

## REVISED

### Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number:** HB549

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

**2. Patron:** Freitas, N.

**3. Committee:** Rules

**4. Title:** State agency regulations; legislation requiring a state agency to adopt regulations.

**5. Summary:** Provides that no bill that requires a state agency to adopt or amend regulations, if they are likely to have a significant adverse economic impact, shall be considered by the General Assembly unless (i) the bill contains an enactment clause directing the state agency to develop proposed regulatory requirements by December 1 of the year in which the bill is introduced and (ii) providing that the first enactment of the bill shall not become effective unless reenacted by the following year's session of the General Assembly, wherein the bill shall be reconsidered along with and in light of the proposed regulatory requirements developed by the state agency.

The bill defines “significant adverse economic impact” to mean that the estimated cost to citizens, professions, trades, or occupations to comply with the regulations exceeds \$500. Determination of whether the regulations are likely to have a significant adverse economic impact shall be made by the Joint Legislative Audit and Review Commission (JLARC). The Division of Legislative Services (DLS) would examine all bills for the purpose of identifying and forwarding to JLARC those bills that may require a regulatory change resulting in a significant adverse economic.

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

**7. Fiscal Impact Estimates:** Indeterminate, see Item 8.

**7a. Expenditure Impact:**

**8. Fiscal Implications:** DLS would be responsible for identifying bills that may require a regulatory change resulting in a significant adverse economic impact and forwarding them to JLARC for review. Excluding memorial and commending resolutions, DLS prepared approximately 4,700 bills for introduction into the 2018 Session of the General Assembly. Given this magnitude, DLS reports that it would not be able to complete an in-depth review of all bills, and thus as a safeguard any bill that may have an impact would be forwarded to JLARC.

JLARC staff report the additional workload cannot be addressed with existing staff resources, because the workload from the bill would be concentrated over a specific timeframe. JLARC's initial impact is that the impact would be at least \$105,000, to hire several additional temporary staff. Because the volume of work cannot be estimated, this impact may be low. Moreover, owing to the limited timeframe for the review, JLARC staff report that it is not tenable to hire additional full-time staff for this seasonal responsibility, and that the feasibility of hiring qualified staff on a temporary basis is questionable.

The bill also directs state agencies to develop "proposed regulatory requirements" by December 1<sup>st</sup> of the year in which the bill is introduced. For purposes of assessing fiscal impact, this analysis assumes that this phrase refers to high-level objectives for regulatory action.

Conversely, if the bill is intended to comport with the Administrative Process Act's (APA) definition of "proposed regulations," then the bill could impose a substantial fiscal impact by compressing the timeframe for executive branch review of regulations required by the APA and thus potentially requiring a substantial increase in staff resources at the Office of the Attorney General, the Department of Planning and Budget, the Secretary's Offices, and the Governor's Office.

Under either interpretation, the timeframe contemplated by the bill may be difficult for agencies to achieve without additional resources, may limit the availability of non-agency experts to serve on regulatory advisory panels, and may also limit the opportunity for public participation. Additional costs may be incurred if advisory panels or regulatory boards must meet more frequently to develop the information. This is particularly true for agencies that support several regulatory boards, such as the Departments of Health Professions and Professional and Occupational Regulation, which may need to increase fees if additional expenses are incurred.

**9. Specific Agency or Political Subdivisions Affected:** At a minimum, affected agencies include all executive branch agencies that adopt regulations, JLARC, and DLS. As noted above, if the bill's use of "proposed regulatory requirements" is interpreted to have the same meaning as "proposed regulations" in the APA, then the bill would also substantially affect the Office of the Attorney General, the Department of Planning and Budget, the Secretary's Offices, and the Governor's Office.

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

**11. Other Comments:** None.