

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: HB2281

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Shin

3. Committee: General Laws

4. Title: Virginia Conflict of Interest and Ethics Advisory Council; powers and duties; complaints; penalties.

5. Summary: Authorizes the Virginia Conflict of Interest and Ethics Advisory Council to investigate alleged violations of the State and Local Government Conflict of Interests Act and the General Assembly Conflicts of Interests Act (the Acts). The Council may initiate an investigation upon its own motion or in response to a complaint filed by a resident of the Commonwealth who has firsthand knowledge of an alleged violation. The bill directs the Council to review the disclosure forms filed by members of the General Assembly for compliance with applicable disclosure requirements and limitations on gifts and the accuracy of all information disclosed and authorizes the Council to initiate an investigation based on the findings of this review. The bill increases from a Class 1 misdemeanor to a Class 6 felony the penalty for any knowing violation of the General Assembly Conflicts of Interests Act.

6. Budget Amendment Necessary: Yes, see Item 8.

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

8. Fiscal Implications: The fiscal impact of this bill is indeterminate. This legislation gives the Council investigatory powers, and also permits them to hire their own staff, which would make them their own agency. Currently staff support for the Council is provided by the Division of Legislative Services (DLS), and the Council uses DLS office space. Based on the nature of the work performed by the Council and the creation of the new agency, the Council will likely need their own separate office space. The costs of this office space are not able to be determined at this time. There also will be costs associated with the Council becoming their own agency, such as office supplies, computing needs, etc.

The new duties assigned to the Council would necessitate at least two new staff members. The Council would need an additional attorney. For due process reasons, the Council attorney who provides advice and guidance to officers and employees throughout the state, cannot then be involved in a prosecutorial hearing against those officers and employees. So, another Council attorney would need to be hired. The salary and benefits for an attorney at the Ethics Council/DLS are estimated at \$102,900.

This bill also mandates that the Council review all disclosure forms filed by legislators and requires the Council to conduct investigations for any discrepancies found. These additional tasks would require the Council to hire an investigator with an estimated cost of \$70,000 for salary and benefits.

The bill increases from a Class 1 misdemeanor to a Class 6 felony the penalty for any knowing violation of the General Assembly Conflicts of Interests Act. For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: Virginia Conflict of Interest and Ethics Advisory Council, regional and local jails.

10. Technical Amendment Necessary: No

11. Other Comments: None