



Economic Impact Analysis Virginia Department of Planning and Budget

11 VAC 5-20 – State Lottery Department Administration Regulations October 8, 2002

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

These regulations establish the administrative rules for the State Lottery Department (the department). The proposed amendments consist of clarifications, editorial changes, elimination of some unnecessary requirements, and elimination of some other requirements the department is not required to follow. The agency indicates that current regulations have not been updated since 1996.

Estimated Economic Impact

A set of amendments eliminates the requirements that are included in the Code of Virginia. One is deleting the language that the department cannot use funds for the primary purpose of inducing people to play the lottery because the same requirement appears in section 58.1-4022 E of the Code of Virginia. Also, the details of ethics in contracting will be eliminated from the current regulations, but a reference to Virginia Public Procurement Act and Virginia State and Local Government Conflict of Interests Act will be provided as they contain detailed information on ethics issues. Similarly, the requirement prohibiting a board member from taking

part in deliberations on matters where he has a conflict of interest will be removed as these issues are addressed in Virginia State and Local Government Conflict of Interests Act. These changes may introduce small benefits to interested parties in terms of eliminating overlapping provisions between the statute and the regulations, but also small costs in terms of time to locate these requirements in the statute.

Another set of proposed rules are changes to reflect the current administrative procedures followed by the department in practice. One amendment will remove the requirement that the department approve all lottery retailers' advertising materials and will allow the use of those advertising materials unless the department objects. This proposed procedure is currently followed in practice. Also, the requirement for the Auditor of Public Accounts to conduct monthly audits of the accounts and transactions will be deleted as the auditor conducts only annual audits of the department in practice. Additionally, the State Lottery Board (the board) will be allowed to elect its officers (e.g. chairman and vice chairman) at other times than its January meeting because they do not meet every month. Further, the percentages for apportionment of lottery revenues are updated to approximately reflect the current distribution of the revenues among prizes, retailer compensation, operating expenses, and net income. With another amendment, the language will be revised to require the department to give the notice of special board meetings to the public contemporaneously with that provided to the board members instead of giving the notice to board members at least two days before the meeting. Currently, the department gives contemporaneous notices to the public and the board members. It will be further clarified that formal hearings are conducted only upon request of the appellant and are not conducted automatically. Two other changes clarify the presumption that the appellant is notified three days after the mailing of the written notice to the appellant's last known address and that an appeal request form that is delivered by hand or mailed by the appellant to a department regional office or a lottery sales representative is not deemed to be received by the department director. Finally, the language will be amended to more closely reflect the appeal procedures followed in practice under the Administrative Process Act. These include stating that if the department and the appellant agree, informal conferences may be held more than 30 days after the filing of an appeal, that the appellant has an option to request to participate through a telephone, and, similarly, that the board may conduct a formal hearing on a licensing action more than 45 days of the receipt of a notice of appeal, if the appellant agrees.

The proposed clarifications reflect the procedures that are followed in practice. Thus, the proposed regulations are not expected to have any economic effects other than improving the clarity of the language.

Another set of the proposed changes will remove several requirements because they are unnecessary. The requirements to cooperate with other state agencies, explanation of what the internal operations of the department include and what the lottery expenses include, and the requirement that the audit costs should be paid from the lottery fund will be repealed because they are believed to be redundant. It is also proposed to delete the requirements on selection of and compensation to banks/depositories that provide services to the department because these procedures are determined by the State Treasury agreements and policies. The proposed changes will also remove the language authorizing the committees of the board to act on behalf of the board because the committees function only in an advisory capacity. The requirements on licensing actions will be moved to the proposed licensing regulations that are separate from these amendments to eliminate duplicate language. Similarly, none of these amendments are expected to have any economic effects, but mainly improve the clarity of the regulatory requirements.

Businesses and Entities Affected

The proposed regulations mainly apply to the department. In addition to the department, about 5,000 lottery retailers and all lottery players are subject to these regulations. Based on a survey conducted by the department in 2002, approximately 3.5 million adults have played a Virginia lottery game at some time in their lives and approximately 2.9 million have played in the past 12-month period.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

No significant effect on employment is expected.

Effects on the Use and Value of Private Property

The proposed changes are unlikely to have any effect on the use and value of private property.