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Proposed Regulation Agency Background Document

Agency name	Department of Labor and Industry
Virginia Administrative Code (VAC) Chapter citation(s)	16VAC15-70
VAC Chapter title(s)	Local Government Union Requirements and Employee Protections
Action title	Proposed Regulation for Local Government Union Requirements and Employee Protections
Date this document prepared	December 13, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The regulation action is intended to: 1) make clear that the statutory requirements that currently apply to any union elections apply to union elections involving local government employees; 2) make clear that current proscriptions on private employer methods for collecting union dues apply to local government employers who collect union dues; 3) make clear that the statutory requirements that currently apply to solicitation of union membership during work hours apply to solicitation of local government employees; and 4) identify statutory provisions for assuring compliance with the requirements of the chapter.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

Local Government - counties, cities, towns, and school boards.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

[Va. Code § 40.1-57.2](#) involving local government collective bargaining was passed by the General Assembly in 2020. The statute permits counties, cities, and towns [“local government”] to adopt local ordinances authorizing them to (i) recognize any labor union or other employee association as a bargaining agent of any public officers or employees, except for Constitutional officers and their employees, and including public school employees and (ii) collectively bargain or enter into any collective bargaining contract with any such union or association or its agents with respect to any matter relating to them or their employment.

For any governing body of a county, city, or town that has not adopted an ordinance or resolution providing for collective bargaining, such governing body is required, within 120 days of receiving certification from a majority of public employees in a unit considered by such employees to be appropriate for the purposes of collective bargaining, to take a vote to adopt or not adopt an ordinance or resolution to provide for collective bargaining by such public employees and any other public employees deemed appropriate by the governing body.

The statute provides that the prohibition against striking for public employees applies, irrespective of any such local ordinance.

The statute became effective date on May 1, 2021.

[Va. Code § 40.1-57.2](#), was passed with no comment upon the following current statutes:

1. the Virginia Code’s longstanding requirement in Virginia that in any election for the choosing of a labor organization to represent employees, the right of an individual employee to vote by secret ballot in such election is a fundamental right that shall be guaranteed from infringement (see [Va. Code § 40.1-54.3](#));
2. current proscriptions on private employer methods for collecting union dues (see [Va. Code § 40.1-62](#) and [Va. Code § 40.1-29.C](#));
3. the Virginia Code’s longstanding prohibition of solicitation of union membership during work hours (see [Va. Code § 40.1-66](#)); and
4. statutory provisions for assuring compliance with the above requirements.

[Va. Code § 40.1-2.1](#) states that Title 40.1 and the regulations issued pursuant thereto shall not extend to...local government employers unless the Commissioner extends that coverage by specific regulation. Thus, the only way to make certain Virginia Code sections and regulations extend to the local government employers is to comply with [Va. Code § 40.1-2.1](#), which provides:

The provisions of this title and any rules and regulations promulgated pursuant thereto shall not apply to the Commonwealth or any of its agencies, institutions, or political subdivisions, or any public body, unless, and to the extent that, coverage is extended by specific regulation of the Commissioner....

NOTE: [Va. Code § 40.1-58.1](#), Application of article to public employers and employees, provides as follows:

As used in this article [article 3 of chapter 4 of Title 40.1 of the Code of Virginia], the words, "person," "persons," "employer," "employees," "union," "labor union," "association," "organization" and "corporation" shall include but not be limited to public employers, public employees and any representative of public employees in this Commonwealth. The application of this article to public employers, public employees and their representatives shall not be construed as modifying in any way the application of § 40.1-55 to government employees.

Article 3 includes the following statutes referenced in the proposed regulation which by the wording of [Va. Code § 40.1-58.1](#) already apply to local government employers and employees, and which are referenced in the proposed regulation for the sake of clarity:

[Va. Code § 40.1-62](#). Employer not to require payment of union dues, etc.

[Va. Code § 40.1-66](#). Conduct causing violation of article illegal; peaceful solicitation to join union.

[Va. Code § 40.1-67](#). Injunctive relief against violation; recovery of damages.

[Va. Code § 40.1-69](#). Violation a misdemeanor.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Department of Labor and Industry is the promulgating agency. Legal authority citations:

[Va. Code § 40.1-2.1](#). Application of title to Commonwealth and its agencies, etc.; safety and health program for public employees.

[Va. Code § 40.1-6.2](#). Powers and duties of Commissioner.

[Va. Code § 40.1-7](#). Attorney for the Commonwealth to prosecute on request of Commissioner.

[Va. Code §§ 40.1-29.C, E, F, G and H](#). Time and medium of payment; **withholding wages**; written statement of earnings; agreement for forfeiture of wages; proceedings to enforce compliance; penalties.

