

Department of Planning and Budget 2008 Fiscal Impact Statement

1. Bill Number: SB298

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

2. Patron: Whipple

3. Committee: Education and Health

4. Title: Virginia Smoke Free Air Act

5. Summary: Moves the law restricting smoking in buildings and other enclosed areas from the title relating to local government to the title relating to health and prohibits smoking indoors in most buildings or enclosed areas frequented by the public. Exceptions are provided for private homes, private residences, and private automobiles, and home-based businesses, unless used in conjunction with a licensed child care, adult day care, or health care facility; private clubs, except when being used for functions attended by persons other than members and invited guests; hotel or motel rooms designated as smoking rooms that are offered for rent to the public; specialty tobacco stores; tobacco manufacturers; and private and semiprivate rooms in nursing homes and long-term care facilities. The bill requires the posting of "No Smoking" signs inside and at the entrances of areas where smoking is prohibited. Any person who continues to smoke in an area in which smoking is prohibited will be subject to a civil penalty of not more than \$100 for the first offense, and \$250 for subsequent offenses. Failure to comply with the smoking restrictions will subject proprietors to a \$200 civil penalty for the first offense and \$500 for subsequent offenses.

6. Fiscal Impact Estimates: See item #8.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: The fiscal impact of this bill is uncertain due to the following factors:

Increase in inspections. The Department of Health (VDH) currently inspects restaurants licensed by the Board of Health in fulfilling its responsibilities; therefore, the legislation would not have a fiscal impact upon the agency as it pertains to restaurant inspections. However, the legislation expands the agency's role to include the inspection of many more facilities and buildings frequented by the public, including but not limited to, retail stores, recreational facilities, educational facilities, common areas in apartment buildings, bars, and theaters, which could result in an additional 150,000 – 200,000 facilities that would require inspection.

Increase in staff. It is estimated that an additional 35 full-time equivalent employees (one Environmental Health Specialist per health district) would be required in order to fulfill its responsibility of inspecting the additional facilities; however, the number of staff needed to implement this bill cannot be determined at this time. The agency currently employs a

Tobacco Control Program Manager who would be responsible for overseeing promulgation of regulations; therefore, no fiscal impact would be realized as a result of meeting this requirement. In addition, VDH has developed and implemented (ongoing, continuous) an education program to explain the medical rationale, environmental purpose, requirements, and benefits related to the provisions of this bill; therefore, no fiscal impact would be realized as a result this requirement. If responsibility for enforcement lies with VDH, additional staffing would be required to meet the enforcement requirements of this bill.

Increase in expenditures. The average salary for an Environmental Health Specialist is approximately \$41,000 and associated benefits would be \$16,255, resulting in an annual expenditure of \$57,255. The minimum fiscal impact could be \$2,031,925 ($\$57,255 + \800×35) in FY 2009. In addition, there would be a three percent salary increase in FY 2010, a one-time computer and printer cost of \$800, and on-going VITA costs of \$1,379. The total fiscal impact in FY 2010 could be \$2,112,320 ($\$57,255 + \$1,718 (3\%) + \$1,379 \times 35$).

However, since there may possibly be 150,000 to 200,000 facilities statewide that meet the criteria, the 35 additional employees could be insufficient to meet the required enforcement. The agency is unable to estimate the exact number of staff required. However, adding just three additional full time equivalent employees to each district would cost \$6,095,775 ($\$2,031,925 \times 3$) in FY 2009, and \$6,336,960 ($\$2,112,320 \times 3$) in FY 2010.

Any additional costs to the districts would be shared through the cooperative agreement split, which is about 60 percent general fund and 40 percent locality match, which is already a challenge for some poorer localities to meet the general fund match allocation.

In addition, there could be costs to the courts in processing the penalties.

Increase in revenue. The number of offenders of the Act cannot be determined; therefore, the amount of revenue collected from civil penalties cannot be determined. Any revenue collected from the civil penalties will be deposited into the Literary Fund.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Health, Supreme Court of Virginia, Department of Education, and Department of Treasury

10. Technical Amendment Necessary: No.

11. Other Comments: The agency assumes that it will have responsibility for enforcement since §32.1 (Code of Virginia) is located within VDH's responsibility. However, law enforcement officers already have access to all establishments and locations identified as covered by this bill.

Legislation is similar to HB 500, HB 572, and HB 821.

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cc: Secretary of Health and Human Resources