

## Department of Planning and Budget

### 2014 Fiscal Impact Statement

**1. Bill Number:** HB1219

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

**2. Patron:** Marshall, R.G.

**3. Committee:** Courts of Justice

**4. Title:** Unconstitutional acts and ultra vires enforcement by localities.

**5. Summary:** Provides that any zoning ordinance of a locality that violates or unreasonably restricts the free exercise of rights guaranteed under the United States Constitution or the Constitution of Virginia shall be null and void and shall constitute a violation. Any enforcement by a locality of such ordinance shall be deemed a violation. In any litigation in which the constitutionality of a zoning ordinance or its enforcement is at issue, the ordinance shall not be given a presumption of constitutionality or presumption of validity. In any litigation involving a challenge under this statute, the burden of establishing compliance with the statute shall be on the locality. Any locality that violates the statute shall be liable to aggrieved persons in amounts equal to the fines and penalties that the locality seeks to impose on such aggrieved persons, plus actual damages including reasonable attorney fees. Any locality that willfully violates this statute, or whose interpretation or enforcement of ordinances willfully operates in violation of this statute, shall be liable to the aggrieved person for treble damages, plus reasonable attorney fees. Any official or employee of a locality that willfully violates this statute, or whose interpretation or enforcement of duties willfully operates in violation of the statute, may be personally liable to aggrieved persons in the amount equal to the fines and penalties that such official or employee seeks or sought to impose on such aggrieved persons plus actual damages and attorney fees. The Attorney General of Virginia shall establish a procedure whereby persons, including officials and employees of localities, may report violations. No locality may take disciplinary action against any official or employee for reporting such violations. The Attorney General (i) shall have authority to institute legal proceedings in the courts of the respective locality, and (ii) may intervene in any proceeding to enforce this statute against any locality.

**6. Budget Amendment Necessary:** See Item 8.

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

**8. Fiscal Implications:** This bill only requires the Office of the Attorney General to establish a procedure for reporting violations. This reporting process would likely require few resources. All other actions authorized are at the discretion of the Attorney General. If the Attorney

General elects to pursue cases against localities pursuant to this bill, the fiscal impact on the office would likely increase. The fiscal impact is indeterminate at this time.

**9. Specific Agency or Political Subdivisions Affected:** Office of the Attorney General and Department of Law.

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

**11. Other Comments:** None.