[Va. Code § 40.1-49.4 F 2](#). Enforcement of this title and standards, rules or regulations for safety and health; orders of Commissioner; proceedings in circuit court; **injunctions; penalties.**

[Va. Code § 40.1-54.3](#). Right to vote by secret ballot on labor organization representation.

[Va. Code § 40.1-57.2](#). Collective bargaining.

[Va. Code § 40.1-58.1](#). Application of article to public employers and employees.

[Va. Code § 40.1-62](#). Employer not to require payment of union dues, etc.

[Va. Code § 40.1-66](#). Conduct causing violation of article illegal; peaceful solicitation to join union.

[Va. Code § 40.1-67](#). Injunctive relief against violation; recovery of damages.

[Va. Code § 40.1-69](#). Violation a misdemeanor.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The proposed regulation is needed to: 1) make clear that the statutory requirements that currently apply to any union elections apply to union elections for local government employees; 2) make clear that current proscriptions on private employer methods for collecting union dues apply to local government employers who collect union dues; 3) make clear that the statutory requirements that currently apply to solicitation of union membership during work hours apply to solicitation of local government employee; and 4) identify statutory provisions for assuring compliance with the requirements of the chapter.

The proposed regulation is essential to assure equal opportunity, application and protection of the law for local government employers and employees in union elections.

As noted above, [Va. Code § 40.1-57.2](#), was passed with no comment upon the following current statutes:

1. the Virginia Code's longstanding requirement in Virginia that in any election for the choosing of a labor organization to represent employees, the right of an individual employee to vote by secret ballot in such election is a fundamental right that shall be guaranteed from infringement (see [Va. Code § 40.1-54.3](#));
2. current proscriptions on private employer methods for collecting union dues (see [Va. Code § 40.1-62](#) and [Va. Code § 40.1-29.C](#));
3. the Virginia Code's longstanding prohibition of solicitation of union membership during work hours (see [Va. Code § 40.1-66](#)); and
4. statutory provisions for assuring compliance with the above requirements.

The proposed regulation is intended to provide simple and clear compliance requirements applicable to local government union elections and employee protections.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This is a new proposed regulation.

The regulatory action will address the following requirements and employee protections for local government employees and unions:

Current statutes require secret ballot elections for employee labor organizations (see [Va. Code § 40.1-54.3](#)).

Current statutes that prohibit private sector employers from requiring employees to pay union dues (see [Va. Code § 40.1-62](#)) and further prohibit private sector employers from withholding union dues from an employee's pay "without the written and signed authorization of the employee" (see [Va. Code § 40.1-29.C](#)).

Current law prohibits any person from attempts at solicitation or persuasion to join a union in such a manner that would “interfere with, or interrupt the work of any employee during working hours”. (see [Va. Code § 40.1-66](#)).

Compliance mechanisms are provided:

- [Va. Code § 40.1-6 2](#)
- [Va. Code § 40.1-7](#)
- [Va. Code §§ 40.1-29.E, F, G and H](#)
- [Va. Code § 40.1-49.4 F 2](#)
- [Va. Code § 40.1-66](#)
- [Va. Code § 40.1-67](#)
- [Va. Code § 40.1-69](#)

Definitions for the following terms are included in the new proposed regulation: Commissioner, Employee, Labor Organization, Local Government Employer, and Secret Ballot.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The advantages of this regulation are that it makes clear that the identified statutory requirements that currently apply to any private sector union elections apply to union elections for local government employees, thereby providing equal opportunity, application and protection of the law for local government employers and employees.

The Department has not identified any disadvantages to the agency or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

The regulatory requirements of this new proposed regulation are not more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact

which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No state agencies are particularly affected by this regulation.

Localities Particularly Affected

As noted above, [Va. Code § 40.1-57.2](#) involving local government collective bargaining was passed by the General Assembly in 2020. This statute permits counties, cities, and towns ["local government"] to adopt local ordinances authorizing them to (i) recognize any labor union or other employee association as a bargaining agent of any public officers or employees, except for Constitutional officers and their employees, and including public school employees and (ii) collectively bargain or enter into any collective bargaining contract with any such union or association or its agents with respect to any matter relating to them or their employment.

The statute also provides that for any governing body of a county, city, or town that has not adopted an ordinance or resolution providing for collective bargaining, such governing body is required, within 120 days of receiving certification from a majority of public employees in a unit considered by such employees to be appropriate for the purposes of collective bargaining, to take a vote to adopt or not adopt an ordinance or resolution to provide for collective bargaining by such public employees and any other public employees deemed appropriate by the governing body.

The statute provides that the prohibition against striking for public employees applies, irrespective of any such local ordinance.

The statute became effective date on May 1, 2021.

