

Department of Planning and Budget 2016 Fiscal Impact Statement

1. Bill Number: SB207-ES1 (impact revised)

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

2. Patron: Edwards, J.

3. Committee: General Laws and Technology

4. Title: Administrative Process Act; reconsideration of formal hearings.

5. Summary: Provides a procedure for a party to file a petition for reconsideration of an agency's decision from a formal hearing under the Administrative Process Act (APA). The bill requires the agency to render a written decision on a party's timely petition for reconsideration within 30 days and may deny the petition, modify the decision, or vacate the decision and set a new hearing for further proceedings. The agency shall state the reasons for its action. The bill also provides for the reconsideration of other decisions of a policy-making board of a state agency. If reconsideration is sought for the decision of a board, the board may (i) consider the petition for reconsideration at its next regularly scheduled meeting, (ii) schedule a special meeting to consider and decide upon the petition within 30 days of receipt, or (iii) delegate authority to consider the petition to either the board chairman, a subcommittee of the board, or the director of the state agency that provides administrative support to the board. The bill is the recommendation of the Administrative Law Advisory Committee and has been approved by the Virginia Code Commission.

6. Budget Amendment Necessary: Yes.

7. Fiscal Impact Estimates:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|-------------|
| 2016 | \$131,858 | 1.5 | General |
| 2016 | \$131,858 | 1.5 | Nongeneral |
| 2017 | \$131,858 | 1.5 | General |
| 2017 | \$131,858 | 1.5 | Nongeneral |
| 2018 | \$131,858 | 1.5 | General |
| 2018 | \$131,858 | 1.5 | Nongeneral |
| 2019 | \$131,858 | 1.5 | General |
| 2019 | \$131,858 | 1.5 | Nongeneral |
| 2020 | \$131,858 | 1.5 | General |
| 2020 | \$131,858 | 1.5 | Nongeneral |

8. Fiscal Implications: The bill will require agency staff to respond to petitions for reconsideration. Agencies may deny the petition, but must state their reasons in writing. The

bill does not include criteria that must be addressed in the written response. For most agencies the response will not necessarily require a large amount of additional staff time and can be absorbed by current staff.

It has been determined that the Department of Medical Assistance Services (DMAS) will need additional staff to address reconsideration petitions. In the past two years DMAS has averaged 47 Agency Decisions per year that are fully or partially adverse to the provider. DMAS anticipates that nearly 100% of these decisions would be the subject of a petition for reconsideration, including large volumes of documentation to address.

9. Specific Agency or Political Subdivisions Affected: All state agencies that are not exempt from the Administrative Process Act.

10. Technical Amendment Necessary: None.

11. Other Comments: The bill has been amended to add the following: “2. That the Department of Human Resource Management shall submit a report by November 1 of each year to the Senate Committee on General Laws and Technology and the House Committee on General Laws detailing (i) the number of employee grievance hearings held pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and (ii) the number of decisions from such hearings that were rendered in favor of employees.”

Date: 1/29/16