

## Department of Planning and Budget

### 2017 Fiscal Impact Statement

**1. Bill Number:** SB1341E

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
<b>Second House</b>	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Surovell

**3. Committee:** Science and Technology

**4. Title:** Digital certification of government records.

**5. Summary:** Allows state agencies to provide copies of electronic records that contain a digital signature that electronically and visually assures that the document is authentic. An agency may charge a fee of \$5 for each digitally certified copy of a record. Such digital signatures shall comply with standards developed by the Secretary of the Commonwealth, in cooperation with the Virginia Information Technologies Agency. Any digitally certified record submitted to a court in the Commonwealth shall be deemed to be authenticated by the custodian of the record.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Indeterminate, see Item 8.

**8. Fiscal Implications:** This legislation would require the Secretary of the Commonwealth, in cooperation with the Virginia Information Technologies Agency (VITA) to develop standards for agencies using digital signatures. State agencies would be permitted to make digitally signed records available to ensure authenticity of the record. The development of standards is not expected to generate a fiscal impact.

The bill's language gives agencies the option to digitally signed records available. At this time, it is unknown how many state agencies would choose to begin utilizing digital signatures thus the fiscal impact is indeterminate. If one or more agencies opts to begin utilizing digital signatures, it will generate a fiscal impact. According to VITA, the use of digital signatures will require use of a new digital key management system, also known as Public Key Infrastructure (PKI), which an agency, or VITA on behalf of one or more agencies, would either need to develop or have to procure and pay for based on the number of licenses needed. If VITA builds or procures the PKI, it would need to bill agencies for their use of the system. Without knowing how many agencies would be involved, the cost to build or procure the system is currently indeterminate.

To ensure an appropriate discussion in this fiscal impact statement, it should be noted that from an information technology security standpoint, there is a difference between an electronic signature and a digital signature:

- An electronic signature is an electronic representation of a user's signature which may be affixed to a document or record with the intent of conveying that the document has been "signed." This method could be considered similar to providing a physical signature.
- A digital signature allows a user to affix a unique digital code to a document or record that provides a level of encryption and authentication. This method could be considered similar to having a physical signature verified by a notary public.

This fiscal impact statement focuses on the term "digital signature." VITA notes that in order to digitally sign a document, a user is provided with a unique password or "private key" that allows the user to "sign" the document or record. A corresponding "public key" is provided to the intended recipients. Typically, a third party known as a Certification Authority issues and manages the public and private keys, as well managing documents known as trust certificates which are used to verify the validity of each public key. The combination of the two keys and verification via a trust certificate process allows the intended recipients to confirm the authenticity of the document and the sending user.

VITA staff also notes that agencies will likely have additional costs to update agencies' applications and systems to accept digital signatures. At this time, it is not known how many applications and systems would need updating nor to what scale, thus these costs are currently indeterminate.

The bill allows state agencies to charge a fee not to exceed \$5 for a digitally certified copy of a record. It is indeterminate how much revenue this provision would generate as it is unknown how many such records would be requested.

**9. Specific Agency or Political Subdivisions Affected:** Secretary of the Commonwealth, Virginia Information Technologies Agency, all state agencies

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** The engrossed version of this legislation makes the provision of digitally certified copies of electronic records permissive. The introduced version of this legislation required state agencies to make such records available in response to a Freedom of Information Act (FOIA) request or a subpoena or judicial order. The engrossed version also makes a technical correction so that the term "digital signature" is used throughout the bill.