

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: HB1361

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

2. Patron: Bell, Richard P.

3. Committee: Appropriations

4. Title: Virginia Virtual School established.

5. Summary: The proposed legislation would establish the Virginia Virtual School (VVS), which will be open to any school-age person in the Commonwealth and provide an educational program meeting the Standards of Quality (SOQ) for grades kindergarten through 12. The bill also creates the Board of the VVS as a policy agency in the executive branch within the Education Secretariat for the purpose of governing the online educational programs and services offered to enrolled students. VVS would receive the state and local Standards of Quality per pupil funding amount, not to exceed \$6,500 per student. The bill contains an enactment clause delaying its effective date until July 1, 2016, although the VVS will not begin receiving funds for enrolled students until the 2017-2018 school year.

6. Budget Amendment Necessary: None.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

8. Fiscal Implications: The total potential cost implications of this legislation are uncertain as a number of specific issues would need to be addressed.

The bill would fund VVS with up to \$6,500 for each enrolled student, which would come from the state SOQ per pupil funding amount and up to 76 percent of the local school division's share, based on the local composite index, from the student's division of residence. The online content would need to be established prior to the enrollment of students, which would require the Board of VVS to sign contracts with multidivision content providers and agree to pay the requisite price. However, since the number of students who will enroll in VVS cannot be known prior to the opening of the school, it cannot be determined if the cost of the contracts and managing the VVS will exceed the state and local per pupil funding that VVS will receive. If costs do exceed the revenues provided in this legislation, the state would likely be responsible for funding the difference.

Based on the SOQ funding structure for the VVS outlined in the bill, if there are sufficient enrollment numbers and the funding per pupil is sufficient to cover the contract cost, there would not be an additional cost to the state or localities to fund the VVS for students currently enrolled in the public school system. If the program were to enroll students not currently enrolled in the public school system (e.g. homeschooled students), state and local

costs could increase above current levels. The extent to which this might occur, and any related costs, cannot be determined at this time.

The school division of residence will be assessed “all funds sufficient for the reasonable special expenses” to fulfill a student’s Individualized Education Program (IEP). It is not clear what entity will determine the dollar value of the sufficient amount. Upon the enrollment of students with disabilities in VVS, the local school division of residence is released from its obligations to provide free and appropriate education to the student. It is not clear how VVS will ensure the provisions of the student’s IEP are met or cover the administrative costs in ensuring the successful implementation of the IEP.

The proposed legislation seems to allow the enrollment of part-time non-public students; however, the bill prohibits the transfer of the local share for such part-time non-public students. It is not clear if the state share is to be transferred. Any such state share would be tied to the locality of the student’s residence. Although the locality is not required to provide the local share to VVS for part-time non-public students, the locality may still lose funding if the state share that would have been transferred to the locality is instead transferred to VVS. In addition, the state may end up covering the full costs of these students.

The Board of VVS is established as a policy board and given the authority to establish rules, policies and regulations for the governance of the school and for the multidivision online providers that will offer services to students enrolled in VVS. The Board is not specifically given the authority to hire staff or contract for services; but, given the workload involved in operating a virtual school, the Board may experience difficulties without support staff. For instance, VVS will process semi-monthly payments from the state and monthly payments from local school divisions. The bill directs that VVS is to invoice school divisions following the certification of enrollment from the Department of Education (DOE). Without personnel to complete these duties, it is not clear how funding is to pass to VVS and then on to the contracted content providers. In addition, staff support would be needed to implement and manage any contracts with private providers, as well as overseeing curriculum development.

Although it possessed a different mission than VVS, the Opportunity Educational Institution (OEI) was also envisioned as a standalone state school division that would receive state and local per pupil SOQ funding. For OEI, the 2013 introduced budget contained \$600,926 annually in general fund support to cover staff salaries and benefits as well as other startup costs that would have been incurred prior to the receipt of the state and local educational funding. It is reasonable to assume a similar amount of funding might be needed for the creation of the VVS. In addition, the 2013 budget included substantial language specifying the flow of state, local and federal funding to OEI in order to ensure that the full funding amounts were available to the institution. Similar state support and budget language may be needed to implement the VVS.

The bill is unclear where students enrolled in VVS will take the Standards of Learning (SOL) assessments. Since the students will not be enrolled in the school district of residence, there may be complications in determining suitable testing locations. Addressing this issue may

result in additional costs. In addition, as VVS must be eligible for state accreditation under the bill, failure to achieve full accreditation could trigger state costs related to assisting VVS to achieve accreditation.

The bill requires a member of the staff of DOE to serve as a consultant to the VVS Board pertaining to instruction, federal and state special education requirements, and school accreditation and to provide technical assistance to the Board in meeting specific instructional and school accreditation needs. Depending on the actual workload, it could require the need for additional positions at DOE. DOE would also have to administer the state per pupil payments to the VVS and certify the resident division of student enrolled in the VVS on a monthly basis for purposes of the local share payment to be made.

The bill directs that members of the VVS Board shall receive compensation for their service as set out in the Code of Virginia. The current Appropriation Act and the introduced budget have provisions which override the Code and restrict the payment of compensation to citizen members on executive branch boards. Any amounts that are paid to board members would need to be appropriated to VVS in the Appropriation Act and cannot be determined at this time.

In addition, there are no provisions provided on the VVS's authority to pursue payments from any locality that fails to provide the appropriate local share payment to the VVS. Any failure to pay by localities could result in possible cash flow issues for the VVS.

Other issues to consider include the type of diploma that will be provided through VVS, as well as whether the VVS spending of local federal funding will be consistent with federal regulations. In addition, language may be needed to allow the Auditor of Public Accounts to audit the financial records of the VVS.

9. Specific Agency or Political Subdivisions Affected: Department of Education, local school divisions, Board of Education, Virginia Virtual School

10. Technical Amendment Necessary: None.

11. Other Comments: Identical to HB324S1, but with a different effective date and initial enrollment date.

Date: 2/2/2015 dpb/smc

Document: G:\GA\FIS 2015\HB1361.docx