

Department of Planning and Budget

2008 Fiscal Impact Statement

1. Bill Number: SB751

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

2. Patron: Herring

3. Committee: Local Government

4. Title: **Water and sewer rates of certain towns.**

5. Summary: Prohibits towns from charging rates for water and sewer service provided to residents of an adjacent county that unreasonably discriminate between customers on the basis of whether services are provided to customers located within or outside the limits of the town, or that provide a cross-subsidy for in-town customers. A town may charge rates for out-of-town customers that are higher than the rates for in-town customers, provided the difference does not exceed 50 percent. Upon receipt of a petition from five percent of the customers who receive service in the county, the Commission on Local Government is authorized to conduct an investigation and analyze the rates, fees and charges. If the Commission determines that the rates, fees and charges assessed by a town do not comply with these requirements, it will notify the county and the town. The county may then petition for the appointment of a special court to set rates for such services. The special court would be comprised of three circuit court judges designated by the Chief Justice of the Supreme Court.

6. Fiscal Impact Estimates: Indeterminate. See item 8, below.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: The proposed legislation would have a fiscal impact to the Department of Housing and Community Development's (DHCD) Commission on Local Government and impact the workload of the court system. Under the provisions of the bill, a town may charge out-of-town (county) customers up to 50 percent more than in-town customers. If the town were to charge the out-of-town customers more than 50 percent of that charged to in-town customers, the out-of-town customers could petition the Commission on Local Government to investigate and analyze the charges. According to the 19th Annual Virginia Water and Wastewater Rate Report 2007 published by Draper Arden Associates, a consulting engineering firm, 28 Virginia towns responding to the survey currently charge their "outside" residential water and/or wastewater customers more than 150 percent of the rate applicable to their "inside" residential customers (not all towns responded to the survey).

If the bill is enacted and if these 28 towns do not adjust their rates in accordance with the bill, the Commission on Local Government could be called upon to conduct 28 investigations. According to the Commission, the cost of one investigation is estimated to be \$2,500. This would include per diem, lodging, travel, and meals for five Commission members, and

lodging, meals, and mileage for two Commission staff. The number of investigations the Commission may be petitioned to perform is unknown and indeterminate. Depending on the number of petitions and investigations annually, the fiscal impact could be absorbed within existing resources.

In cases in which the Commission on Local Government has determined in an investigation that the rates, fees, and charges assessed by a town on out-of-town customers exceed those assessed on in-town customer by 50 percent or more, the county in which the out-of-town customers receive service may petition a special court to set rates for the services. The special court would consist of three circuit court judges from jurisdictions not involved in the case. Under the provisions of the bill, the locality instituting the proceedings would pay the court's costs. The bill also provides an appeal process. In the event of an appeal, the Supreme Court would determine which party in the proceedings would pay the court's costs. This could impact the workload of the court system.

9. Specific Agency or Political Subdivisions Affected: Localities, the Department of Housing and Community Development's Commission on Local Government, and the court system.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 2/5/2008 dpbtmw

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cc: Secretary of Commerce and Trade