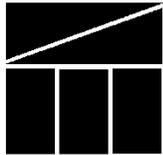


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



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

8 VAC 40-31 Regulations Governing the Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates
State Council of Higher Education for Virginia
Town Hall Action/Stage: 4365/7228
September 24, 2015

Summary of the Proposed Amendments to Regulation

The State Council of Higher Education (Council) for Virginia proposes to fix what they have referred to as five errors in this regulation. Two of the errors involve fees included on the fee chart that are no longer applicable. Two errors in the regulation involve wording that reflects former fees charged as opposed to current fees. The last error mistakenly uses the word “following” instead of the correct “prior to,” which causes the paragraph to conflict with the Code of Virginia.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The Council proposes to remove the listing of two fees that no longer apply. The two fees that are no longer applicable are for unaccredited out-of-state career-technical schools and for additional branches. The existing unaccredited out-of-state career technical schools had to become accredited by 2009. The Council does not permit any additional out-of-state career technical schools unless they already have accreditation.

According to the Council the additional branch fee has never been charged. Elsewhere in the regulation it is stated that “Postsecondary schools operating branches in Virginia must certify each separately” A branch location is considered separate and distinct because its administrators, programs, instructors are all different. This means they must submit an entire application to be reviewed prior to opening a branch location. As such, the Council charges a new school fee for additional branches rather than an “additional branch” fee. Removing fees from the regulation that are not applicable in practice will be beneficial in that it may reduce confusion for the public, but will not otherwise have any impact.

When this regulation was last revised the Council amended the fee schedule, but did not amend language in two places elsewhere in the regulation that referred to handling charges/administrative fees. This resulted in contradictory language concerning the dollar amount of handling charges/administrative fees. The Council proposes to amend the language in the two places outside of the fee chart to conform to the fee chart. These proposed amendments will not change the fees charged in practice, but will be beneficial in that it will likely reduce confusion for the public.

The current regulation states that institutions shall notify Council staff of additions or changes to programs or branches no later than 30 days “following” said occurrence. The Council proposes to change “following” to “prior to.” According to the Council, this proposal is correcting an error made during the last revision of this regulation. The Code of Virginia requires institutions to receive approval from the Council prior to: 1) offering degrees, courses for degree credit, programs of study leading to a degree, or non-degree credit¹ and 2) initiating other programs for degree credit or awarding degrees, certificates, or diplomas at a new or additional level.² Thus even with the mistaken language from the last revision, postsecondary institutions must already notify and receive approval from the Council prior to additions or changes to programs or branches. Therefore amending “following” to “prior to” will also be beneficial in reducing potential confusion, but will not otherwise have a significant impact.

¹ § 23-276.4(A)(3)

² § 23-276.4(A)(4)

Businesses and Entities Affected

The Council regulates approximately 300 postsecondary institutions of which approximately 50% would be considered small businesses.³

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property

The proposed amendments do not significantly affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

Small Businesses:**Definition**

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.”

Costs and Other Effects

The proposed amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:**Businesses:**

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

³ Source: State Council of Higher Education for Virginia

Other Entities:

The proposed amendments do not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget 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 Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): 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 within the 45-day period.

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.

lsg