

OPPOSE HB329

Topic: Administrative Process Act; regulations; public notice and economic impact; prohibitions on certain regulations
Bill Patron: Delegate Nicholas Freitas

Reasons to Oppose HB329:

This bill will grind the regulatory process to a halt.

- It would require new layers of approval before an agency may even put out for notice its *intention to consider* a regulatory process. (That notice is the NOIRA - Notice of Intended Regulatory Action.)
 - The Office of Attorney General would have to approve the intention
 - The Governor would have to approve the intention
- It adds significant policy analysis to the Department of Planning and Budget's required Economic Impact Statement which it says in its Fiscal Impact Statement: "exceeds DPB's existing resources and subject matter expertise."
- For example: DPB would be responsible for comparing the regulatory approach to federal and comparable states' regulations and explain why the *agency* chose the approach it did.
 - Policy analysis is typically done by the subject matter experts at the agencies during the course of the regulatory process—with input via public comment—not by DPB.
- It removes consideration of "public benefits" and replaces it with "actual and quantifiable benefits" which neglects qualitative benefits and broad (but impactful) societal benefits.
- Once DPB completes its policy and economic impact analysis, a second independent analysis may be requested. And DPB would be required to explain any variances between the two estimates.
 - Encouraging *two different entities* to prepare an economic impact analysis is unnecessarily duplicative and will further increase the amount of time and cost needed for the regulatory process to proceed.
- It forces an agency to halt work on any regulation found to have \$10 million in costs over 2 years – with no provision to account for any identified *benefits* of the regulatory actions.
 - \$10 million over 2 years = \$.59 per Virginian per year.
 - No consideration is given to whether the regulation is net positive in terms of impact (i.e. benefits are > \$.59 per Virginian per year)
 - Leaving out the consideration of benefits could stall regulations that would actually benefit the Commonwealth—that is as irrational as it comes.
- In order to continue working on a regulation that costs more than \$10 million (or \$.59/Virginian/year), an affirmative vote of the General Assembly is required.
 - Forbidding these regulations absent an explicit statutory approval will create an inefficient system, placing regulations in limbo while the legislature is not in session.

Overview:

Administrative agencies play a vital role in promulgating regulations for a wide array of government programs. The role of agencies is heightened in states like Virginia, where the legislature holds a shortened session. Forbidding the promulgation of regulations with over a \$10 million impact, absent an explicit statutory allowance, will create an inefficient system that will place regulations in limbo while the legislature is not in session.



SELC
Will Cleveland
wcleveland@selcva.org



Virginia Conservation Network
vcn@vcnva.org
(804) 644-0283
www.VCNVA.org

This position was taken by Virginia Conservation Network (VCN)'s Legislative Committee and Board of Directors and is supported by Virginia's conservation community. For a complete list of VCN positions, visit www.vcnva.org/bill-tracker. VCN is committed to building a powerful, diverse, and highly-coordinated conservation movement focused on protecting our Commonwealth's natural resources today and for tomorrow.