



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

1 VAC 50-20 Organization and Regulations of Procedure
Department of Housing and Community Development
Town Hall Action/Stage: 6395 / 10329
September 26, 2024

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 the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Commission on Local Government (Commission) proposes regulatory changes with the aim of reducing the administrative burden imposed by the filing required to be submitted in the cases it hears by reducing notification and filing requirements.

Background

The Commission, which is housed within the Department of Housing and Community Development, was created to help the Commonwealth ensure that “all of its localities are maintained as viable communities in which their citizens can live” (Va. Code § 15.2-2900 et seq.). One of the Commission’s chief duties is to provide technical assistance to localities and state agencies on the boundary changes between localities, including annexation, and governmental transition processes.²

¹ 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.

² See <https://law.lis.virginia.gov/vacode/title15.2/chapter29/section15.2-2903/> for powers and duties of the Commission.

This regulation establishes a procedure for meetings and hearings, and the administrative rules for notice and content of the related filings. The Commission states that most of the cases before it are prompted by development. For example, in a recent case, a developer wanted to build houses on the county-side of the border of a county and a town, and the localities had different rules for the development: in the town, the development would be on sewer and a maximum of 250 homes with a commercial parcel could be built, whereas in the county the development would be on septic and only 200 homes were allowed with no commercial space. The developer, the town, and the county reached an agreement on the size and scope of the development and brought it before the Commission for the town to annex the part of the development on the county side.

Pursuant to Executive Directive 1 (2022) and Executive Order 19 (2022), the Commission investigated ways to reduce regulatory requirements and determined that the filings and notices for cases before it contain information that are required by the Commission's regulations but that are not relevant to its review. Moreover, that its regulations require filings that are not required by Virginia law but which impose costs and time burden on the local governments preparing these documents. Consequently, the Commission seeks to reduce administrative burdens on localities and third parties.

More specifically, the proposal would:

- No longer require a fax number to be included in the notice of a proposed action to the Commission;
- Reduce, and in most cases eliminate, the discretionary requirements for notification of other local governments in certain types of cases and rely on statutory notification requirements throughout the regulation;
- Reduce the amount of material that must be included in notifications to the Commission and other parties; and
- Eliminate the current process for requesting filings and other documents from the other parties or the Commission that is allowed under the Commission's discretion and instead utilize the process under the Freedom of Information Act (FOIA).

Estimated Benefits and Costs

With the proposed changes, affected towns, counties, other political subdivisions or third parties are expected to save costs because of the following: a reduction in some required information (e.g., fax number), a reduction in required notifications, a reduced volume of filings (e.g., savings in paper, printing, postage), and the elimination of the requirement to follow a separate process other than FOIA for information requests. The Commission estimates a reduction of approximately \$500 (from \$2,000 to \$1,500) in administrative costs for each party per case on average. Over the past four years, between one and two cases have been filed with the Commission each calendar year; this equates to an annual overall savings of \$500 to \$1,000. Furthermore, the Commission believes these proposed changes would not adversely affect its ability to discharge its powers and duties regarding ensuring due process in the cases before it.

Additionally, the Commission notes the possibility of a small increase in its administrative costs because the changes explicitly encourage members of the public and other parties that receive notices to contact the Commission's staff for documents and additional information, instead of requesting it from the local government who filed the notice or requiring the local government to send the information to other parties. However, the Commission also notes the proposed changes are no more onerous than what is already required under FOIA, and it may lead to no change in work for the Commission because members of the public already ask the Commission for documents with some regularity.

The remaining proposed changes are clarifications of the existing language and current practices and are not expected to generate any other significant economic impact.

Businesses and Other Entities Affected

This regulation applies to all localities. However, most of the Commission's cases involve counties and towns and law firms representing them. Rarely, specific citizens with discrete property interests would be involved in proceedings before the Commission. Over the past four years, between one and two cases have been filed with the Commission each calendar year. No entity appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ As noted above, the proposal would provide administrative cost savings to the localities and third parties involved in cases before the Commission. Thus, no adverse impact is indicated.

Small Businesses⁵ Affected:⁶

The proposed amendments do not appear to adversely affect small businesses.

Localities⁷ Affected⁸

The proposed amendments apply to all localities. Over the past four years, between one and two cases have been filed with the Commission each calendar year. The proposal does not introduce costs for local governments. No locality appears to be disproportionately affected.

Projected Impact on Employment

The proposed amendments do not appear to significantly affect employment.

³ 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 Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁴ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁵ 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.”

⁶ 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.

⁷ “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.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Effects on the Use and Value of Private Property

No significant effect on the use and value of private property is expected. The proposed changes however may produce cost savings (i.e., \$500 per party per case) for development projects involved in cases within the purview of the Commission.