Other Entities Particularly Affected

The Department has not identified any other entities that are particularly affected by this proposed regulation.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources. 	<p>In the event a complaint is lodged with the Department alleging a violation of the proposed regulation, the Department's Labor and Employment Law Division would use existing resources to conduct an investigation and use the identified compliance mechanisms.</p>
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	<p>To date, no such complaints have been filed since the May 1, 2021 effective date of Va. Code § 40.1-57.2.</p> <p>The proposed regulation provides the Department the legal authority to issue a civil penalty not to exceed \$1,000.00 for each violation of Va. Code § 40.1-29.C. See Va. Code § 40.1-29.H. Civil penalties collected by the Department are deposited into the General Fund.</p> <p>As noted above, no complaints have been filed to date since the May 1, 2021 effective date of Va. Code § 40.1-57.2.</p> <p>The proposed regulation applies Va. Code § 40.1-49.4 F 2 local governments and authorizes the Commissioner to petition a court having jurisdiction “to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder”.</p> <p>The proposed regulation provides that “The Commissioner may request prosecution by the appropriate attorney for the Commonwealth of all violations of law relating to local government union requirements and employee protections before any court of competent jurisdiction.”</p>
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>No impact on other state agencies is anticipated.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>Benefits to the Department include providing clarity and compliance mechanisms that ensure equal opportunity, application and protection of the law for local government employers and employees in situations where Va. Code § 40.1-57.2 applies.</p> <p>No benefits for other state agencies are anticipated.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

<p>Projected costs, savings, fees, or revenues resulting from the regulatory change.</p>	<p>In the event a complaint is lodged with the Department alleging a violation of the proposed regulation, the Department’s Labor and Employment Law Division would use existing resources to conduct an investigation and use the identified compliance mechanisms. The local government against which the complaint was</p>
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	<p>filed would be expected to cooperate with the investigation.</p> <p>To date, no such complaints have been filed since the May 1, 2021 effective date of Va. Code § 40.1-57.2.</p> <p>The proposed regulation provides the Department the legal authority to issue a civil penalty not to exceed \$1,000.00 for each violation by a local government of Va. Code § 40.1-29.C. See Va. Code § 40.1-29.H. In the event a penalty issued to a local government becomes a final order of the Commissioner, the local government would be required to pay the penalty. Civil penalties collected by the Department are deposited into the General Fund.</p> <p>As noted above, no complaints have been filed to date since the May 1, 2021 effective date of Va. Code § 40.1-57.2.</p> <p>As noted above, the proposed regulation applies Va. Code § 40.1-49.4 F 2 to local governments and authorizes the Commissioner to petition a court having jurisdiction “to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder”. If such a petition were filed, it is anticipated that the local government would defend itself in court.</p> <p>As noted above, the proposed regulation provides that “The Commissioner may request prosecution by the appropriate attorney for the Commonwealth of all violations of law relating to local government union requirements and employee protections before any court of competent jurisdiction.” It is anticipated that local Commonwealth’s Attorneys would use existing resources to handle any litigation on behalf of the Commissioner.</p>
<p>Benefits the regulatory change is designed to produce.</p>	

Impact on Other Entities

The Department has not identified any other entities that are particularly affected by this proposed regulation.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	See ORM Economic Impact Form.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	See ORM Economic Impact Form.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	See ORM Economic Impact Form.
Benefits the regulatory change is designed to produce.	See ORM Economic Impact Form.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There are no viable alternatives as the only way to make the referenced Virginia Code sections applicable to public employers is to comply with [Va. Code § 40.1-2.1](#), which provides:

The provisions of this title and any rules and regulations promulgated pursuant thereto shall not apply to the Commonwealth or any of its agencies, institutions, or political subdivisions, or any public body, unless, and to the extent that, coverage is extended by specific regulation of the Commissioner or the Board.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or

reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

1) establishing less stringent compliance or reporting requirements:

The advantages of this regulation are that it makes clear that the identified statutory requirements that currently apply to any private sector union elections apply to union elections for local government employees, thereby providing equal opportunity, application and protection of the law for local government employers and employees. The Department does not believe that establishing less stringent compliance requirements for confidential and fair local government union elections than those available in the private sector would be in the best interests of local government employers, employees, the Commonwealth or its citizens.

The proposed regulation does not include any reporting requirements.

2) establishing less stringent schedules or deadlines for compliance or reporting requirements:

The proposed regulation does not include any schedules or deadlines for compliance or reporting requirements.

3) consolidation or simplification of compliance or reporting requirements:

The Department believes that the regulatory text referencing Virginia Code sections applicable to local government employers is the simplest approach.

The proposed regulation does not include any reporting requirements.

4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

The proposed regulation does not apply to small businesses.

