

Department of Planning and Budget 2023 Fiscal Impact Statement

1. **Bill Number:** HB1366

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Head, C.

3. **Committee:** General Laws

4. **Title:** Executive branch agencies; posting of regulations; economic impact analysis.

5. **Summary:** Requires all executive branch agencies to submit on the Virginia Regulatory Town Hall at each stage of the regulatory process any agency action that would otherwise be exempt from the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). Additionally, an economic impact analysis (EIA) is to be included, if required, in accordance with the provisions of § 2.2-4007.04. The bill contains technical amendments.

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

7. **Fiscal Impact Estimates:** Indeterminate. See Item 8.

8. **Fiscal Implications:** Governor Youngkin’s Executive Order 19 already requires all executive branch agencies to submit on the Virginia Regulatory Town Hall any agency action that would otherwise be exempt from the provisions of Article 2 of the Administrative Process Act. Therefore, codifying this requirement would not have a fiscal impact.

However, the Code of Virginia does not currently require that an EIA be prepared for actions that are exempt from Article 2. The bill would change this, and thus the Department of Planning and Budget (DPB) would prepare additional EIAs for bills that would otherwise be exempt from the provisions of Article 2. Since § 2.2-4007.04 only pertains to the proposed stage of a regulatory action, under a more narrow interpretation only those agency actions which contain a proposed stage shall have an EIA prepared. Over the last five years there have been on average five such actions per year. Thus, DPB would likely need to prepare approximately five additional EIAs per year. The costs of preparing the additional analyses can be absorbed within existing resources. However, a strict interpretation of the bill’s reference to “at each stage of the regulatory process” suggests that DPB would prepare additional EIAs for each stage of a regulatory action, and not just the proposed stages addressed by § 2.2-4007.04. In that case, DPB would prepare an additional 81 EIAs per year, which would represent a 90 percent increase in the number of EIAs per year. These costs could not be absorbed within existing resources.

§ 2.2-4007.04 requires that the agency proposing the regulatory action provide DPB with various specified information. Preparing and providing this information would require staff time, but should also be absorbable within existing resources.

9. Specific Agency or Political Subdivisions Affected: The Board of Accountancy, Department of Conservation and Recreation, Department of Environmental Quality, Department of Health Professions, Department of Labor and Industry, Department of Professional and Occupational Regulation, Marine Resources Commission, and Virginia Department of Agriculture and Consumer Services all have exemptions from Article 2 for some or all of their regulations, and thus may be particularly affected. The Department of Planning and Budget is affected in that the agency would likely need to prepare additional economic impact analyses.

10. Technical Amendment Necessary: None.

11. Other Comments: DPB notes that this bill would only pertain to agency actions that would be exempt from the Administrative Process Act because of an exemption in § 2.2-4006. As such, it would not pertain to agency actions that are exempt from the Administrative Process Act because of an exemption in § 2.2-4002 or other authorities, such as the Appropriation Act or an agency's own authorizing statutes.