



Economic Impact Analysis Virginia Department of Planning and Budget

1 VAC 50-20 – Commission on Local Government Regulations

Department of Housing and Community Development

December 10, 2004

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Section §15.2-2903 of the Code of Virginia provides the Commission on Local Government (the commission) the authority to develop regulations, including rules of procedure for conducting hearings.

The proposed regulation also includes a number of changes intended to make the regulation consistent with the Code of Virginia. It establishes procedures and requirements for voter- or property owner-initiated annexation of territory, transition of a city from city to town status, county-city consolidations to create a new independent city, voluntary economic growth sharing agreements submitted to the commission for review, determination of a city's continued eligibility for city status, and definition of a town's future annexation rights. It also requires that proposals for annexation include analysis of the impact of the proposed annexation on agricultural operations located in the area and proposes additional public notice requirements for town-county agreements defining annexation rights. The proposed regulation also updates

references to the Code of Virginia following the re-codification of Title 15.2 (Counties, Cities, and Towns) in 1997.

In addition to those discussed above, the proposed regulation makes a number of other changes. It allows for the pre-filing of direct testimony to the commission from all affected parties with regard to a proposed action. It permits the commission to charge a fee for providing copies of minutes of public meetings. It includes new language that provides additional flexibility to the commission in the conduct of its proceedings. It updates the regulation to reflect changes in the modes of communication. It adds language intended to clarify aspects of the regulation, codify current practice, and improve understanding and implementation of the regulation. It also deletes language that is redundant, duplicative of the Code of Virginia, or administrative in nature.

Estimated Economic Impact

The proposed regulation includes a number of changes intended to make the regulation consistent with the Code of Virginia.

- It establishes procedures and requirements for voter- or property owner-initiated annexation of territory. Section §15.2-2907 of the Code of Virginia requires all citizen petitions for annexation to be referred to the commission. According to DHCD, such petitions were dealt with on an ad hoc basis until a few years ago. The development of a guidance document to deal with citizen petitions for annexation began in 2002. The guidance document was completed and implemented a few years ago. The proposed procedures and requirements are based on the guidance document. According to DHCD, there have been 5-6 citizen-initiated proposals for annexation since 1983, when this responsibility was assigned to the commission.
- It establishes procedures and requirements for the transition of a city from city to town status. Chapter 881 of the 1988 Acts of Assembly amended §15.2-4102 of the Code of Virginia such that all voter-initiated petitions for transition of a city from city to town status have to be referred to the commission. The proposed regulation requires that any city filing notice that it proposes to become a town or any other petition for transition from a city to a town submit data and information pertaining to topics listed in the regulation. According to DHCD, these requirements are based on an existing guidance document. There have been two proposals

for transition from a city to a town. The first was successful and the second resulted in a voluntary settlement agreement that provided for the transition.

- It establishes procedures and requirements for county-city consolidations to create a new independent city. Section §15.2-3531 requires that voter-initiated consolidation of local governments be referred to the commission. The new language establishing the requirements city-county consolidations referred to the commission is similar to language used in other parts of the regulation. According to DHCD, the proposed requirements are based on the commission's experience in evaluating such proposals. The commission has reviewed approximately five county-city consolidations to date.
- It establishes procedures and requirements for voluntary economic growth sharing agreements submitted to the commission for review. Chapter 713 of the 1996 Acts of Assembly amended §15.2-1301 of the Code of Virginia such that all economic growth sharing agreements between a county, city, or town have to be submitted to the commission for review. Requirements to be met when submitting an economic growth sharing agreement to the commission for review are taken from an existing guidance document. The commission has not reviewed any economic growth sharing agreements to date.
- It establishes procedures and requirements for the determination of a city's continued eligibility for city status. Chapter 587 of the 1997 Acts of Assembly amended §15.2-4001 of the Code of Virginia such that if it appears from the most recent United States census that a city may not meet the requirements for city status, the commission is required to begin an investigation of the population, assets, liabilities, rights, and obligations of the city and certify the findings to the governing body. The proposed regulation implements this requirement. The specific procedures and requirements for making such a determination are based on the commission's experience in inter-governmental matters. According to DHCD, there have been no instances to date when the commission has had to make a determination regarding a city's status.
- It establishes procedures and requirements for the definition of a town's future annexation rights. Section §15.2-3234 of the Code of Virginia allows towns unable to reach an agreement with their county over future annexation rights to petition the commission for an order establishing annexation rights. The proposed regulation specifies information, data,

and other factors to be considered by the commission in determining future annexation rights. According to DHCD, the proposed requirements track current practice. There has been one instance when a town petitioned the commission in this regard and, in that instance, the town was eventually able to reach a voluntary agreement with its county.

