

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 445

An Act to direct the Department of Planning and Budget to implement a regulatory reduction pilot program.

[S 20]

Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. § 1. Definitions.

As used in this act:

"Department" means the Department of Planning and Budget.

"Pilot agencies" means the Department of Professional and Occupational Regulation and the Department of Criminal Justice Services.

"Regulation" means the same as that term is defined in § 2.2-4001.

"Regulatory requirement" means any action required to be taken or information required to be provided in accordance with a statute or regulation in order to access government services or operate and conduct business. "Regulatory requirement" does not include (i) regulations and associated regulatory requirements that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved or to meet requirements of federal law or regulations, (ii) statements or policies concerning the internal management of any agency, (iii) guidance documents, (iv) declaratory rulings, or (v) intra-agency or interagency memoranda.

§ 2. The Department, under the direction of the Secretary of Finance, shall administer a three-year regulatory reduction pilot program beginning July 1, 2018, and ending July 1, 2021. Such program shall consist of the following elements:

1. The program shall focus on regulations promulgated and administered by the pilot agencies. The stated goal of the program shall be to reduce regulatory requirements, compliance costs, and regulatory burden across both agencies by 25 percent by July 1, 2021.

2. The responsible Secretaries shall ensure that the pilot agencies develop a baseline regulatory catalog by October 1, 2018, that identifies (i) the total number and type of regulations and regulatory requirements currently promulgated or administered by the two agencies and (ii) any specific federal or state mandates or statutory authority that requires the regulations and associated requirements.

3. The catalog data shall be reported to the Department, in a manner specified by the Department, and published in the Regulatory Town Hall.

4. The 25 percent reduction goal shall be based on the total number of regulations and regulatory requirements as provided by the baseline regulatory catalog. Progress towards the stated goal shall be measured by the number of regulations and regulatory requirements that are either eliminated or streamlined through regulatory or other action.

§ 3. Reporting by pilot agencies.

A. The pilot agencies shall report by July 1, 2019, to the Department all regulations and regulatory requirements initially identified for elimination, amendment, or streamlining. Each pilot agency shall identify any regulation proposed for elimination or modification that requires a change in state law. Each pilot agency shall also initiate reforms, through a rulemaking or nonregulatory action, that produce a reduction of the equivalent of 7.5 percent of the regulations and regulatory requirements contained in its baseline regulatory catalog. If a pilot agency is unable to reach this goal, it shall provide a separate report to the Secretary of Finance stating the reasons for not meeting the goal.

B. The pilot agencies shall report by July 1, 2020, to the Department all regulations and regulatory requirements initially identified for elimination, amendment, or streamlining. Each pilot agency shall identify any regulation proposed for elimination or modification that requires a change in state law. Each pilot agency shall also initiate reforms, through a rulemaking or nonregulatory action, that produce a reduction of the equivalent of 15 percent of the regulations and regulatory requirements contained in its baseline regulatory catalog. If a pilot agency is unable to reach this goal, it shall provide a separate report to the Secretary of Finance stating the reasons for not meeting the goal.

C. The pilot agencies shall report by July 1, 2021, to the Department all regulations and regulatory requirements initially identified for elimination, amendment, or streamlining. Each pilot agency shall identify any regulation proposed for elimination or modification that requires a change in state law. Each pilot agency shall also initiate reforms, through a rulemaking or nonregulatory action, that produce a reduction of the equivalent of 25 percent reduction of the regulations and regulatory requirements contained in its baseline regulatory catalog. If a pilot agency is unable to reach this goal, it shall provide a separate report to the Secretary of Finance stating the reasons for not meeting the goal.

§ 4. Reporting by the Secretary of Finance; basis for implementation of 2-for-1 regulatory budget.

A. The Secretary of Finance shall report annually to the Speaker of the House and the Chairman of the Senate Rules Committee no later than October 1, 2019, and October 1, 2020, on the progress of the regulatory reduction pilot program established pursuant to this act.

B. If, by July 1, 2020, the regulatory reduction pilot program has achieved less than a 15 percent total reduction in regulatory requirements across both pilot agencies, either by initiating rulemaking actions or other streamlining actions, the Secretary of Finance shall include the reasons for not meeting the target reduction in his next available annual report to the Speaker of the House and the Chairman of the Senate Rules Committee.

C. The Secretary of Finance shall report by August 15, 2021, to the Speaker of the House and the Chairman of the Senate Rules Committee the following information: (i) the progress towards identifying the 25 percent reduction goal, (ii) recommendations for expanding the program to other agencies, and (iii) any additional information the Secretary determines may be helpful to support the General Assembly's regulatory reduction and reform efforts.

D. If, by October 1, 2021, the program has achieved less than a 25 percent total reduction in regulations and regulatory requirements across both pilot agencies, either by initiating rulemaking actions or other streamlining actions, then the Secretary of Finance shall report on the feasibility and effectiveness of implementing a 2-for-1 regulatory budget providing that for every one new regulatory requirement, two existing regulatory requirements of equivalent or greater burden must be streamlined, repealed, or replaced for a period not to exceed three years. The Speaker of the House and the Chairman of the Senate Rules Committee may also direct the House Appropriations Committee and the Senate Finance Committee to initiate a budgetary audit of each agency participating in the pilot program to assess what obstacles exist to meeting the 25 percent reduction goal. Further, the Speaker of the House and the Chairman of the Senate Rules Committee may direct the Joint Legislative Audit and Review Commission to review the regulatory reduction efforts of both agencies as part of the pilot program and report to the General Assembly any findings and recommendations regarding (i) whether the reduction goals are reasonable and achievable, and (ii) policies, practices, and methods that may be adopted by agencies to successfully achieve the reduction goals.

§ 5. By July 1, 2020, all executive branch agencies subject to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall develop a baseline regulatory catalog and report their catalog data, and any specific federal or state mandates or statutory authority that require the regulations and associated regulatory requirements, to the Department.

§ 6. The Department shall track and report on the extent to which agencies comply with existing requirements to periodically review all regulations every four years. Agencies shall provide to the Department a schedule listing each regulation that shall be reviewed in each of the four years, to be published on the Regulatory Town Hall.