

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: HB2034-H1

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

2. Patron: McGuire

3. Committee: Privileges and Elections

4. Title: Local electoral boards and general registrars; removal from office by circuit court, etc.

5. Summary: Provides for the removal of a general registrar by the circuit court upon a petition signed by a majority of members of the local electoral board. Currently, a local electoral board may remove a general registrar with a majority vote. The bill requires the Virginia Division of Risk Management to assign counsel to the defense of any member of a local electoral board or general registrar subject to a petition for removal, upon that member's or registrar's application, in accordance with the provisions of § 24.2-121.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: Indeterminate; see Item 8.

8. Fiscal Implications: The fiscal impact of the proposed legislation is indeterminate.

The proposed legislation provides for the removal of a general registrar by the circuit court upon petition by the local electoral board or the State Board of Elections (SBE) and requires the Virginia Department of the Treasury's Division of Risk Management (DRM) to assign counsel, upon the application of any electoral board member or general registrar against whom a petition for removal has been filed, pursuant to § 24.2-121, Code of Virginia

Under current law, local electoral boards may remove general registrars by majority vote and SBE may petition the circuit court to remove a general registrar if, after petitioning the local electoral board to remove the registrar, the electoral board fails to do so. SBE may also petition the circuit court to remove a member of a local electoral board.

Current law also allows any local electoral board member or general registrar made defendant in a civil action arising out of the performance of his official duties that does not have legal defense provided under applicable insurance coverage to apply to the Virginia DRM to assign counsel for his defense, pursuant to § 24.2-121, Code of Virginia.

Costs incurred to provide counsel for local electoral board members and general registrars fall under DRM's Commonwealth of Virginia Risk Management Plan, which is funded by premiums assessed to state agencies. Any potential impact to state premiums that may result

from providing counsel for electoral board members and general registrars against whom petitions are filed is indeterminate and would depend on the number of petitions for which defense is requested compared to those that would have otherwise been brought under existing law as well as the cost of counsel provided in each case.

According to DRM, it has defended an average of one or two actions per year brought by SBE under current law, with each action costing an average of approximately \$40,000 to defend. Such costs have been associated with appointing outside counsel. While § 24.2-121 provides the option to assign counsel to the Attorney General, the attorney for the Commonwealth for the locality, or private attorneys, DRM reports that outside counsel is typically appointed for these matters to avoid any conflicts of interest.

As stand-alone legislation, the Department of Elections considers implementation of this bill as “routine,” and does not require additional funding. However, the agency will review all electoral legislation likely to be enacted prior to the passage by each house. If the aggregate number of “routine” bills likely to pass either house is unusually large, it is possible the agency will require additional resources. If so, the Department of Elections will identify the costs at that time.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Department of the Treasury’s Division of Risk Management, Virginia Department of Elections, State Board of Elections, and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: None.