

Department of Planning and Budget 2017 Fiscal Impact Statement

1. **Bill Number:** SB1240

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

2. **Patron:** Dunnavant

3. **Committee:** Education and Health

4. **Title:** Virginia Virtual School established.

5. **Summary:** Establishes the Board of the Virginia Virtual School (the Board) as a policy agency in the executive branch of state government for the purpose of governing the full-time virtual school programs offered to students enrolled in the Virginia Virtual School (the School). The Secretary of Education is responsible for such agency. The 14-member Board is given operational control of the School and assigned powers and duties. Beginning with the 2019-2020 school year, the bill requires the School to be open to any school-age person in the Commonwealth and to provide an educational program meeting the Standards of Quality for grades kindergarten through 12, with a maximum enrollment of 5,000 students statewide. The bill requires the average state share of Standards of Quality per pupil funding for each enrolled student to be transferred to the School. The bill also requires the Virginia Virtual School to submit to periodic audits by the Auditor of Public Accounts.

6. **Budget Amendment Necessary:** No.

7. **Fiscal Impact Estimates:** Indeterminate. 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, and the provisions of the bill have a delayed effective date of FY 2020. This bill would provide per pupil Standards of Quality (SOQ) funding for the Virginia Virtual School (the School) beginning in FY 2020 for the 2019-2020 school year. Any per pupil SOQ funding for the School beginning in FY 2020 would be dependent on the Direct Aid to Public Education budget as rebenchmarked for the 2018-2020 biennium. However, based on projections for the FY 2018 Direct Aid budget used in HB 1500, 2017 General Assembly Session, this fiscal impact represents estimated funding for the School.

The bill places a division-wide enrollment cap of two percent and statewide enrollment cap of 5,000 students on the School. The total per pupil funding paid to the School by DOE would be the average state share of the SOQ per pupil amount, which would consist of the average per pupil amounts on the basis of March 31 ADM and the per pupil share of state sales tax funding in basic aid. Additionally, DOE must pay any federal funds directly

associated with a student enrolled in the School. Any federal funds must be spent on uses permitted under the federal grant and would require the U.S. Department of Education to first classify the School as a Local Education Agency (LEA). The bill does not define how DOE should calculate the average state share of the SOQ per pupil amount. Using a weighted average that accounts for ADM, the estimated FY 2018 state share SOQ per pupil amount is \$4,632. With a statewide cap of 5,000 students, the funding to support the School based on this per pupil amount is \$23.2 million annually. Using a simple average with all divisions weighted equally, the estimated FY 2018 average state share SOQ per pupil amount is approximately \$5,123. With a statewide cap of 5,000 students, the funding to support the School based on this per pupil amount is approximately \$25.6 million annually.

The cost impact for this program for students currently enrolled in the public school system depends on each student's locality of residence and the locality's unique per pupil amount and composite index of local ability-to-pay. The state will pay the average per pupil amount to the School, but the amount paid to each locality varies based on per pupil amount and composite index. If the majority of enrolled students are from localities receiving state per pupil payments that are more than the average amount, the state would save money. However, if the majority of students are from localities receiving state per pupil payments that are less than the average amount, the state will pay more to the School than it would have paid to the local school divisions with participating students. The fiscal impact for students currently included in ADM will depend on the residences of the enrolled students and may vary each fiscal year.

Enrollment in the School is open to any school-age person in the Commonwealth. Private school and home school students who enroll in the School will create a state cost since these students are not currently included in ADM. There are over 30,000 home school students and approximately 120,000 private school students in Virginia. Any additional cost to the Commonwealth from such students' enrollment in the School cannot be estimated at this time.

The provisions of the bill would require changes to the process that DOE uses to determine the state costs of public education. The amount appropriated for the SOQ is based off local school divisions' ADM. Since the bill excludes students enrolled in the School from local school divisions' ADM counts, the budget will need to contain a separate appropriation for the School, similar to how funding is appropriated to the Virginia School for the Deaf and the Blind (VSDB). DOE will need to forecast the enrollment numbers for the School and apply an estimated per pupil funding amount to determine the required appropriation amount. DOE will have to identify the localities from which the students are likely to come in order to be able to adjust each division's ADM projections used in developing the budget. Budget amendments will need to be made if actual enrollment numbers or the per pupil amount differ from the projections and increase or lower the funding for the School.

The School likely will require staff to perform the day-to-day administration of the Board of the Virginia Virtual School (the Board) and to administer the specific duties required by this bill. There would also be operational costs, including Virginia Information Technologies

Agency (VITA) fees and office space. Funding for program start-up likely would be needed prior to fiscal year 2020 in fiscal year 2019. In addition, Board members would receive compensation, as applicable, and reimbursement of expenses in the performance of their duties from such funds as appropriated. The bill provides that administrative costs of the School would be borne proportionally by the School's approved multidivision online providers. Such an assessment of multidivision online providers would have to be developed.

DOE also would have a staffing impact as a result of this bill. The Superintendent of Public Instruction is required to designate a staff member of DOE to provide consultation and technical assistance to the Board on issues relating to instruction, federal and state special education requirements, and school accreditation. Providing this level of on-going assistance may require additional staffing in DOE. DOE also would have to administer the state per pupil payments to the School, which would require constant tracking of enrollment and adjusting the semi-monthly payments throughout the year as students enroll and exit the program. Additionally, DOE would have to administer the federal per pupil payments as they are administered with local school divisions. It is not clear whether any costs incurred by DOE related to the School could be offset by the provision in § 22.1-349.16.E. that allows administrative costs of the School to be assessed to approved multidivision online providers.

The Auditor of Public Accounts does not anticipate a fiscal impact as a result of this bill.

Because students enrolled in the School will not be counted in the calculation of the required local effort of the local school division of residence, localities could experience a savings from students currently included in ADM who transfer to the School. Local school divisions will need to create processes to track previously enrolled students who transfer to the School and may experience difficulties in identifying private school or home school students who are not currently in the division's enrollment records when accounting for two percent of school age persons within the division. In addition, since students enroll directly with one of the multidivision online providers, it is not clear how localities will interact with the enrollment process to determine if the cap has been met. The bill does not specify how students will be selected if enrollment in the School exceeds a local school division's two percent cap. Any actual fiscal impact to local school divisions resulting from this bill is indeterminate at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Education, Board of Education, Auditor of Public Accounts, local school divisions

10. Technical Amendment Necessary: No

11. Other Comments: The Virginia Virtual School is exempt from the Public Procurement Act under this legislation, an exemption which is not typically provided to executive branch agencies.

This bill is identical to HB 1400.