

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB482

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

2. Patron: McClellan

3. Committee: Finance and Appropriations

4. Title: Consultation with federally recognized Tribal Nations; permits and reviews with potential impacts.

5. Summary: Requires the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Historic Resources, and the Virginia Marine Resources Commission to establish policies and procedures for consulting with federally recognized Tribal Nations in the Commonwealth when evaluating certain permits and reviews with potential impacts on environmental, cultural, or historic resources or that would have tribal implications, as defined in the bill. The bill directs the Secretary of the Commonwealth to designate an Ombudsman for Tribal Consultation to facilitate communication and consultation with Tribal Nations.

As substituted, the bill further defines an action or project with “tribal implications” to mean (i) environmental impact reports for major state projects, prepared pursuant to § 10.1-1188; (ii) State Corporation Commission project reports, prepared pursuant to § 56-46.1 and 20VAC5-302-25; (iii) Virginia Department of Aviation environmental reports prepared pursuant to § 5.1-7; (iv) Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater Virginia, prepared pursuant to 9VAC15-20; (v) Federal Consistency Determinations prepared pursuant to § 307 of the federal Coastal Zone Management Act of 1972 (14 U.S.C. § 1456); (vi) ground water withdrawal permits for ground water withdrawals greater than one million gallons per day, issued pursuant to § 62.1-266; (vii) the designation of historic districts, buildings, structures, or sites as historic landmarks pursuant to § 10.1-2206.1; (viii) Burial Permits for Relocation of Human Remains, issued pursuant to § 10.1-2305; (ix) Cave Collection Permits, issued pursuant to the Cave Protection Act (§ 10.1-1000 et seq.), for permit applications pertaining to the study, extraction, or removal of any archaeological or historic feature in a cave; (x) local government notifications for new and existing impoundment structures or dams pursuant to 4VAC50-20-58; (xi) Virginia Regulated Impounding Structures Permits issued pursuant to 4VAC50-20-70 and 4VAC50-20-80; and (xii) Underwater Recovery Permits issued pursuant to § 10.1-2214.

Lastly, the bill provides that the Department of Environmental Quality shall update its regulations regarding (i) environmental impact assessments for oil or gas well drilling operations in Tidewater Virginia, (ii) local government notifications for new and existing impoundment structures or dams, and (iii) permits for construction or alteration of Virginia

regulated impounding structures to require consultation as set forth in § 10.1-1186.3:1 of the Code of Virginia, as created by this act.

6. Budget Amendment Necessary: Yes, to Item 67 of HB30/SB30.

7. Fiscal Impact Estimates: Preliminary.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2023	\$170,250	1	GF
2024	\$170,250	1	GF
2025	\$170,250	1	GF
2026	\$170,250	1	GF
2027	\$170,250	1	GF
2028	\$170,250	1	GF
2029	\$170,250	1	GF

8. Fiscal Implications: This bill requires the Secretary of the Commonwealth to designate an Ombudsman for Tribal Consultation and includes the requirements of such ombudsman in facilitate communication and consultation with Tribal Nations. The bill requires that by September 1, 2022, and in consultation with nationally recognized Tribal Nations located in the Commonwealth, the Ombudsman for Tribal Consultation shall develop a list of localities in which federally recognized Tribal Nations shall be consulted to effectuate the provisions of this act. The Office of the Secretary of the Commonwealth anticipates the need for a budget amendment of \$170,250 from the general fund and one position to create this position. The funding includes a salary of \$115,000 with \$55,250 in anticipated benefits and other operating expenses.

The Departments of Environmental Quality, Conservation and Recreation, Historic Resources, Transportation and Aviation, as well as the State Corporation Commission, anticipate that any costs associated with this bill can be absorbed within current resources.

9. Specific Agency or Political Subdivisions Affected: Secretary of the Commonwealth; Departments of Environmental Quality, Conservation and Recreation, Historic Resources, Transportation and Aviation; State Corporation Commission.

10. Technical Amendment Necessary: No.

11. Other Comments: None.