



## Virginia Department of Planning and Budget **Economic Impact Analysis**

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**18 VAC 160-30 Waterworks and Wastewater Works Operators Licensing Regulations**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 5683 / 9703**  
September 9, 2022

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of these economic impacts.<sup>1</sup>

### **Summary of the Proposed Amendments to Regulation**

The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (Board) proposes to adjust three of its licensing fees for waterworks and wastewater works operators to increase revenues.

### **Background**

The General Assembly has charged the Board with regulating waterworks or wastewater works operators through licensing. In § 54.1-2300 of the Code of Virginia, “[w]aterworks” means each system of structures and appliances used in connection with the collection, storage, purification, and treatment of water for drinking or domestic use and the distribution thereof to the public, except distribution piping. Systems serving fewer than 400 persons shall not be considered to be a waterworks unless certified by the Board to be such. Similarly, “[w]astewater works” means each system of (i) sewerage systems or sewage treatment works, serving more than 400 persons, as set forth in § 62.1-44.18; (ii) sewerage systems or sewage treatment works

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<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

*servicing fewer than 400 persons, as set forth in § 62.1-44.18, if so certified by the State Water Control Board; and (iii) facilities for discharge to state waters of industrial wastes or other wastes, if certified by the State Water Control Board.*

According to the Department of Professional and Occupational Regulation (DPOR), waterworks or wastewater works that are not properly operated may pose a risk to the public health and welfare. The licensure regulation for waterworks and wastewater works operators helps ensure that those who receive a license from the Board meet minimum requirements for education and experience in order to operate, or supervise the operation of, waterworks or wastewater works.

DPOR receives no general fund money, and is funded almost entirely from revenue collected for license applications, renewal, examination fees, and other licensing fees. As a result, the Board must establish fees adequate to support the costs of the Board's operations and a proportionate share of DPOR's overall operations. The Board has no other source of revenue from which to fund its operations.

At current fee levels, DPOR projects that the Board will not have sufficient revenue to meet its expenditures. DPOR's Financial Services Director reports that at current fee levels, the Board's expenditures are projected to exceed revenues by approximately 19 percent by the close of the 2022-2024 biennium.

Code of Virginia § 54.1-201 states in part that:

*A. The powers and duties of regulatory boards shall be as follows:*

***4. To levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department of Professional and Occupational Regulation and the Board for Professional and Occupational Regulation***

In accordance with this statute, the Board proposes to raise the annual renewal fee from \$80 to \$105 and the reinstatement fee from \$105 to \$140. However, the Board also proposes to reduce the initial application fee from \$100 to \$85 in order to reduce costs for entry into the profession, because applicants for initial licensure as waterworks or wastewater works operators assume costs for taking the licensure examination.

In short, the goal of the regulatory change is to ensure revenue to the Board's account will be approximately equal to expenditures allocated to the Board, while keeping the cash balance of the account relatively stable to ensure compliance with § 54.1-201.

### **Estimated Benefits and Costs**

The proposed adjustments to the three fees are expected to generate approximately \$38,735 in additional annual revenue for the Board that would be collected from regulants starting in fiscal year 2025.<sup>2</sup> More specifically, based on the renewal fee change from \$80 to \$105, licensees will be charged an additional \$25 at the time of renewal, which occurs every two years. There are on average 1,937 renewals annually, for a total cost of \$48,425. Similarly, based on the reinstatement fee change from \$25 to \$35, licensees will be charged an additional \$10 at the time of reinstatement. There are on average 30 reinstatements annually, for a total cost of \$300. On the other hand, due to the reduction of the application fee for an initial license from \$100 to \$85, DPOR will receive \$15 less per application and based on 666 applications per year, this change costs the agency \$9,990 per year which would be a benefit to applicants. It is notable that the increase in renewal and reinstatement fees would be offset by the reduction in the application fee by some amount so as to lower the cost of entry into these occupations.

The primary benefit of this regulatory action is that the Board would be able to continue to administer the waterworks and wastewater works licensing as mandated by the General Assembly and ensure their proper operation.

### **Businesses and Other Entities Affected**

All waterworks and wastewater works operators are affected by the proposed fee changes. Also, individuals seeking to become licensed as waterworks or wastewater works operators would be affected. According to DPOR, as of July 1, 2022, there are 4,261 licensed waterworks operators and wastewater works operators. Also, there are approximately 666 new waterworks operator and wastewater works operator applicants per year.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>3</sup> An adverse impact is indicated if there is any increase in net cost or

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<sup>2</sup> ORM Economic Impact Document.

<sup>3</sup> Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint

reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, fees paid to renew or reinstate the license are increasing. Thus, an adverse impact on regulants is indicated.

### **Small Businesses<sup>4</sup> Affected:<sup>5</sup>**

#### Types and Estimated Number of Small Businesses Affected

According to DPOR, although licenses for waterworks and wastewater works operators are issued to individuals and not to business entities, many individuals who are licensed are likely to be owners or employees of owners or employees of business entities that meet the definition of “small business” in § 2.2-4007.1 of the Code of Virginia.

#### Costs and Other Effects

To the extent that small businesses with waterworks and wastewater works operators may pay the licensure renewal or reinstatement fee for the operator, such firms may encounter the increase in cost associated with the proposed higher fees. Thus, an adverse economic impact on small businesses would be indicated, however no information on this is available.

#### Alternative Method that Minimizes Adverse Impact

Based upon the available information, there are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

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Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>4</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>5</sup> If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

**Localities<sup>6</sup> Affected<sup>7</sup>**

Similar to businesses, localities may be affected if they pay the license fees for employees of the locality. The cost would be the amount of the higher license fee paid for those individuals. Accordingly, an adverse impact on localities would be indicated to the extent they pay higher license fees for their waterworks and wastewater works operators, however no information on this is available.

**Projected Impact on Employment**

The proposed fee adjustments are unlikely to substantively affect employment.

**Effects on the Use and Value of Private Property**

To the extent that some businesses with waterworks and wastewater works operators may pay the licensure renewal or reinstatement fee for the operator, such firms may encounter the increase in cost associated with the proposed higher fees. The potential increase in cost would not likely be large enough to substantively affect the actions and value of these firms. The proposed amendments do not affect real estate development costs.

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<sup>6</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>7</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.