localities.

**5. Summary:** This revised impact statement addresses the anticipated fiscal impact the bill may have to the Commission on Local Government. The bill directs the Governor to temporarily suspend certain unfunded state mandates on localities pending a review of such mandates by the Commission on Local Government. Under existing law, the Governor may suspend such mandates for up to one year.

**6. Budget Amendment Necessary:** Yes. Item 112.**7. Fiscal Impact Estimates:** Preliminary (See Item 8 also)**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2013	\$73,800	1	General Fund
2014	\$73,800	1	General Fund

**8. Fiscal Implications:** The Commission on Local Government (CLC), which consists of staff from the Department of Housing and Community Development (DHCD), will incur costs in developing a process for the affected state agencies to review and analyze state mandates subject to this bill and in determining whether an individual mandate meets the criteria for temporary suspension by the Governor. DHCD estimates that one additional position will be needed from the time the bill passes through June 30, 2014, when the determination is made as to which mandates will be permanently eliminated, and a general fund appropriation of \$73,800 will be needed to fund the position in FY 2013 and FY 2014.

In the 2011 edition of the Catalog of State and Federal Mandates on Local Governments, the Commission on Local Government (CLG) identified 478 mandates administered by executive branch agencies subject to assessment pursuant to § 2.2-613, Code of Virginia. Of these mandates, 114 are administered by the Department of Education and, pursuant to § 2.2-113 (E), Code of Virginia, would not be subject to the provisions of this legislation. Consequently, a total

of 364 mandates administered by 41 executive branch state agencies would be subject to the provisions of this legislation.

In order for the Governor to temporarily suspend these mandates beginning on July 1, 2012, these 41 executive branch state agencies would have to make a determination prior to that time as to (1) whether the mandate is “unfunded” and (2) whether its suspension would adversely impact public health or safety.

Any fiscal impact this review may have on the 41 affected agencies is unknown. While state agencies are required to conduct assessments of the mandates that they administer and the CLG oversees this process, these assessments do not occur until after the mandate has been in effect for at least two years and assessments do not occur more frequently than every four years. Therefore, some of the mandates subject to this legislation will never have been assessed and others will not have been assessed in the last four or more years, which may impact the time it takes the administering state agency to determine whether it is unfunded and whether its suspension will pose a threat to public health or safety.

In addition, a decision will have to be made, based on each state agency’s findings, as to whether an individual mandate meets the criteria for temporary suspension by the Governor. In addition, the process for the review by state agencies will have to be established and overseen – presumably by the staff to the CLG.

Finally, this legislation requires that, during the two-year temporary suspension period, a determination as to whether such unfunded mandates will be permanently eliminated be made pursuant to § 15.2-2903, Code of Virginia. It is unclear whether the reference in this legislation to § 15.2-2903, Code of Virginia, refers to the process set forth in Subsection 6 or that set forth in Subsection 8 of § 15.2-2903, Code of Virginia.

**9. Specific Agency or Political Subdivisions Affected:** Commission on Local Government, Department of Housing and Community Development

**10. Technical Amendment Necessary:** No

**11. Other Comments:** This legislation does not define “unfunded” as it applies to state mandates so that it is unclear whether it is intended to apply to partially funded mandates. If so and the mandate is temporarily suspended by the Governor, it is unclear whether the state would eliminate the partial funding that it currently provides to local governments for the mandate during its temporary suspension.

If it is intended to refer to the former, it appears that it will be the responsibility of the CLG to so advise the Governor based on state agency assessments. If this legislation is intended to apply to the latter, it would require the Governor’s Task Force for Local Government Mandate Review – appointed in September 2011 and authorized through June 2014 – to make recommendations to the Governor. In either instance, this will require additional CLG staff time because the same three DHCD employees provide staff support to the CLG and to the Governor’s Task Force.

**Date:** 1/23/11 - revised

**Document:** G:\2012 FIS's\SB129.DOC