

Department of Planning and Budget 2021 Special Session I - Fiscal Impact Statement

1. Bill Number: SB1318

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

2. Patron: Hashmi

3. Committee: General Laws

4. Title: Environmental justice; interagency working group.

5. Summary: Establishes the Interagency Environmental Justice Working Group as an advisory council in the executive branch of state government to further environmental justice in the Commonwealth and directs each of the Governor's Secretaries to designate at least one environmental justice coordinator to represent the secretariat as a member of the Working Group. The bill directs the Working Group to focus its work during its first year on the environmental justice of current air quality monitoring practices in Virginia and provides that the Working Group shall expire on July 1, 2031.

The bill directs the Secretaries of Agriculture and Forestry, Commerce and Trade, Health and Human Resources, Natural Resources, and Transportation to adopt a Secretariat-specific environmental justice policy that requires the agencies under each Secretary to evaluate the environmental justice consequences of any covered agency action that involves any portion of the environment of the Commonwealth. Such policy shall: (i) require the agency to meaningfully consider environmental justice and any cumulative impacts in its administration of the agency's basic law or regulations; (ii) consistently identify environmental justice communities and fenceline communities; (iii) identify the ways in which such communities are affected by covered agency actions, including the actions of other agencies; and (iv) contain public participation plans for residents of environmental justice communities and fenceline communities that are potentially affected by a covered agency action of the agency.

Finally, the bill requires each local government adopting or reviewing a comprehensive plan to also adopt an environmental justice strategy.

6. Budget Amendment Necessary: Yes, to Item 378 for DEQ. See item 8.

7. Fiscal Impact Estimates: Preliminary.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	N/A	N/A	N/A
2022	\$115,500	1.0	GF
2023	\$115,500	1.0	GF

- 8. Fiscal Implications:** The second enactment of the bill directs the Working Group to focus its work during its first year on the environmental justice of current air quality monitoring practices in Virginia. According to the Department of Environmental Quality (DEQ), assessing air cumulative impacts involves modeling the proposed source with other sources to understand the disbursement of pollutants and then conducting a risk health evaluation on the impact to human health. The agency anticipates that it will require one FTE at a cost of \$115,500 from the general fund to carry out data modeling. The position will require expertise in meteorology and health toxicology. The agency anticipates that the position will be required for two years, FY 2022 and FY 2023, to conduct the assessment, compile data, and produce the findings.

This bill requires the Secretaries of Agriculture and Forestry, Commerce and Trade, Health and Human Resources, Natural Resources, and Transportation to adopt a Secretariat-specific environmental justice policy that requires the agencies under each Secretary to evaluate the environmental justice consequences of any covered agency action that involves any portion of the environment of the Commonwealth. The bill defines “covered agency action” as any regulation, issuance of a guidance document, or expenditure of agency funds in excess of \$1.0 million for a particular environmental, economic development, infrastructure, or transportation project. Each Secretariat shall review and update its environmental justice policy at least once every four years.

The extent of the review required, as well as the costs associated, to develop such policies is indeterminate. Each Secretarial policy shall (i) require the agency to meaningfully consider environmental justice and any cumulative impacts in its administration of the agency's basic law or regulations; (ii) consistently identify environmental justice communities and fenceline communities; (iii) identify the ways in which such communities are affected by covered agency actions, including the actions of other agencies; and (iv) contain public participation plans for residents of environmental justice communities and fenceline communities that are potentially affected by a covered agency action of the agency. Various agencies in these Secretariats have provided estimates on the impact of this bill. These estimates were not available for inclusion in previous impact statements.

Virginia Department of Transportation (VDOT)

The Virginia Department of Transportation (VDOT) preliminarily estimates that compliance with the provisions of this bill could cost as much as \$37.0 million annually and require an additional 62 positions. Depending on the eventual policy developed by the Secretary of Transportation, VDOT estimates the costs and required positions could be higher.

VDOT has a number of activities that constitute “covered agency actions” as defined by the bill that also may “involve any portion of the environment” therefore potentially requiring an environmental justice review under this legislation. Examples of agency actions performed by VDOT include issuance of land use permits, outdoor advertising permits, nonconforming sign reviews, and street acceptance actions. VDOT conducts over 13,000 of these actions annually, the vast majority of which are land use permits. VDOT issues or amends approximately five guidance documents annually. VDOT also completes a number of

transportation projects that exceed \$1.0 million in expenditures including: maintenance and operations projects across nine asset and service categories; approximately 400 annual projects as part of the Six Year Improvement Program and Construction Program; 42 annual projects advertised and/or awarded as professional services and design-build contracts as part of the Alternative Project Delivery Program; and, an average of 10 capital outlay projects annually.

