

Commission on Local Government

Estimate of Local Fiscal Impact

2022 General Assembly Session

Bill: HB 384

Special Session:

Patron: Davis

Date: 1/26/2022

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Administration of government; rights of state and local employees; freedoms of conscience and expression. Protects state and local government employees from being required to take actions incompatible with their deeply held beliefs, values, or conscience or from being penalized for expressing opinions in opposition to or approval of official government policy.

Executive Summary:

Localities have evaluated a negative fiscal impact ranging from \$0 - \$1.0 million.

Most localities stated that the bill would produce indeterminate negative fiscal impacts, and that the costs were difficult to quantify. Localities identified several sources of potential negative impact: increases in litigation and legal costs, oversight and training of employees, review of liability and insurance claims, among others. However, localities estimates of these costs varied widely depending upon the realized consequences of the legislation.

Local Analysis:

Locality: Amherst

Estimated Fiscal Impact: \$0.00

Doesn't have a monetary cost.

Locality: City of Manassas

Estimated Fiscal Impact: \$1.00

The potential fiscal impact of this legislation is indeterminate and virtually impossible to measure.

Locality: City of Roanoke

Estimated Fiscal Impact: \$100,000.00

It is difficult to predict with certainty what this might cost. Costs would likely come in the form of litigation if a citizen feels they are not being served in accordance with laws or that their rights have been infringed upon. The costs could \$100,000 or could be \$1,000,000.

Locality: City of Winchester

Estimated Fiscal Impact: \$0.00

We always value our employees rights an individual, not sure we can put a price tag on this one. Everyone has a right to speak at our Council meetings for or against any item(s).

Locality: County of Fauquier

Estimated Fiscal Impact: \$1,000,000.00

Within this bill there are contradictory statements in terms of taking actions and complying with policies. In addition, any such measure would be costly for the administration of government in terms of significant review and clarification for staff as to carrying out duties and responsibilities. In addition, it would require fairly significant legal assistance and oversight of employee policies and procedures causing additional legal staffing. In addition, it would require regular and increased review of liability insurance and potential claims.

Locality: County of Mecklenburg

Estimated Fiscal Impact: \$0.00

There is no possible way of determining the impact of the proposed legislation. In part, this is because the grounds for "reasonable person" is not clear and would need to be litigated; therefore, objections may be greater initially than once procedures are determined by the courts. Secondly, the impact depends on number of objectors, the ability for replacement staff to carry out the work, and the cost of time delay (for example, if a regulation has to be re-docketed or readvertised, that could cost actual dollars; there could be the implicit cost of delay in a cost-benefit assigned value of time sense, or on the impacted populations from a delay in a social, health, or environmental based regulation). Lastly, there is a definition issue with the words "appointed." Presumably, this means Council or Supervisor appointed positions such as Administrator, but employees of Constitutional Officers are appointees of the officer and therefore may be covered under the word appointed.

Locality: Norfolk

Estimated Fiscal Impact: \$500,000.00

The fiscal impact of this bill is indeterminate. The impact varies greatly depending on the policy issue and staffing and equipment needed to respond to the policy issue at hand.

Locality: Town of Blacksburg

Estimated Fiscal Impact: \$0.00

No fiscal impacts related to this bill.

Locality: Town of Leesburg

Estimated Fiscal Impact: \$0.00

Indeterminant fiscal impact

Locality: Town of Marion.

Estimated Fiscal Impact: \$0.00

No impact

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**Locality:** Town of Scottsville

**Estimated Fiscal Impact:** \$1,000.00

This bill seems to have a very uncertain but non-zero fiscal impact on small towns like Scottsville.

The \$1,000 impact stated represents a small cost of staff time for training, but more importantly, an increase in insurance premiums. The Town carries property and liability insurance through VRSA, a risk pool specialized in local government services.

It seems very unclear whether this bill actually expands employee protections beyond existing First Amendment case law, or simply codifies what is already heavily litigated and established as best-practice HR management. The bill does seem to reflect the Town's existing personnel policies. This may not be the case for all localities, and it seems likely to trigger litigation. If VRSA member localities face increased legal costs and settlements, premiums tend to rise for all member localities. That is the cause of the impact shown here.

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Locality: Wise County

Estimated Fiscal Impact: \$0.00

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