

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: HB1731

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

2. Patron: Ransone

3. Committee: General Laws

4. Title: Joint Commission on Administrative Rules; periodic review of exemptions from the Administrative Process Act.

5. Summary: The bill requires the Joint Commission on Administrative Rules, beginning November 1, 2017, and every two years thereafter, to conduct a review of the exemptions authorized by the Administrative Process Act (APA). The bill also requires agencies having APA exemptions, beginning August 1, 2017, and every two years thereafter on or before August 1, to submit a written report to the Joint Commission on Administrative Rules, which report includes the date the exemption was enacted, a summary of the necessity for the exemption, and a summary of any rule or regulation adopted pursuant to the exemption in the immediately preceding two fiscal years, if any. The bill provides that in the event that an agency having an exemption fails to submit the report required, the Joint Commission on Administrative Rules shall recommend to the Governor and the General Assembly that such agency's exemption be discontinued. The bill also requires general notice of the provisions of this requirement to be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations by the Joint Commission on Administrative Rules to advise agencies of their obligations under the bill.

6. Budget Amendment Necessary: Yes.

7. Fiscal Impact Estimates:

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2017			
2018	\$100,000	1	General
2019	\$100,000	1	General
2020	\$100,000	1	General
2021	\$100,000	1	General
2022	\$100,000	1	General
2023	\$100,000	1	General

8. Fiscal Implications: The potential costs for the Joint Commission on Administrative Rules (the Commission) have been addressed by the Division of Legislative Services (DLS) who provides support for staffing and legal services. DLS states that the bill requires the Joint Commission on Administrative Rules (i) beginning November 1, 2017, and every two years thereafter, to conduct a review of the exemptions authorized by the Administrative Process Act (APA), (ii) receive biennial reports from agencies regarding exemptions, (iii) recommend to the Governor and General Assembly that an exemption be discontinued if the

agency fails to report, and (iv) provide notice of the bill so agencies will be aware of their obligations under the act.

DLS further states that there are approximately 65 specific exemptions to the Administrative Process Act (APA). Some exemptions apply to all regulations of a particular agency (for example, the State Corporation Commission, the Virginia Housing Development Authority, and the Marine Resources Commission), while others are based on the subject matter of the regulatory action. In addition to the specific exemptions listed in §§ 2.2-4002 and 2.2-4006 of the APA, the basic law of an agency in the Code of Virginia may exempt certain regulatory actions. These agency actions are not listed specifically in the APA, but § 2.2-4002 A 9 exempts "agencies expressly exempted by any other provision" of the Code.

Although the number of exemptions is limited, the number of regulatory actions based on those exemptions is not. The table below shows the number of exempt actions published in the Virginia Register of Regulations for the last few years.

Volume and Issue of the Register	Number of Exempt Regulatory Actions	Date of Publication
Volume 33, Issues 1-11	88	September 5, 2016 - January 23, 2017
Volume 32, Issues 1-26	134	September 7, 2015 - August 22, 2016
Volume 31, Issues 1-26	176	September 8, 2014 - August 24, 2015
Volume 30, Issues 1-26	148	September 9, 2013 - August 25, 2014
Volume 29, Issues 1-26	244*	September 10, 2012 - August 26, 2013
Volume 28, Issues 1-26	226*	September 12, 2011 - August 27, 2012
	*Regulatory reform bill passed in 2012	

DLS is interpreting HB1731 to require a review of exemptions as selected by the Joint Commission on Administrative Rules, and not a review of every exemption every two years. Under this interpretation, DLS will need one full-time position to implement the bill. If this interpretation is incorrect, DLS will need more than one full-time position beginning in FY 2018.

	<u>Annual Cost</u>	<u>Fund</u>
One full-time position:	\$100,000	General

The bill also presents potential costs for agencies with regulations exemptions as they will be required to produce a report every two years. These costs are unknown at this time.

9. Specific Agency or Political Subdivisions Affected: The Division of Legislative Services; State agencies with regulations exemptions.

10. Technical Amendment Necessary: No.

11. Other Comments: None.