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HOUSE BILL NO. 883

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 2.2-1502.2, relating to the Department of Planning and Budget; regulatory budget program.*

Patrons—Webert, Cline, Head, Keam, Adams, D.M., Adams, L.R., Bourne, Brewer, Byron, Campbell, Cole, Collins, Cox, Davis, Fowler, Freitas, Garrett, Helsel, Heretick, Ingram, James, Jones, J.C., Jones, S.C., Kilgore, Krizek, Landes, LaRock, Leftwich, Marshall, McGuire, Miyares, O'Quinn, Orrock, Peace, Pillion, Pogge, Poindexter, Rasoul, Robinson, Rodman, Stolle, Thomas, VanValkenburg, Ware, Wilt, Wright and Yancey

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-1502.2 as follows:

§ 2.2-1502.2. Regulatory budget program; report.

A. As used in this section:

"Agency" means any authority, instrumentality, officer, board, or other unit of state government in the executive branch.

"Regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, adopted by an agency in accordance with the authority conferred on it by any applicable enabling law.

"Regulation baseline budget" means the total number of regulations established by the Department to serve as the initial baseline to sustain a two-for-one net decrease in regulations.

"Regulation replacement request" means a request by an agency to create a new regulation after the establishment of the regulation baseline budget by either replacing or repealing two existing regulations.

B. The Department shall develop an initial regulation baseline budget consisting of the total number of regulations promulgated by state agencies in the executive branch by October 1, 2018. After the establishment of the initial regulation baseline budget, any subsequent regulation requirement proposed by an agency that is not included in the initial state regulation baseline budget shall be considered a new regulation requirement.

C. Between October 1, 2018, and July 1, 2021, the Department shall impose a decrease in the overall regulation baseline budget by maintaining a two-for-one net decrease in regulations. Any agency proposing a new regulation shall be required to submit a regulation replacement request consisting of (i) the existing statute authorizing the regulation, (ii) the purpose of the new regulation, and (iii) the two or more regulations proposed to be replaced or repealed.

D. The Department shall evaluate each new proposed regulation and the accompanying regulation replacement request using the following factors:

1. Whether the regulation is the only effective and necessary way to achieve the desired outcome, including an analysis of whether the requirement (i) complements and does not duplicate existing regulations and (ii) is simple to administer in both enforcement and compliance;

2. The degree to which the regulation includes performance measures that are directly related to the desired outcome, including a provision establishing enhanced periodic review to ensure intended outcomes or providing for the repeal of the provision upon a determination that the regulation no longer achieves the original desired outcomes;

3. The presence of clear justifications for implementation of the regulation, including development and implementation processes that are (i) transparent, (ii) easily accessible by the public and contain appropriate and modern notification methods, (iii) written in plain language, and (iv) designed to allow citizens and businesses to clearly understand their rights and obligations under the regulation;

4. Whether the regulation is the most cost-effective manner to achieve the desired outcome and to what extent the benefits of the regulation are greater than the burdens it imposes; and

5. A determination that the regulation does not have a detrimental effect on the state's economy, including a determination that it (i) does not have a negative effect on economic competitiveness, (ii) is not harder to comply with than similar regulations in similar jurisdictions, and (iii) is compatible with the strategic goals of promoting a level playing field for all businesses and industries and job creation and economic growth.

E. Subject to subsection F, the Department shall approve a regulation replacement request only if (i) the regulation has undergone an evaluation pursuant to subsection D and (ii) the total number of

INTRODUCED

HB883

55 regulations for the requesting agency is either kept at the regulation baseline budget for the agency or
56 reduced.

57 F. Any agency seeking an exemption from the approval requirement of subsection E shall submit a
58 request for an exemption at the same time the documentation is submitted for the regulation replacement
59 request. The exemption request shall include a detailed explanation of why the new regulation should be
60 exempt from the approval requirement, including how the requirement is necessary to protect the public
61 health, safety, and welfare of the citizens of the Commonwealth. The Department shall review and
62 determine whether to grant an exemption. Any exemption approved by the Department shall be limited
63 to no more than 18 months in duration.

64 G. Beginning on November 1, 2019, and continuing in each year until November 1, 2021, the
65 Department shall submit a report to the Governor and General Assembly on the status of the regulation
66 baseline budget, including a list of any changes to the regulation baseline budget in the current year.
67 The report shall be submitted as a report document as provided in the procedures of the Division of
68 Legislative Automated Systems for the processing of legislative documents and reports and shall be
69 posted on the General Assembly's website.