

## Department of Planning and Budget 2013 Fiscal Impact Statement

**1. Bill Number:** SB944

**House of Origin**    ☐ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☒ Enrolled

**2. Patron:** Edwards, J

**3. Committee:** General Laws and Technology

**4. Title:** Administrative Process Act; issues on judicial review.

**5. Summary:** Provides that when a final decision of an agency is appealed under the Administrative Process Act and the decision on review is to be made based on the agency record established from a formal hearing, the duty of the court with respect to issues of fact is to determine whether there was substantial evidence in the record to support the agency decision. The bill also provides that in such appeals the duty of the court with respect to issues of law is to review the agency decision de novo. In addition, the bill provides that the court shall enter judgment in accordance with § [2.2-4029](#).

This bill has had significant amendments. In particular, the original bill included the following sentence: “*Upon motion of any party, the court may augment the agency record in whole or in part.*” This sentence has been stricken from the current version of the bill.

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

**7. Fiscal Impact Estimates:** Final.

**8. Fiscal Implications:** This bill, if passed, likely will lead to some increase in the number of cases that are appealed; but the amendment specified above will greatly moderate the increase. For the original bill, the Office of the Attorney General (OAG) believed the attorney time involved in defending appeals against parties that were previously unable to augment evidence would be very large. Specifically, it anticipated that it would need a minimum of 6 new attorney positions and 3 paralegal positions. OAG believes that the amended version would create some extra work for its attorneys (through a moderate increase in the number of appeals), but not so much that additional staff would need to be hired.

The expected moderate increase in the number of cases that are appealed will analogously moderately increase the workload for the circuit courts and executive branch agencies which have case decisions rendered under the Administrative Process Act.

**9. Specific Agency or Political Subdivisions Affected:** OAG, Supreme Court (primarily the circuit courts), numerous executive branch agencies including ABC, DHP, DMAS, DPOR,

DSS, VDH, VDOT and others whose case decisions are made in accordance with the Administrative Process Act. Local governments are affected as well.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

**Date:** 2/22/13