

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: HB1530

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

2. Patron: Peace

3. Committee: General Laws

4. Title: Department of Small Business and Supplier Diversity; certification of certain businesses; appeals.

- 5. Summary:** This bill removes the exemption from the Administrative Process Act (the Act) currently granted to regulations adopted by the Director of the Department of Small Business and Supplier Diversity to implement certification programs for small, women-owned, and minority-owned businesses and employment services organizations. The bill requires that such regulations provide a right to appeal the denial of an initial certification or the revocation of an existing certification as provided in Article 3 (§ 2.2-4018 et seq.) of the Act.

This fiscal impact statement has been revised to include information provided by the Office of the Attorney General.

6. Budget Amendment Necessary: Yes, to Items 59 and 123 of HB1500/SB900.

7. Fiscal Impact Estimates: Preliminary.

7a.1. Expenditure Impact: Department of Small Business and Supplier Diversity (Item 125)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2018	\$377,073	4	General Fund
2019	\$377,073	4	General Fund
2020	\$377,073	4	General Fund
2021	\$377,073	4	General Fund
2022	\$377,073	4	General Fund
2023	\$377,073	4	General Fund

7a.2. Expenditure Impact: Office of the Attorney General (Item 59)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2018	\$81,590	0	General Fund
2019	\$81,590	0	General Fund
2020	\$81,590	0	General Fund
2021	\$81,590	0	General Fund
2022	\$81,590	0	General Fund
2023	\$81,590	0	General Fund

7b. Revenue Impact: None.

- 8. Fiscal Implications:** Currently, the regulations that govern the certification of Small, Women- and Minority-Owned (SWAM) businesses do provide a right to appeal the revocation of an existing certification; however, they do not provide the right to appeal the denial of an initial certification. To process appeals of revocation of initial certifications, as proposed in the bill, the agency will require additional resources.

According to the Department of Small Business and Supplier Diversity, approximately 600 applications for both initial certification and re-certification are processed per month. The agency has seen a 59 percent increase from 2015 to 2016 in initial certification requests. An average of 72 applications or 12 percent of the total applications are denied. Of these denials, an average of 12 per month, or two percent of the total denials, seek appeal of the denial under the current regulations that allow for the appeal of revocation of existing certifications. This bill will allow for the remainder of denials related to initial certification to also seek appeal, and it is anticipated that this will increase the total appeals the agency must process by approximately 10 percent.

The department has stated that it takes approximately 4.266 hours per person per informal hearing proceeding. The process requires three staff members to participate: the Certification Director and two officers who did not process the original case file. Assuming an increase in informal hearing proceedings of 10 percent, or about 60 cases, the agency will require 768 additional man hours (4.266 hours per staff member by 60 cases). The agency currently has four SWAM certification officer positions authorized, with three positions filled and one in active recruitment. To address these additional appeals and meet the requirements of the appeals process, the agency will need four additional certification officers as well as one part-time wage position to provide administrative support. Based on the average salary, including benefits, the cost of four new positions is estimated at \$334,160. The support for the wage position is calculated at \$29,863. The estimate also includes operating expenses, including information technology, of \$13,050. As such, a total budget amendment of \$377,073 from the general fund is required.

The Office of the Attorney General also anticipates a fiscal impact related to this bill. While the Office currently has minimal involvement in the initial, agency-level administrative appeals, it is anticipated that there will be an increase in subsequent circuit court cases and judicial actions in the first two years as the new law is established. Based on the estimate of 72 appeals per month, the Office anticipates the need to commit staff hours to monitor and advise on the initial stage of each appeal. The Office also anticipates handling an additional 5 to 6 appeals cases to the circuit courts per month. As such, a budget amendment of \$81,590 is required to handle the additional workload.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Small Business and Supplier Diversity; Office of the Attorney General; courts.

- 10. Technical Amendment Necessary:** No.

Revised 1/31/17 to include impact to OAG; see item 7-8.

11. Other Comments: None.