

Department of Planning and Budget 2014 Fiscal Impact Statement

1. Bill Number: HB955

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

2. Patron: Head, C.

3. Committee: General Laws

4. Title: Administrative Process Act; exemption for certain regulations.

5. Summary: Exempts from the rulemaking provisions of the Administrative Process Act regulations that: 1) are necessary to conform to changes in Virginia statutory law or the appropriation act, and 2) leave discretion on details to the promulgating agency. Regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act that involve no discretion for the agency are already exempt from the rulemaking provisions. The exemption in this bill would be provided that the agency: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (iii) conducts at least one public hearing as provided in § 2.2-4009 prior to the publishing of the proposed regulations. The bill also provides that any such regulation shall be adopted, amended, or repealed no later than six months after the Virginia statutory law or appropriation act that necessitated the change becomes effective.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate, see Item 8.

8. Fiscal Implications: In order to meet the requirement to adopt, amend, or repeal no later than six months after the Virginia statutory law or appropriation act that necessitated the change becomes effective, in many cases boards will need to meet more frequently. This could increase administrative costs and potentially reduce some board members' ability to participate due to the increased likelihood of scheduling conflicts.

§ 2.2-4009 specifies requirements for evidentiary hearings. Thus the requirement in this bill that the agency conducts at least one public hearing as provided in § 2.2-4009 is a requirement for an evidentiary hearing. For regulations agencies commonly hold informational proceedings and/or appoint a regulatory advisory panel to gather public and stakeholder input; but evidentiary hearings, which typically take longer and are more adversarial, are relatively uncommon. Not all agencies currently have in-house staff to handle evidentiary hearings. Thus specifically requiring evidentiary hearings will likely add cost as well.

On the other hand, exempting regulations that: 1) are necessary to conform to changes in Virginia statutory law or the appropriation act, and 2) leave discretion on details to the promulgating agency, will reduce the amount of staff time involved in the analysis of the impact of regulations. No economic impact analysis report would be produced by the Department of Planning and Budget.

- 9. Specific Agency or Political Subdivisions Affected:** All agencies which have regulations subject to the Administrative Process Act, Office of the Governor, Office of the Attorney General, Secretary of Administration, Secretary of Agriculture and Forestry, Secretary of Commerce and Trade, Secretary of Education, Secretary of Finance, Secretary of Health and Human Resources, Secretary of Natural Resources, Secretary of Public Safety, Secretary of Transportation, and Department of Planning and Budget.

10. Technical Amendment Necessary: No.

11. Other Comments: No.