Revised 2/10/2016

Department of Planning and Budget
2016 Fiscal Impact Statement

1. **Bill Number:** HB193H1

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

2. **Patron:** O'Bannon

3. **Committee:** Health, Welfare and Institutions

4. **Title:** Certificates of public need; creates three-phase process to sunset requirements for medical care.

5. **Summary:** This bill exempts all categories of projects except nursing homes, open heart surgery, and organ or tissue transplant services from Certificate of Public Need (COPN) requirements over a six month period from July 1, 2016, to January 1, 2017. In addition, it also shifts focus from COPN to permit system. The bill provides that: 1) permits shall be issued within 30 days of application; 2) the Commissioner shall have the authority to condition permits in a manner similar to the Certificate of Public Need program; 3) the Board of Health shall adopt regulations which include quality of care standards for permit holders, requirements for monitoring compliance with quality care standards, procedures for issuance and revocation of permits, 4) the Board of Health shall establish permit fees to support the program, 5) the Commissioner may refuse to issue a permit if he determines that the project for which a permit is sought would be detrimental to the provision of health services in underserved areas in the Commonwealth; 6) the remaining regional health planning agency in the Commonwealth be abolished; and 7) a public website be created for posting letters of intent, and other COPN information.

6. **Budget Amendment Necessary**: Yes.

7. **Fiscal Impact Estimates:** Preliminary, see item #8.

7a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2017	710,818	0.00	0100
2018	270,000	2.00	0200
2019	270,000	2.00	0200
2020	270,000	2.00	0200
2021	270,000	2.00	0200
2022	270,000	2.00	0200

7b. Revenue Impact: While some revenues would be eliminated, new fees are authorized which would generate new revenue that would cover the cost of establishing and sustaining the permitting process and would sustain the COPN program at current staffing levels.

Fiscal Year	*Dollars*	*Fund*
2017	(576,818)	0200 (Lost COPN fees)
2018	846,818	0200 (Fees from permits)
2019	846,818	0200 (Fees from permits)
2020	846,818	0200 (Fees from permits)
2021	846,818	0200 (Fees from permits)
2022	846,818	0200 (Fees from permits)

8. Fiscal Implications: The fiscal impact of this bill cannot be fully determined at this time and estimates are preliminary.

Department of Health

The provisions of this bill would eliminate 49 projects requiring COPN reviews annually and $576,818 in annual fee revenue associated with those reviews. The bill also abolishes the regional health planning agency, requires creation of a new website, and establishes a permitting process with fees. Three positons would be needed in order for the agency to absorb this additional workload and for the creation and maintenance of the new website. While other states may have existing permitting processes, there is no readily available data with which to compare this proposal. Further study is needed before reasonable estimates may be made concerning the fiscal impact of the permitting practices proposed in this bill.

The table below illustrates the average number of COPN applications received during the past three years that would be exempted from COPN review if the proposed bill is passed. This table also shows the average fees collected for the COPN applications shown which would be eliminated under the proposed bill.

Average # of Applications Received	**Average Total**	**Applications Eliminated by the Bill**	**Applications Remaining**
3 Year Average	54	49	5

Average Fees Collected	**Average Total**	**Fees Eliminated by the Bill**	**Fees Remaining**
3 Year Average	$650,485	$576,818	$73,667

During the past three years, an average of 54 projects were reviewed annually. This resulted in an average of 21 projects reviewed per Project Review Analyst (PRA) annually. The personal services cost of one PRA is about $78,000 annually. An annual average of $650,485 in fees has been collected from COPN projects over the past three years. It is estimated that the bill would reduce total fee revenues by $576,818 per year, leaving approximately $73,667 annually available to cover the remaining program costs. Likewise,

there would be an annual reduction of 49 projects leaving an estimated 5 projects to review each year.

The bill calls for implementation to occur over a six month period from July 1, 2016, to January 1, 2017. It is likely that none of the COPN applications related to the 49 project categories exempted will be filed after July 1, 2016. This means that the general fund would incur annual costs of $576,818 to maintain the COPN program at current staffing levels to establish the permitting process as the COPN fee revenue would be eliminated by the provisions this bill.