- It also requires that proposals for annexation include analysis of the impact of the proposed annexation on agricultural operations located in the area. This requirement is based on Chapter 345 of the 1999 Acts of Assembly that amended §15.2-3209 of the Code of Virginia to the effect that any proposal for annexation address the impact of the annexation on agricultural operations in the area.
- It also proposes additional public notice requirements for town-county agreements defining annexation rights. Chapter 173 of the 2003 Acts of Assembly amended the Code of Virginia such that additional notification is required for such agreements. The proposed language is similar to language in §15.2-3232 of the Code of Virginia.
- The proposed regulation also updates references to the Code of Virginia following the recodification of Title 15.2 (Counties, Cities, and Towns) in 1997.

The proposed changes listed above are not likely to have a significant economic impact. All the changes are required by the Code of Virginia and have been required for many years in most cases. Moreover, the specific procedures and requirements established in the regulation are either based on existing guidance documents, the commission's experience, or directly out of the code. According to DHCD, all the changes track current practice. Thus, the proposed changes are not likely to impose significant costs. To the extent that these changes make the regulation consistent with the Code of Virginia and improve its understanding and implementation, they are likely to produce some economic benefits.

In addition to the code-required changes discussed above, the proposed regulation also makes a number of other changes.

- It allows for the pre-filing of direct testimony to the commission from all affected parties with regard to a proposed action. The commission can request parties initiating the change as well as parties affected by the proposed change to file testimony on or before the date established by the commission. The proposed change is intended to speed up the process.

According to DHCD, pre-filing testimony could reduce the cost to parties initiating the change and parties affected by the change of hiring consultants and lawyers. Specifically, pre-filing could reduce the time spent by consultants and lawyers hired by all parties participating in the commission's proceedings. The State Corporation Commission regulations also allow for the pre-filing of testimony and the proposed language is similar to the language used in those regulations.

- It permits the commission to charge a fee for providing copies of minutes of public meetings. Existing regulations allow the commission to charge a fee that covers the cost of providing copies of materials submitted to the commission and testimony presented to the commission during oral presentations and public hearings. According to DHCD, the agency has already been charging a fee for the more voluminous requests for copies of minutes of public meetings. The proposed change allows the agency to charge a fee for all such requests. According to DHCD, it has been agency practice to charge five cents per page for providing copies of materials and testimony submitted or presented to the commission.
- It includes new language that provides additional flexibility to the commission in the conduct of its proceedings. For example, the proposed regulation allows the commission to grant waivers and modifications to provisions in the regulation that are not required by law. The proposed regulation also provides the commission with the option of continuing or deferring its proceedings as a result of a statutory requirement or court order.
- It updates the existing regulation to reflect changes in the modes of communication. The proposed regulation incorporates the use of email and fax for the purposes of notification and allows for the electronic filing of exhibits and materials.
- It adds language intended to clarify aspects of the regulation, codify current practice, and improve understanding and implementation of the regulation. It also deletes language that is redundant, duplicative of the Code of Virginia, or administrative in nature.

The proposed changes listed above are not likely to have a significant economic impact. To the extent that the pre-filing provision reduces the time spent at the commission's proceedings, it could result in cost savings to parties initiating an action and parties affected by the action.

However, by reducing the necessity of presenting testimony in person, the proposed change may reduce the effectiveness of the commission in carrying out its responsibilities. The provision

allowing the commission to charge a fee to cover the costs of providing copies of minutes of public meetings will essentially transfer costs from the commission to the parties requesting the copies. Parties requesting the copies also have the option of electronically downloading the minutes from the Virginia Regulatory Town Hall website. The remaining changes are not likely to produce significant costs or benefits. Overall, to the extent that all these changes improve understanding and implementation of the regulation, they could produce some small economic benefits.

Businesses and Entities Affected

The proposed regulation affects all parties initiating actions that require referral to the commission as well as all parties affected by the action. The number of such entities is not known. However, there are 95 counties, 39 cities, and 189 towns in Virginia. The number of unincorporated communities in Virginia is not known.

Localities Particularly Affected

The proposed regulation applies to all localities in the Commonwealth.

Projected Impact on Employment

The proposed regulation is not likely to have a significant impact on employment in Virginia.

Effects on the Use and Value of Private Property

The proposed regulation is not likely to have a significant impact on the use and value of private property.