

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB1281

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

2. Patron: LaRock

3. Committee: Rules

4. Title: Department of Planning and Budget; additional duties of Department; economic impact statements

5. Summary: Requires the Department of Planning and Budget to prepare economic impact statements containing fiscal and regulatory analyses.

6. Budget Amendment Necessary: Indeterminate – see Item 8.

7. Fiscal Impact Estimates: Preliminary – see Item 8.

8. Fiscal Implications: Although the Department of Planning and Budget (DPB) has prepared fiscal impact statements (FIS) on bills with a state program impact since 1978, this function has never been required by statute. The most recent Executive Order that required DPB to draft a FIS, Number 28 (98), expired in 2002. However, DPB has continued to serve this role as part of their mandated responsibilities to develop the state budget and provide continuous review of the activities of state government. This bill would codify the requirement that DPB prepare fiscal impact statements, and add a new duty to assess the potential regulatory burden and the resulting economic impact.

Several other agencies prepare fiscal impact statements in lieu of those prepared by DPB. The State Corporation Commission, the Commission on Local Government within the Department of Housing and Community Development, and the Department of Taxation work collaboratively with DPB to ensure that a FIS is prepared for any bill that impacts state government in their respective subject areas. Additionally, the Virginia Criminal Sentencing Commission prepares a FIS on bills that would result in a net increase in periods of imprisonment in state adult correctional facilities.

Because preparing fiscal impact statements is a component of DPB's existing practice, the impact on DPB could be minimal. However, the actual impact would depend upon the expected timeline for production of the FIS in order to meet the additional review requirements set out in the bill. Moreover, additional staff could be required because of the differences between current practice and the bill requirements:

- The bill may change the number of FISs that are created as a bill moves through the legislative process. DPB prepares a FIS on every version of a bill, so one bill may have several versions of a FIS. About 1,700 bills require a FIS during the short session, and over 2,000 in a long session. It is unclear from the bill if a FIS would be required on all versions.
- The bill would increase the number of FIS completed by DPB, by requiring a FIS for all revenue bills and those bills that establish a new state program or initiative. Some of these FISs are currently prepared by other state agencies, and thus additional resources may be required at DPB.
- A FIS is not currently produced by DPB for all legislation. Some bills amend sections of the Virginia Code that are not subject to DPB's review. An example is Title 15.2 (counties, cities, and towns), for which FISs are prepared by the Commission on Local Government. Upon initial review, the bill does not appear to increase the overall number of FISs required, but the bill could increase the number of FISs that are produced by DPB each year.

Assuming this bill defines FIS for bills that impose new costs or decrease revenues for executive branch agencies, and that this be done during Session, then the first requirement is already largely addressed by the existing FIS process.

The bill would add a new requirement, however, that DPB assess the potential regulatory burden and the resulting economic impact. To the extent that the legislation reviewed by DPB either specifies that certain regulations be either promulgated or amended, or modifies statute in a way that requires regulatory changes, then a high-level and tentative assessment of burden and economic impact might be possible during Session. However, there would likely be a high and unknowable rate of error given that the regulations would not have been developed and are thus not available for review. Shifting the focus on DPB's economists would also hinder the agency's ability to comply with existing statutory deadlines for regulatory review unless new staff resources are added. Moreover, the DPB economic impact statement would be developed without being able to leverage feedback from regulators and the public, or ensure all affected businesses are identified, because there would not be an opportunity for public notice and comment.

Economic impact analysis requires an understanding of how individual businesses, industry, property owners, government, schools, nonprofit organizations, consumers, and other potentially affected entities operate and interact in some detail. Having only a cursory understanding of relevant subject matter can lead to unintended consequences and the identity of affected entities to be missed, and for estimates of the impact to be far off. The analyst must seek to understand how the status quo works in some detail, and to analyze how the proposed changes in law are likely to affect the status quo. Substantial research and communication with affected entities are often necessary. This all takes substantial time to do well when the subject matter and proposed change in law are not very simple and straightforward.

It would not be feasible for DPB to do more than a cursory economic impact analysis for all legislation before the General Assembly that has a potential economic impact on the Commonwealth before such legislation were to come to a vote. The requirements of this bill could not be accomplished with existing staff. It is not known how many additional staff would be needed at this time but it is expected that the level of effort required by this bill would increase the staffing levels needed by the agency.

The bill also directs all state agencies and local government entities to provide information and assistance to DPB, as needed, in preparing economic impact statements. Although not required, state agencies impacted by legislation provide data to DPB identifying the potential state fiscal impact and local government entities provide data to the Commission on Local Government identifying potential costs to localities to include in the FIS. However, directing all state agencies and local government entities to provide assistance in the preparation of economic impact statements of all legislation before the General Assembly is expected to increase the workload for all state agencies and local government entities. Similar to the challenges expected for DPB, state government and local government entities may not be able to implement the provisions of this bill without the assistance of additional staff, which may create an unintentional fiscal impact.

9. Specific Agency or Political Subdivisions Affected: All state agencies and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: None.