With the shift to focus on permits rather than the COPN process, the bill also states that the Commissioner shall a) issue permits within 30 days of application receipt, b) condition permits in a manner similar to the Certificate of Public Need program, and c) that the Board of Health shall adopt regulations which include: quality of care standards for permit holders; requirements for monitoring compliance with quality care standards; procedures for issuance and revocation of permits; and permit fees to support the program. Since permits must be issued within 30 days of receipt, it reasonable to assume that the numbers of permits will far exceed the average of 54 COPN projects, which previously required a COPN review each year. Removing the COPN review process in other states has resulted in an increase in the number of projects overall, which require permit review and monitoring. The permitting process appears to exceed the level of rigor required in a COPN application review.

Due to decreased revenue, the new requirement for a website, and the required permitting program, additional general funds costs will be incurred in FY 2017 in meeting the provisions of the bill. Establishing the permitting process, and subsequent monitoring requirements, would require funding to support two positions. Although the Board is authorized to establish fees for the permitting process, VDH would be required to set up the permitting process to collect those fees. The agency will need general fund support for two positions in the first year to establish the permitting program. The salary and benefits would have an annual cost of $78,000 per position, totaling $156,000 in general fund support. The agency has a sufficient position level within their existing budget for these positions; however, general fund support is necessary to fund these positons in FY 2017.

The bill provides no funding for VDH to develop the required website to make Letters of Intent and other COPN information available to the public. In order to meet the provisions of the bill, the agency would require general fund assistance in FY 2017 to staff and operate an online real time searchable library of COPN material, which is estimated to be $114,000 annually. This estimate includes $78,000 for one new professional staff, which includes benefits, plus $36,000 a year for online storage. There is a one-time cost to create the website, which is estimated to be $20,000. Daily management and oversight of the website is necessary as the bill has certain criteria that trigger a limited timeframe for the position and review of the project. Therefore, when the letter of intent for a project is received in the mail, it will need to be uploaded to the web by close of business that day. The total general fund cost for the website is approximately $134,000 from the general fund in FY 2017 and $114,000 annually thereafter from permit fees.

As previously stated the bill charges the Board of Health with the responsibility of establishing fees to support the program. If a minimum of 100 permits are issued, and the average cost to maintain the COPN program is approximately $846,818 annually, the average permit fee would have to be approximately $8,468 to make up for the fees lost, and sustain the program at the current staffing level.

The bill also eliminates the Northern Virginia Health Planning Agency (NVHPA), which is the only remaining regional health planning agency in the Commonwealth. The NVHPA conducts public hearings related to all COPN applications in Northern VA, and at no cost to VDH. With the elimination of the NVHPA, the COPN program would have to assume this responsibility along with the costs. The staff time and costs involved in conducting these public hearings for the few projects remaining in that region can be absorbed within existing resources.

Department of Medical Assistance Services

Any substantive changes to Certificate of Public Need (COPN) requirements are likely to have an impact on the cost of health care. However, analysis varies widely as to the ultimate impact COPN requirements have on these costs. While it is assumed that COPN legislation may have fiscal implications for the Department of Medical Assistance Services (DMAS), there is insufficient data to provide a definitive estimate. Under any scenario, it is unlikely that any COPN change would have a direct fiscal impact in the 2016-2018 biennium due to the time needed for capital planning and the delayed recognition of costs in Medicaid payment rates. Any significant costs are not likely to occur until after FY 2020 and, even then, such costs would be difficult to estimate at this time based on the unknowns associated with COPN changes and the rapidly evolving nature of the health care system.

While a specific fiscal impact cannot be determined, the agency believes that the provisions of the bill will lead to an increase in the Commonwealth's health care capacity (i.e. number of medical scanning machines, outpatient surgery centers, operating rooms, hospital beds, etc.). Utilization of scanning machines and ambulatory surgery centers are likely to increase in the 2016-2018 biennium; however, the agency does not expect substantial cost increases as in general Medicaid members do not significantly utilize these services. There also could be increases in cost per unit in hospitals and Medicaid reimbursable capital expenditures, both of which would start to affect hospital operating reimbursements after FY 2020. The bill also deregulates ICF-IDs which could result in increased utilization beginning in FY 2019.

9. **Specific Agency or Political Subdivisions Affected:** Department of Medical Assistance Service, Department of Health, and Health Care providers in Virginia.

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

11. **Other Comments:** None.