

## Department of Planning and Budget 2022 Fiscal Impact Statement

1. **Bill Number:** HB772

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

2. **Patron:** Hodges

3. **Committee:** General Laws

4. **Title:** Administrative Process Act; powers and duties of executive branch agencies; regulatory compliance.

5. **Summary:** Provides that each executive branch agency in the Commonwealth authorized to promulgate regulations shall designate one person to serve as the regulatory compliance officer for that agency and provides for the powers and duties of such regulatory compliance officer. These duties include developing policies and summaries of regulations and holding seminars; offering recommendations to boards regarding noncompliance and granting the officer authority to waive fines or penalties imposed by a regulatory board; and providing advisory opinions on the impact of regulations or statutes on the duties of the regulated entities.

6. **Budget Amendment Necessary:** Preliminary - Indeterminate, see Item 8.

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

8. **Fiscal Implications:** Virginia Code Commission regulations (1VAC7-10-80) already require each agency to appoint a regulatory coordinator to align the regulatory activities of the agency with the Office of the Registrar of Regulations. However, the duties of the proposed compliance officer differ from the existing position. Although many of these duties are likely already performed to a degree by agency employees (staff directors of regulatory boards, agency program staff, or agency compliance staff), the creation of a new statutory position with assigned duties may create new personnel costs to the extent that the existing functions are dispersed across multiple staff. This may be more likely at smaller agencies, or ones that do not regularly promulgate regulations. In addition, some of the duties (such as providing advisory opinions) are likely already performed by the Office of the Attorney General (OAG), but the impact on OAG's workload and duties is not known. However, if the decisions of the compliance officer (such as waiving fines or penalties) constitute case decisions under the Administrative Process Act (APA), then the workload of the OAG may increase if case decisions increase the need for legal services.

The Department of Small Business and Supplier Diversity reports that the agency does not currently have the capacity to absorb these duties, and states a need for one FTE at \$69,173.

The Virginia Marine Resources Commission (VMRC) reports the need for one FTE with an operating budget to produce materials and work with agency boards, at \$76,616 (\$43,000 salary, plus fringe benefits of \$33,616). VMRC also reports a need for a communications service such as “Constant Contact” and equipment and travel costs at a total of \$13,700 annually. The Department of Criminal Justice Services reports a need for one FTE at \$126,979 (\$75,000 salary, plus benefits and equipment). The Department of State Police reports that the bill would require a new, senior level civilian FTE in the Bureau of Administrative and Support Services at approximately \$169,000 annually (\$118,280 salary, plus about \$50,606 in office space and equipment.) The Department of Medical Assistance Services notes that given the complexity of Medicaid regulations, experienced attorneys are required to ensure that the summaries of legislation and regulations are accurate and complete, and to ensure that advisory opinions are properly researched, supported, and documented. As a result, the agency reports the need for two FTE experienced attorneys at a total annual cost of \$232,783 each (salaries, benefits, indirect costs), and 1 FTE for a trainer/educator at \$177,437 (salary, benefits, indirect costs). DMAS also reports that a contractor is needed to design educational materials, at an estimated cost of \$36,077. The Virginia Department of Health reports a need for one FTE at a total cost of \$101,328. The Department of Social Services reports a need for one FTE at a total cost of approximately \$100,898 annually.

- 9. Specific Agency or Political Subdivisions Affected:** The bill applies to all executive branch agencies that promulgate regulations. However, because the bill amends the Administrative Process Act (APA), it does not apply to the approximately 20 executive branch agencies that are exempt from the APA, nor does it apply to the 11 non-executive branch agencies that promulgate regulations. There may be exceptions, such as the Virginia Marine Resources Commission, that are only partially exempt from the APA (Article 2) but would not be exempt from the bill’s requirements. There may also be an impact upon the Office of the Attorney General, as indicated in Item 8.

Instead, it appears that the bill only applies to about 40 agencies: the Board of Accountancy; the Departments for Aging and Rehabilitative Services, Blind and Vision Impaired, Deaf and Hard-of-Hearing; the Departments of Agriculture and Consumer Services, Aviation, Behavioral Health and Developmental Services, Conservation and Recreation, Corrections, Criminal Justice Services, Education, Elections, Energy, Environmental Quality, Fire Programs, Forensic Science, Forestry, General Services, Health, Health Professions, Historic Resources, Housing and Community Development, Human Resource Management, Juvenile Justice, Labor and Industry, Medical Assistance Services, Motor Vehicles, Professional and Occupational Regulation, Social Services, State Police, Taxation, Transportation, Treasury, and Wildlife Resources; and the, Motor Vehicle Dealer Board, Office of the State Inspector General, State Council of Higher Education for Virginia, Virginia Birth-Related Neurological Injury Compensation Program, Virginia Employment Commission, Virginia Marine Resources Commission, Virginia Racing Commission.

- 10. Technical Amendment Necessary:**

**11. Other Comments:**