

Department of Planning and Budget
2026 General Assembly Session
State Fiscal Impact Statement

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ORIGINAL

Bill Number: HB367

Patron: Krizek

Bill Title: Consultation with federally recognized tribes; permits and reviews with potential impacts on environmental, cultural, and historic resources.

Bill Summary: Adds to the duties of the Ombudsman for Tribal Consultation requirements to (i) facilitate communication between federally recognized tribes and relevant state agencies and local governments to ensure an opportunity for meaningful and timely consultation on environmental, cultural, and historical permits and reviews; (ii) assist the Department of Transportation in developing consultation policies; (iii) make recommendations to the Governor on the basis of communications with federally recognized tribes about (a) circumstances under which tribal consent should be required for issuance of certain permits and (b) additional agencies that should develop policies and procedures to ensure meaningful, timely, and appropriate consultation with federally recognized tribes; (iv) provide training at least once a year to certain state agency personnel on issues of concern to the federally recognized tribes to support effective communication, collaboration, and positive government-to-government relations between the Commonwealth and the federally recognized tribes; and (v) submit an annual report to the Secretary of the Commonwealth on the activities undertaken to implement such provisions and the issues that have arisen in that pursuit. The bill also requires the Department of Conservation and Recreation, Department of Environmental Quality, Department of Historic Resources, Department of Transportation, and Marine Resources Commission to engage in consultation with federally recognized tribes on certain issues. During such consultation, the burden is on the agency to show that it has made a good faith effort to elicit meaningful and timely feedback, including formal communication between agency employees and the federally recognized tribe. When a manufactured or gas pipeline is to be approved by the State Corporation Commission, the Commission shall determine that the corridor or route chosen will avoid or minimize adverse impacts to the cultural resources of federally recognized tribes. The Commission is also directed to enter into a memorandum of agreement with the Department of Environmental Quality regarding the coordination of their reviews of the environmental impact of gas pipelines and associated facilities. When a burial permit will result in the disturbance of a burial site of an individual that has a cultural affiliation with a particular federally recognized tribe, the bill requires the Department of Historic Resources to acquire the consent of such federally recognized tribe before issuing a permit for the archaeological excavation of human remains. This bill is a recommendation of the Commission on Updating Virginia Law to Reflect Federal Recognition of Virginia Tribes.

Budget Amendment Necessary: No.

Items Impacted: N/A

Explanation: Preliminary – no fiscal impacts have been identified at this time.

Fiscal Summary: Preliminary – the Office of the Secretary of the Commonwealth, the Departments of Historic Resources, Conservation and Recreation, and Transportation, and the Marine Resources Commission have all indicated that the bill does not create a fiscal impact for their respective agencies.

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Fiscal impact analysis of the bill for the Department of Environmental Quality and the State Corporation Commission are still pending. This impact statement will be updated when further information is available.

Fiscal Analysis: See “Fiscal Summary”.

Other: This bill is identical to SB353.