



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 47-20 – Cemetery Board Regulations
Department of Professional and Occupational Regulation
March 20, 2006

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 247 of the 2004 Acts of the General Assembly, the Cemetery Board (board) proposes to establish qualifications and standards of conduct for compliance agents employed by cemetery companies. Proposed qualification requirements include two years experience in the cemetery business and successful completion of a board approved training course. The proposed regulations also include required topics for the board approved training course. Additionally, the board proposes to reiterate in these regulations language concerning the protection of perpetual care and pre-need trust funds that was added to the Code of Virginia (Section § 54.1-2313.1) pursuant to Chapter 192 of the 2004 Acts of the General Assembly.

Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact

Chapter 247 of the 2004 Acts of the General Assembly adds language to Section § 54.1-2313 of the Code of Virginia stating that the board shall “regulate and establish qualifications and standards of conduct for compliance agents employed by a cemetery company ...”

According to Section § 54.1-2310, “‘Compliance agent’ means a natural person who owns or is employed by a cemetery company to assure the compliance of the cemetery company with the provisions of this chapter (i.e., Title 54.1, Chapter 23.1 of the Code of Virginia).” The current regulations do not address qualifications and standards of conduct for compliance agents. The

board proposes, among other requirements,¹ that applicants have two years experience in the cemetery business and have successfully completed a board approved training course.

The Department of Professional and Occupational Regulation (department) knows of two organizations that plan to offer a board approved training course: the Virginia Cemetery Association and the Virginia Community College System, Community Workforce Alliance. The Virginia Cemetery Association will charge \$125 for their upcoming compliance agent training course. The Association is considering offering the training course for free at future annual meetings. The annual dues for Virginia Cemetery Association membership are \$200 plus \$1 per burial. The Association will also likely offer the course at other times of the year if there is sufficient demand. The Association would likely charge just enough to cover their costs at such times.² The Virginia Community College System, Community Workforce Alliance is charging \$165 for their upcoming compliance agent training course. According to Leonard Sledge of the Virginia Community College System, the training course will be offered at community colleges throughout the state.³ Compliance agents will also incur transportation and time costs⁴ associated with attending the required training course.

The proposed regulations specify that “The training program shall include, but is not limited to the following topics:

1. Cemetery Board statute and regulations;
2. Perpetual care trust fund requirements;
3. Preneed trust fund requirements;
4. Preneed burial contracts;
5. Interment records;
6. General price list;
7. Itemized statement of goods and services provided;
8. Advertising;
9. Solicitation;
10. Funeral Rule; and
11. Proper care, maintenance, administration and embellishment of the cemetery

¹ Other requirements include a minimum age of 18, that the applicant be an employee or principal of the cemetery company, information disclosure, and certification that the applicant understands and will comply with the law.

² Source: Virginia Cemetery Association

³ Source: Virginia Department of Professional and Occupational Regulation

⁴ Time spent at training and traveling to and from training could have been used on other activities if the training course requirement did not exist. Compliance agents lose the value of the work or leisure that is lost due to the time spent at training and traveling to and from training.

The proposed regulations also specify that the training course be at least eight hours and include testing procedures for students to demonstrate understanding of the required topics.

According to the department, there have been a number of instances where trust funds have been mishandled, likely out of misunderstanding of proper procedures rather than dishonesty. Such mishandling can result in the loss of hundreds of dollars.⁵ Thus there are potential benefits from requiring that compliance agents take such training and demonstrate understanding. Data are not currently available to estimate the likely reduction in frequency and dollar value of problems in mishandling of trust funds and other areas due to the required training. Therefore an accurate comparison of the magnitude of the benefits versus the costs cannot currently be made.

According to the department, “compliance agents who stay at the cemetery company where they are currently affiliated will be grandfathered for that cemetery company and will not have to take the training. However, if this person goes to another cemetery company, he/she will need to take the training.” As was discussed above, it is not clear whether or not the benefits of the required training exceed the costs; but if it is not worthwhile for a compliance agent who stays at the cemetery company where he/she is currently affiliated to take the training, there is no reason to believe that it will become worthwhile if he/she goes to another cemetery company. In other words, if the costs exceed the benefits of required training for a compliance agent who stays at the cemetery company where he/she is currently affiliated, there is no reason to believe that the benefits will exceed the costs of required training for that same compliance agent if he/she goes to another cemetery company.

Exempting compliance agents who stay at the cemetery company where they are currently affiliated from the costs of the training requirement, while imposing these costs on the same compliance agents if they change employers, will to some undetermined degree discourage compliance agents from considering positions with other employers. This may produce a small reduction in potential market salaries for compliance agents.

⁵ Ibid

Businesses and Entities Affected

Cemeteries, their employees, and their clients are affected by the proposed regulations. The Virginia Employment Commission has 153 firms listed as cemeteries or crematoriums, all of which qualify as small businesses. The Department of Professional and Occupational Regulations reports that the Cemetery Board regulates 1,100 individuals and 93 companies.

Localities Particularly Affected

The proposed regulations affect all cemeteries throughout the Commonwealth.

Projected Impact on Employment

The proposed regulations will to some undetermined degree discourage cemetery compliance agents from considering positions with other employers.

Effects on the Use and Value of Private Property

Costs for future compliance agents moderately increase with the proposed training course requirement. The effective increase in cost for a compliance agent to switch employers will reduce the potential for turnover in cemetery company compliance agent staffing.

Small Businesses: Costs and Other Effects

The proposed requirement for compliance agent training course completion will moderately increase costs for compliance agents and perhaps their employers who may seek to offset some of that cost.

Small Businesses: Alternative Method that Minimizes Adverse Impact

One potential alternative that could reduce some adverse impact would be to permit compliance agents to test out of training.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.