There are a large number of potentially eligible actions. The number of actions or projects that would meet the requirements of this legislation and the Secretary of Transportation's adopted policy and, therefore, require environmental justice review is uncertain. Additionally, the time and complexity of performing environmental justice reviews could vary based on the action being evaluated and the final policy determined by the Secretary of Transportation.

The costs identified above by VDOT are based on the assumption of 800 annual actions requiring an environmental justice review. Of that amount, \$32.0 million represents VDOT's estimates for public hearing costs of approximately \$40,000 per environmental justice review. The remaining \$5.0 million is attributable to the 62 positions at an average cost of \$80,000 per position. An increase the number of actions requiring review would result in increased costs to VDOT.

This estimate does not include any project costs arising from the time required to complete the environmental justice analysis or to conduct a public meeting for a covered agency action, which could result in delay for construction and maintenance projects with schedule constraints. The Virginia Department of Transportation relies on revenue generated operations, which are fully appropriated in the 2021 Budget Bill (HB1800/SB1100). Therefore, a budget amendment is not needed. VDOT would have to cover the costs associated with this legislation by redirecting resources from other priorities.

Department of Motor Vehicles (DMV)

According to the Department of Motor Vehicles (DMV), over the past 12 months, the agency has performed 95 covered agency actions such as conducting hearings and issuing guidance documents. Although the future costs of addressing all aspects of this legislation will depend on the number of agency covered actions, DMV assumes that it could require 40 hours for each action for the staff involved. Based on the 95 covered agency actions over the past 12 months, DMV estimates compliance with the provisions of the bill could cost approximately \$1.1 million annually.

This amount does not include the cost of posting public notices, holding public meetings, and providing necessary translation services. Depending on the number of languages spoken in the affected community, translation services could be significant. DMV also expects it likely will need to designate a position for environmental justice compliance efforts at a cost of approximately \$120,000 annually. DMV will not be able to absorb the potential fiscal implications of this bill, and will either need state general fund support added to Item 458 of the budget or will have to curtail other agency operations or needed infrastructure investments.

Virginia Department of Health (VDH)

The Virginia Department of Health (VDH) also provided information on the bill's potential impact to that agency. The department has a number of programs within the Office of Environmental Health Services, the Office of Drinking Water, and the Office of Radiological Health that directly impact the environment and will be impacted by this legislation.

The agency anticipates that implementation of the policy will require additional resources. The extent of those resources is indeterminate because the resource requirements will be determined by the specific policy. Developing the policy will require public participation which will necessarily require additional staffing resources to implement a program that truly addresses environmental justice issues related to VDH programs. Development of the policy will require input from a wide variety of stakeholders; therefore, a specific outline of the policy cannot be determined prior to that input.

Other Agencies

The Department of Housing and Community Development anticipates that a dedicated staff position at a cost of \$150,000 will be needed to carry out the evaluation of covered agency actions and development of public participation.

It is anticipated that other agencies will require additional resources; however, the totality of such resources cannot be determined because the requirements of the policies developed by each Secretariat to ensure environmental justice are unknown at this time. Depending on those requirements, agencies may have impacts that cannot be determined or quantified at this time. As information is received from agencies, this fiscal impact statement will be updated.

In addition, information on the potential impact of this bill on Title V revenue is pending. Such funding supports, not just permitting activities, but associated compliance, enforcement and monitoring activities.

The bill establishes the Interagency Environmental Justice Working Group to further environmental justice in the Commonwealth. Each of the Governor's Secretaries shall designate at least one and no more than three environmental justice coordinators to represent the secretariat as a member of the Working Group. The Working Group shall meet at least quarterly. Members shall receive compensation and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2813, Code of Virginia. The bill provides that the Secretary of Natural Resources shall provide staff support to the Working Group, and all agencies of the Commonwealth shall provide assistance to the Working Group, upon request. It is anticipated that the costs associated with supporting the Working Group can be absorbed within current resources.

- 9. Specific Agency or Political Subdivisions Affected:** Secretaries of Agriculture and Forestry, Commerce and Trade, Health and Human Resources, Natural Resources, and Transportation; localities.

10. Technical Amendment Necessary: No

11. Other Comments: HB2074 also addresses environmental justice.