

## Department of Planning and Budget 2016 Fiscal Impact Statement

**1. Bill Number:** HB 338

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

**2. Patron:** Pogge, Brenda L.

**3. Committee:** Appropriations

**4. Title:** Affordable Care Act; use of resources to enforce

**5. Summary:** The proposed legislation prohibits the Commonwealth and its political subdivisions from using any personnel or financial resources to enforce, administer, or cooperate with the federal Patient Protection and Affordable Care Act (ACA). The funding or administration of certain regulatory activities, including those related to the Medicaid and CHIP programs, are exempt from the prohibition.

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

**7. Fiscal Impact Cannot Be Determined:** See Item 8

**8. Fiscal Implications:** The fiscal implications of the proposal cannot be determined at this time as the bill's legal requirements and limitations are unclear. Although the bill provides exemptions for certain activities, including ACA-related regulatory activities for Medicaid and CHIP, there is no definition of what constitutes "regulatory activity." Many programs operated by the Department of Medical Assistance Services (DMAS) derive authority in part from the ACA. For example, the authority to collect rebates on managed care pharmacy expenditures and the enhanced match rate for certain programs (i.e. CHIP and eHHR). The Commonwealth Coordinated Care (Virginia's Medicare-Medicaid enrollee financial alignment demonstration) was established through ACA authority as was health insurance coverage for foster care children to age 26. It is also unclear, if this bill would impact the Department of Social Services' ability to perform eligibility determinations as that agency is not included in the bill's exemptions. Should the bill be clarified or interpreted to exempt activities such as these, then the fiscal implications are not expected to be significant at this time. However, if these programs are not exempted the general fund impact would, at a minimum, be approximately \$158 million annually as this is the estimated impact of losing the enhanced federal match for CHIP and managed care pharmacy rebates. Further potential costs have not yet been determined. This fiscal impact statement will be revised should additional clarification or information is provided.

**9. Specific Agency or Political Subdivisions Affected:**

Department of Medical Assistance Services  
Department of Social Services

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

**Date:** 1/18/16