

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

1. **Bill Number:** HB2074

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

2. **Patron:** Simonds

3. **Committee:** General Laws and Technology

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. 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 be dependent 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 will likely 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 to Item 458 of the budget or will have to curtail other operations or needed agency infrastructure investment.

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 in order to be sufficiently robust 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.

The requirements of the policy developed by the Secretariat to ensure environmental justice are unknown at this time. Depending on those requirements, 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. Similarly, the Department of Transportation anticipates the need of dedicated staff time across multiple divisions to adopt the potential Secretary policy provisions and evaluate each covered agency action.

It is anticipated that other agencies will require additional resources; however, the totality of such resources cannot be determined. 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 in 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: SB1318 also addresses environmental justice.