5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change:

The proposed regulation does not apply to small businesses.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the

which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This Proposed Stage is not being used to announce a periodic review or a small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

The NOIRA for this regulatory action was published on October 21, 2024 and the public comment forum was open from October 21, 2024 through November 20, 2024. No public comments were received during this public comment period.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Commissioner of Labor and Industry is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to

Cristin Bernhardt
Regulatory Coordinator
Virginia Department of Labor and Industry
6606 W. Broad Street, Suite 500
Richmond, VA 23230
804-786-2392
cristin.bernhardt@doli.virginia.gov

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
16VAC15-70			
16VAC15-70-10. Purpose.	<p>The purpose of this chapter is to:</p> <p>A. Make clear that the <u>statutory requirements that currently apply to union elections for private sector employees apply to union elections for local government public employees;</u></p> <p>B. Make clear that <u>current proscriptions on private sector employer methods for collecting union dues to local government public employers who collect union dues;</u></p>	Not applicable.	Explains the purpose of the proposed regulation.

<p>16VAC15-70-20. Definitions.</p>	<p><u>C. Make clear that the statutory requirements that currently apply to solicitation of private sector union membership during work hours apply to solicitation of local government public employees; and</u></p> <p><u>D. Identify statutory provisions for assuring compliance with the requirements of the chapter.</u></p> <p>Statutory Authority <u>§ 40.1-2.1</u> of the Code of Virginia.</p> <p><u>"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any reference to "Commissioner" shall include his authorized representatives.</u></p> <p><u>"Employee" means any person who, in consideration of wages, salaries or commissions, may be permitted, required or directed by any employer to engage in any employment directly or indirectly.</u></p> <p><u>"Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and that exists for the purpose, in</u></p>	<p>Not applicable.</p>	<p>Provides definitions of terms used in the proposed regulation or statutes referenced.</p>
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<p>16VAC15-70-30. Applicability to local government public employers.</p>	<p><u>whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.</u></p> <p><u>“Local government public employer” means any county, city, town or like governing body, including any local school board.</u></p> <p><u>“Secret ballot” means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.</u></p> <p>Statutory Authority §§ 40.1-2, 40.1-54.3 and 40.1-57.2.A of the Code of Virginia.</p> <p><u>A. All sections of this chapter shall apply to local government public employers and their employees.</u></p> <p><u>B. The following portions of Title 40.1 of the Code of Virginia shall apply to local government public employers:</u></p> <p><u>1. § 40.1-54.3, Right to vote by secret ballot on labor organization representation.</u></p>	<p>Not applicable.</p>	<p>Identifies specific statutory provisions that are applicable to local government employers.</p>
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	<p><u>2. § 40.1-62, Employer not to require payment of union dues, etc.</u></p> <p><u>3. § 40.1-66, Conduct causing violation of article illegal; peaceful solicitation to join union.</u></p> <p><u>4. § 40.1-67, Injunctive relief against violation; recovery of damages.</u></p> <p><u>5. § 40.1-69, Violation a misdemeanor.</u></p> <p><u>6. Only to the extent that the alleged violative conduct concerns improper withholding any dues, fees or other charges of any kind to any labor union or labor organization: § 40.1-29 C, only the following quoted language: "C. No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee."</u></p> <p><u>7. Only to the extent that the alleged violative conduct concerns improper withholding any dues, fees or other charges of any kind to any labor union or labor organization: § 40.1-29 E to H.</u></p> <p><u>8. § 40.1-49.4 F 2, Enforcement of this title...injunctions;</u></p> <p><u>"2. Any court described in this section shall also</u></p>		
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<p>16VAC15-70-40. Prosecution of violations.</p>	<p><u>have jurisdiction, upon petition of the Commissioner or his authorized representative, to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder”.</u></p> <p><u>9. § 40.1-6 2. Powers and duties of the Commissioner.</u></p> <p><u>“2. Enforce the provisions of this title and shall cause to be prosecuted all violations of law relating to employers or business establishments before any court of competent jurisdiction;”</u></p> <p><u>10. § 40.1-7, Attorney for the Commonwealth to prosecute on request of Commissioner.</u></p> <p>Statutory Authority §§ <u>40.1-2.1, 40.1-29 C, 40.1-49.4 F 2, 40.1-54.3 and 40.1-57.2, 40.1-58.1, 40.1-62, 40.1-66, 40.1-67</u> of the Code of Virginia.</p> <p><u>The Commissioner may request prosecution by the appropriate attorney for the Commonwealth of all violations of law relating to local government union requirements and employee protections before any court of competent jurisdiction.</u></p>	<p>Not applicable.</p>	<p>Makes clear that the Commissioner may request the services of the local Commonwealth’s Attorney for prosecution of any violations of the proposed regulation or referenced statutes as</p>
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	Statutory Authority §§ 40.1-6 2 and 40.1-7		referenced in Va. Code § 40.1-7 .
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If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage