



Proposed Regulation Agency Background Document

Agency name	Virginia Board of Accountancy
Virginia Administrative Code (VAC) citation	Subsection A of 18VAC5-22-20
Regulation title	Fees
Action title	Increasing Fees the Virginia Board of Accountancy Charges for Services It Provides
Date this document prepared	November 9, 2010; revised January 11, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The Code of Virginia establishes the Virginia Board of Accountancy (Board) as the state agency that oversees licensing of CPAs providing services in Virginia. The Board's sole mission is to protect the citizens of the Commonwealth, and it views licensing as a broad concept that offers the public significant protection by prescribing requirements for formal and continuing professional education, examination, and experience; by prescribing standards of conduct and practice; and by imposing penalties for not complying with the accountancy statutes and regulations.

The Board was reestablished as an independent board effective July 1, 2001. In addition to maintaining an Operating Account, the Board is required to maintain a separate Trust Account. The Trust Account is primarily designed to have sufficient cash to fund expenses incurred in the study, research, investigation, or adjudication of matters involving possible violations of the accountancy statutes or regulations.

As an independent, non-general fund agency, fees the Board charges for services it provides are its only source of revenues. Penalties assessed by the Board for violations of the accountancy statutes and regulations do not provide revenues for the Board. Instead, they are deposited into the Commonwealth's Literary Fund. Therefore, fees the Board charges for services it provides must be sufficient to fund both its operating expenses and the required accumulation of cash in the Trust Account.

During each of the first five fiscal years after the Board was reestablished as an independent board – fiscal years ended June 30, 2002, 2003, 2004, 2005, and 2006 – its revenues exceeded operating expenses, and the excess was transferred to the Trust Account. However, over the past few years, the Board's operating expenses have increased significantly. Some examples are in the purpose section of this Form TH-02. Although operating expenses have increased significantly, fees have remained the same.

Increases in operating expenses caused the operating expenses to exceed revenues during the fiscal years ended June 30, 2007, 2008, and 2009. Those deficiencies in revenues were funded through transfers of cash from the Trust Account. During the fiscal year ended June 30, 2010, the Board was able to keep operating expenses approximately equal to revenues. However, that was only because of temporary reductions in operating expenses. Operating expenses once again exceeded revenues during the fiscal year ended June 30, 2011. The Board forecasts that by early in 2013, it will have virtually no cash, either in the Operating Account or the Trust Account.

The Board believes its operating activities are efficient and services cannot be eliminated. In addition, it is critical that the Trust Account be built up to comply with its primary statutory requirement. Subsection A of 18VAC5-22-20 prescribes the fees the Board charges for services it provides. This Form TH-02 is designed solely to propose increases in the prescribed fees that will ensure that the Board is able to fund its operating expenses and that, based on the experience of boards of accountancy in other states, the Trust Account will be sufficient to fund expenses the Board incurs in studying, researching, investigating, or adjudicating matters involving possible violations of the accountancy statutes or regulations.

As a gauge of the reasonableness of the fee increases proposed in this Form TH-02:

- a. The current fees are considerably less than the fees adopted October 23, 1991, but the proposed fees are not significantly higher than the fees adopted October 23, 1991.
- b. The proposed fees are lower than the fees charged by the boards of accountancy in many of the other states, and in some cases the proposed fees are significantly lower.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

- a. Board – Virginia Board of Accountancy

- b. CPA – Certified Public Accountant
- c. Operating Account – the Board of Accountancy Fund established by subsection A of § 54.1-4405 of the Code of Virginia
- d. Trust Account – the Board of Accountancy Trust Account established under subsection A of § 54.1-4405.1 of the Code of Virginia

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The proposed regulatory action is mandated by the following sections of the Code of Virginia:

- a. Subdivision 4 of § 54.1-4403 describes the Board’s power and duty to “levy and collect fees for the issuance, renewal, or reinstatement of Virginia licenses that are sufficient to cover all expenses of the administration and operation of the Board.”
- b. Subdivision 5 of § 54.1-4403 describes the Board’s power and duty to “levy on holders of Virginia licenses special assessments necessary to cover expenses of the Board.”
- c. Subdivision 14 of § 54.1-4403 describes the Board’s power and duty to “enter into contracts necessary or convenient for carrying out the provisions of this chapter or the functions of the Board.”
- d. Subdivision 15 of § 54.1-4403 describes the Board’s power and duty to “do all things necessary and convenient for carrying into effect this chapter and regulations promulgated by the Board.”
- e. Subsection A of § 54.1-4404 describes the Board’s power and duty to “employ an Executive Director who . . . with approval of the Board, may employ such additional staff as needed. The annual salary of the Executive Director shall be established by the Board.”
- f. Subsection B of § 54.1-4404 describes the Board’s power and duty to “subject to the approval of the Attorney General . . . employ such other counsel as it deems necessary.”
- g. Subsection A of § 54.1-4405 provides that the Board of Accountancy Fund (the Fund) be “established as a special fund in the state treasury. All fees collected as provided in this chapter and regulations promulgated by the Board, shall be paid into the state treasury immediately upon collection and credited to the Fund. Any interest income shall accrue to the Fund. All disbursements from the Fund shall be made by the State Treasurer upon

warrants of the Comptroller issued upon vouchers signed by an authorized officer of the Board or the Executive Director as authorized by the Board.”

- h. Subsection B of § 54.1-4405 provides that “notwithstanding any law to the contrary, the Board shall have the discretion to use the moneys in the Fund to support its operations as the Board deems appropriate.”
- i. Subsection A of § 54.1-4405.1 provides that “a special nonreverting fund (except as set forth in subsection B), to be known as the Board of Accountancy Trust Account (the Trust Account)” be “created in the state treasury.” “The purpose of the Trust Account is to provide a supplemental source of funds to the Board on a timely basis for (i) its use in the study, research, investigation, or adjudication of matters involving possible violations of the provisions of this chapter or regulations promulgated by the Board or (ii) any other purpose that the Board determines is germane to its statutory purposes and cannot otherwise be funded through the Fund. The Trust Account shall consist of transfers from time to time by the Board from the Fund and earnings on the Trust Account.”
- j. Subsection B of § 54.1-4405.1 provides that “all disbursements from the Trust Account shall be made by the State Treasurer upon warrants of the Comptroller issued upon vouchers signed by an authorized officer of the Board or the Executive Director as authorized by the Board. Funds remaining in the Trust Account at the end of a biennium shall continue to remain in the Trust Account and accrue earnings. Upon a determination by the Board that the Trust Account balance exceeds the amount needed for the purposes set forth in subsection A, the Board may transfer the excess to the Fund.”
- k. § 54.1-4406 states, “Within the parameters of policies and guidelines established by the Board, the Executive Director shall have the power and duty to:
 - 1. Employ personnel and assistance necessary for the operation of the Board and the purposes of this chapter;
 - 2. Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the Board and the execution of its powers under this chapter, including, but not limited to, contracts with the United States government, with agencies and governmental subdivisions of the Commonwealth, and with other states;
 - 3. Accept grants from the United States government, its agencies and instrumentalities and any other source, and to these ends, the Board shall have the power to comply with conditions and execute agreements that are necessary, convenient, or desirable;
 - 4. Serve as the secretary of the Board;
 - 5. Maintain all records of the Board;
 - 6. Collect and account for all fees and deposit them into the Board of Accountancy Fund, from which the expenses of the Board shall be paid;

7. Enforce all statutes and regulations the Executive Director is required to administer;
 8. Exercise other powers necessary to function as the sole administrative officer of the Board; and
 9. Perform any additional administrative functions prescribed by the Board.”
- l. § 54.1-4420 provides that “the Board’s financial statements shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by the Auditor of Public Accounts, or his legally authorized representatives, or by a firm selected by the Board through a competitive procurement.”
 - m. Subsection A of § 54.1-4423 provides that “the Board may develop a roster of consultants and may contract with consultants to assist the Board in investigating and evaluating violations of the provisions of this chapter and regulations promulgated by the Board and to provide expert testimony as necessary in any subsequent administrative hearing or court proceeding. The consultants' compensation shall be determined and paid by the Board.”

The accountancy statutes prescribe requirements for ensuring that the Board accomplishes its sole mission of protecting the public. For example, § 54.1-4403 of the Code of Virginia states, “The Board shall have the power and duty to:

1. Establish the qualifications of applicants for licensure, provided that all qualifications shall be necessary to ensure competence and integrity.
2. Examine, or cause to be examined, the qualifications of each applicant for licensure, including the preparation, administration and grading of the CPA examination.
3. Promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system.
4. Levy and collect fees for the issuance, renewal, or reinstatement of Virginia licenses that are sufficient to cover all expenses of the administration and operation of the Board.
5. Levy on holders of Virginia licenses special assessments necessary to cover expenses of the Board.
6. Initiate or receive complaints concerning the conduct of holders of Virginia licenses or concerning their violation of the provisions of this chapter or regulations promulgated by the Board, and to take appropriate disciplinary action if warranted.
7. Initiate or receive complaints concerning the conduct of persons who use the CPA title in Virginia under the substantial equivalency provisions of § [54.1-4411](#) or firms that provide attest services or compilation services to persons or entities located in Virginia

under the provisions of subsection C of § [54.1-4412.1](#), and to take appropriate disciplinary action if warranted.

8. Initiate or receive complaints concerning violations of the provisions of this chapter or regulations promulgated by the Board by persons who use the CPA title in Virginia under the substantial equivalency provisions of § [54.1-4411](#) or firms that provide attest services or compilation services to persons or entities located in Virginia under the provisions of subsection C of § [54.1-4412.1](#), and to take appropriate disciplinary action if warranted.
9. Revoke, suspend, or refuse to reinstate a Virginia license for just causes as prescribed by the Board.
10. Revoke or suspend, for just causes as prescribed by the Board, a person's privilege of using the CPA title in Virginia under the substantial equivalency provisions of § [54.1-4411](#) or a firm's privilege of providing attest services or compilation services to persons or entities located in Virginia under the provisions of subsection C of § [54.1-4412.1](#).
11. Establish requirements for peer reviews.
12. Establish continuing professional educational requirements as a condition for issuance, renewal, or reinstatement of a Virginia license.
13. Expand or interpret the standards of conduct and practice in § [54.1-4413.3](#).
14. Enter into contracts necessary or convenient for carrying out the provisions of this chapter or the functions of the Board.
15. Do all things necessary and convenient for carrying into effect this chapter and regulations promulgated by the Board.”

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The Board was established under the former § 54.1-2000 of the Code of Virginia and was reestablished as an independent board by subsection A of § 54.1-4402 of the Code of Virginia effective July 1, 2001. Subsection H of § 54.1-4402 of the Code of Virginia gives the Board the responsibility of enforcing the accountancy statutes and establishing by regulation rules and procedures for the implementation of those statutes.

- a. The accountancy statutes are in Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia.

- b. The Board's regulations (regulations) are in Chapter 22 of Agency 5, Title 18 of the Virginia Administrative Code (18VAC5-22).

As an independent, non-general fund agency, fees the Board charges for services it provides are its only source of revenues. Penalties assessed by the Board for violations of the accountancy statutes and regulations do not provide revenues for the Board. Instead, they are deposited into the Commonwealth's Literary Fund.

The accountancy statutes require the Board to maintain two cash accounts:

1. *The Board of Accountancy Fund.* As shown in the legal basis section of this Form TH-02, this account is required by subsection A of § 54.1-4405 of the Code of Virginia. This account is designed to have sufficient cash to fund the operating expenses of the Board. Although the accountancy statutes refer to this account as the *Fund*, the Board refers to it as the *Operating Account* to clearly distinguish between the purpose of this account and the purpose of the other cash account required by the accountancy statutes.
2. *The Board of Accountancy Trust Account (Trust Account).* As shown in the legal basis section of this Form TH-02, this account is required by subsection A of § 54.1-4405.1 of the Code of Virginia. This account is designed to have sufficient cash to fund expenses incurred in the study, research, investigation, or adjudication of matters involving possible violations of the accountancy statutes or regulations. However, the accountancy statutes also permit using cash in the account to fund other expenses that are germane to the Board's statutory purposes and cannot otherwise be funded through the Operating Account.

During each of the first five fiscal years after the Board was reestablished as an independent board – fiscal years ended June 30, 2002, 2003, 2004, 2005, and 2006 – its revenues exceeded operating expenses, and the excess was transferred to the Trust Account. However, over the past few years, the Board's operating expenses have increased significantly. Some examples follow:

- a. The Board added staff to administer the CPA examination when it was determined that using a third-party administrator was not in the best interests of persons applying for and taking the CPA examination.
- b. Significant expenses were incurred in purchasing and implementing a new licensing software system.
- c. As with other state agencies, the Board has incurred significant increases in expenses to keep pace with changes in information technology.
- d. The Board incurred significant expenses in moving to new operating facilities as part of the Commonwealth's efforts to consolidate locations.

Although operating expenses have increased significantly, fees have remained the same. Increases in operating expenses caused the operating expenses to exceed revenues during the fiscal years ended June 30, 2007, 2008, and 2009. Those deficiencies in revenues were funded through transfers of cash from the Trust Account. During the fiscal year ended June 30, 2010, the Board was able to keep operating expenses approximately equal to revenues. However, that was only because of temporary reductions in operating expenses. Operating expenses once again exceeded revenues during the fiscal year ended June 30, 2011. As charts in the economic impact section of this Form TH-02 illustrate, the Board forecasts that by early in 2013, it will have virtually no cash, either in the Operating Account or the Trust Account.

The Board believes its operating activities are efficient and services cannot be eliminated. In addition, it is critical that the Trust Account be built up to comply with its primary statutory requirement.

The need for the Trust Account has been demonstrated in other states by the highly-publicized fraudulent financial reporting by Enron, WorldCom, and other well-known entities and by the highly-publicized misappropriation of assets by Bernie Madoff and other prominent figures. In each of these cases, licensees were implicated. Studying, researching, investigating, or adjudicating whether circumstances that led to the perpetration of such fraud constitute violations of the accounting statutes or regulations requires complex considerations. However, fraud is not the only matter for which studying, researching, investigating, or adjudicating possible violations of the accountancy statutes or regulations requires complex considerations. These complex considerations require the use of experts with specialized skills, and the expenses incurred by boards of accountancy are typically significant.

Subsection A of 18VAC5-22-20 prescribes the fees the Board charges for services it provides. This Form TH-02 is designed solely to propose increases in the prescribed fees that will ensure that the Board is able to fund its operating expenses and that, based on the experience of boards of accountancy in other states, the Trust Account will be sufficient to fund expenses the Board incurs in studying, researching, investigating, or adjudicating matters involving possible violations of the accountancy statutes or regulations.

As a gauge of the reasonableness of the fee increases proposed in this Form TH-02:

- a. As the first chart in the economic impact section of this Form TH-02 illustrates, the current fees are considerably less than the fees adopted October 23, 1991, but the proposed fees are not significantly higher than the fees adopted October 23, 1991.
- b. The proposed fees are lower than the fees charged by the boards of accountancy in many of the other states, and in some cases are significantly lower.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

- a. A fee of \$20 is added for processing additional applications to take one or more sections of the CPA examination.
- b. A fee of \$25 is added for a preliminary evaluation of whether a person has met the requirements to take the CPA examination.
- c. The fee for processing an application for issuance of a Virginia license to a *person* is increased from \$24 to \$75.
- d. The fee for processing an application for issuance of a Virginia license to a *firm* is increased from \$24 to \$100.
- e. The fee for processing an application for the *timely* renewal of a *person's* Virginia license is increased from \$24 to \$60.
- f. The fee for processing an application for the *timely* renewal of a *firm's* Virginia license is increased from \$24 to \$75.
- g. The additional fee for processing an application for the renewal of a *person's* Virginia license that is *not timely* is increased from \$25 to \$100.
- h. The additional fee for processing an application for the renewal of a *firm's* Virginia license that is *not timely* is increased from \$25 to \$100.
- i. The fee for processing an application for reinstatement of a *person's* Virginia license is increased from \$250 to \$350.
- j. The fee for processing an application for reinstatement of a *firm's* Virginia license is increased from \$250 to \$500.
- k. The fee for processing an application for lifting the suspension of a *person's* privilege of using the CPA title in Virginia is increased from \$250 to \$350.
- l. The fee for processing an application for lifting the suspension of a *firm's* privilege of providing attest services or compilation services for persons or entities located in Virginia is increased from \$250 to \$500.
- m. A fee of \$25 is added for providing or obtaining information about a person's grades on sections of the CPA examination.
- n. A fee of \$25 is added for processing an online request for verification that a person or firm holds a Virginia license.
- o. A fee of \$50 is added for processing a manual request for verification that a person or firm holds a Virginia license.

- p. A fee of \$100 is added for not responding within 30 calendar days to any request for information by the board under subsection A of 18VAC5-22-170.
- q. The additional fee for not using the online payment option for any service provided by the board is increased from \$5 to \$25.

Issues

Please identify the issues associated with the proposed regulatory action, 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

The Code of Virginia establishes the Board as the state agency that oversees licensing of CPAs providing services in Virginia. The Board’s sole mission is to protect the citizens of the Commonwealth, and it views licensing as a broad concept that offers the public significant protection by prescribing requirements for formal and continuing professional education, examination, and experience; by prescribing standards of conduct and practice; and by imposing penalties for not complying with the accountancy statutes and regulations.

As discussed in the purpose section of this Form TH-02, the proposed fee increases will ensure that the Board has sufficient revenues to fund its operating expenses and to ensure that the Trust Account is sufficient to comply with statutory requirements.

There are no disadvantages to the public or the Commonwealth in raising the Board’s fees as proposed in this Form TH-02.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that will be particularly affected by the proposed increases in the fees.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping, and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so through the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) or by mail, email or fax to:

Wade A. Jewell, Executive Director
 Virginia Board of Accountancy
 9960 Mayland Drive, Suite 402
 Henrico, Virginia 23233
 (804) 527-4409 (fax)
wade.jewell@boa.virginia.gov

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements create the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	No additional costs will be incurred.
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	No additional costs will be incurred.
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	The proposed changes to the fees will directly affect persons who take the CPA examination and persons and firms who apply for or hold a Virginia license. The only direct effect on

	<p>others will be for persons and entities requesting verification that a person or firm holds a Virginia license.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means 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.</p>	<p>Approximately 24,500 persons and 1,200 firms hold a Virginia license. Each year, the Board processes approximately 1,700 initial applications to take one or more sections of the CPA examination and approximately 5,000 additional applications to take one or more sections of the CPA examination.</p> <p>It is likely that most of the firms that apply for or hold a Virginia license would be considered small businesses. Other small businesses will only be affected by the proposed fee increases if they request verification that a person or firm holds a Virginia license.</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>The proposed fee increases are the only costs that would be incurred as a result of the proposed changes to subsection A of 18VAC5-22-20. No additional reporting, recordkeeping, or other administrative costs would be incurred.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The proposed fee increases will ensure that the Board has sufficient revenues to fund its operating expenses and to ensure that the Trust Account is sufficient to comply with statutory requirements.</p>

The chart that follows looks at the fees charged for three services that are significant sources of revenues. For each of the services, the chart gives the fee adopted October 23, 1991, the current fee, and the increased fee proposed by this Form TH-02.

	<u>Fee adopted October 23, 1991</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Processing an application for issuance of a Virginia license to a person	\$75	\$24	\$75
Processing an application for the timely renewal of a person's Virginia license	\$55	\$24	\$60
Processing additional applications to take one or more sections of the CPA examination	\$117	\$0	\$20

If the fee increases proposed in this Form TH-02 are approved, they will likely become effective January 1, 2013. The Board forecasts that its total cash will have declined to \$119,904 by then – \$101,740 in the Operating Account and \$18,164 in the Trust Account. Since all the cash presently in the Trust Account will be needed to fund deficiencies in revenues during the fiscal years ending June 30, 2012 and 2013, the Board will have no cash available to fund expenses incurred in studying, researching, investigating, or adjudicating matters involving possible violations of the accountancy statutes or regulations. The two charts also demonstrate that if there are no fee increases, the *unfunded deficiencies* in revenues will total \$3,465,835 during the six fiscal years from July 1, 2012, through June 30, 2018.

Projected Changes in the Operating Account *if Fees Are Not Increased*

Biennium	Beginning cash balance in the Operating Account	Revenues	Operating Expenses	Transfers from the Trust Account	Transfers to GF & Central Service Agencies	Ending cash balance in the Operating Account
2011 and 12	\$197,726	\$1,858,201	(\$2,106,809)	\$206,000	(\$40,307)	\$114,811
2013 and 14	\$114,811	\$1,785,065	(\$2,956,740)	\$208,164	(\$40,000)	(\$888,700)
2015 and 16	(\$888,700)	\$1,731,119	(\$2,890,442)	\$0	(\$40,000)	(\$2,088,023)
2017 and 18	(\$2,088,023)	\$1,739,151	(\$3,076,963)	\$0	(\$40,000)	(\$3,465,835)

Projected Changes in the Trust Account *if Fees Are Not Increased*

Biennium	Beginning cash balance in the Trust Account	Transfers to the Operating Account	Ending cash balance in the Trust Account
2011 and 12	\$414,164	(\$206,000)	\$208,164
2013 and 14	\$208,164	(\$208,164)	\$0
2015 and 16	\$0	\$0	\$0
2017 and 18	\$0	\$0	\$0

The next chart looks at changes in the Operating Account for that same period if the fee increases proposed in this Form TH-02 become effective January 1, 2013. During each fiscal year in the period, revenues will exceed operating expenses and the excess will be transferred to the Trust Account.

Forecasted Changes in the Operating Account *if the Proposed Fee Increases Are Adopted*

Biennium	Beginning cash balance in the Operating Account	Revenues	Operating Expenses	Transfers (to)/from the Trust Account	Transfers to GF & Central Service Agencies	Ending cash balance in the Operating Account
2011 and 12	\$197,726	\$1,858,201	(\$2,106,809)	\$206,000	(\$40,307)	\$114,811
2013 and 14	\$114,811	\$3,418,832	(\$2,956,740)	(\$410,000)	(\$40,000)	\$126,903
2015 and 16	\$126,903	\$3,995,313	(\$2,890,442)	(\$1,050,000)	(\$40,000)	\$141,774
2017 and 18	\$141,774	\$4,013,338	(\$3,076,963)	(\$900,000)	(\$40,000)	\$138,149

There is no reasonably objective basis for forecasting expenses that will be incurred in studying, researching, investigating, or adjudicating matters involving possible violations of the accountancy statutes or regulations. There is therefore no reasonably objective basis for forecasting the cash balance in the Trust Account at the end of any fiscal year during the period if the proposed fee increases are adopted.

However, using the information in the preceding chart, during the six fiscal years from July 1, 2012, through June 30, 2018, transfers from the Operating Account will total \$2,360,000 – \$410,000 during the first biennium in the period, \$1,050,000 during the second biennium, and \$900,000 during the final biennium in the period. During the six fiscal years in that period, the fee increases proposed in this Form TH-02 would therefore enable the Board to fund its operating expenses and to also fund expenses totaling \$2,568,164 (Trust Account balance) incurred in studying, researching, investigating, or adjudicating matters involving possible violations of the accountancy statutes or regulations. Based on the experience of boards of accountancy in other states, that amount could be required to fund the fees incurred in just one large case.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

Many alternatives were discussed, but none were deemed viable by the Board.

Regulatory flexibility analysis

Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

The only regulatory change proposed by this Form TH-02 is increasing the fees prescribed by subsection A of 18VAC5-22-20. There are no alternative regulatory methods that would alleviate the need for the proposed fee increases.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

The NOIRA suggested three potential alternatives – A, B, and C. A summary of the four comments the Board received on the NOIRA follows.

- a. *Sarah Adams.* Ms. Adams stated the proposed increase seemed too high. She suggested that the fees for the Virginia license of a firm be set based on size, and that they be in line with similar fees charged for other professions. She also suggested the Board find ways to decrease expenses.
- b. *James W. Brackens, Jr.* Mr. Brackens favored Proposal B or C, wanting to ensure the Board made it as easy as possible for those interested in joining the CPA profession. Mr. Brackens also requested that a sound study be made to determine the financial appropriateness of each proposal.
- c. *Janet Shumaker.* Ms. Shumaker indicated that she was a sole practitioner who was fighting rising costs on every front. She stated that she is struggling as a CPA and requested the Board reconsider a large jump in fees.
- d. *Joseph Dailey Thornton.* Mr. Thornton supported Proposal A, and only if a fee increase was absolutely necessary.

A general “thank you” was sent to each person who commented, indicating that comments would be reviewed by the Board at its next meeting.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory changes are not anticipated to have any significant impact on Virginia’s families.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
Subsection A of 18VAC 5-22-20	No change	<ul style="list-style-type: none"> • Processing an application to take the CPA examination - \$120 • No current requirement • Processing an application for issuance of a Virginia license - \$24 	<ul style="list-style-type: none"> • Processing an initial application to take one or more sections of the CPA examination - \$120 • Processing additional applications to take one or more sections of the CPA examination - \$20 • Preliminary evaluation of whether a person has met the requirements to take the CPA examination - \$25 • Processing an application for issuance of a Virginia license to a person - \$75 • Processing an application for issuance of a Virginia license to a firm - \$100

		<ul style="list-style-type: none"> • Processing an application for the timely renewal of a Virginia license - \$24 • Additional fee for processing an application for a license renewal that is not timely - \$25 • Processing an application for reinstatement of a Virginia license - \$250 • Processing an application for lifting the suspension of the privilege of using the CPA title in Virginia or for lifting the suspension of the privilege of providing attest services or compilation services for persons or entities located in Virginia - \$250 • No current requirement • No current requirement • Providing an additional wall certificate - \$25 • No current requirement • Additional fee for not using the online payment option for any service provided by the board - \$5 	<ul style="list-style-type: none"> • Processing an application for the timely renewal of a person’s Virginia license - \$60 • Processing an application for the timely renewal of a firm’s Virginia license - \$75 • Additional fee for processing an application for the renewal of a person’s Virginia license that is not timely - \$100 • Additional fee for processing an application for the renewal of a firm’s Virginia license that is not timely - \$100 • Processing an application for reinstatement of a person’s Virginia license - \$350 • Processing an application for reinstatement of a firm’s Virginia license - \$500 • Processing an application for lifting the suspension of the privilege of using the CPA title in Virginia - \$350 • Processing an application for lifting the suspension of the privilege of providing attest services or compilation services for persons or entities located in Virginia - \$500 • Providing or obtaining information about a person’s grades on sections of the CPA examination - \$25 • Processing requests for verification that a person or firm holds a Virginia license: <ol style="list-style-type: none"> 1. Online request - \$25 2. Manual request - \$50 • Providing an additional wall certificate - \$25 • Additional fee for not responding within 30 calendar days to any request for information by the board under subsection A of 18VAC5-22-170 - \$100 • Additional fee for not using the online payment option for any service provided by the board - \$25
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Summary:

This regulatory action modifies Section 18VAC5-22-20. Fees. of the Virginia Board of Accountancy (Board) Regulations. As an independent, non-general fund agency, fees the Board charges for services it provides are its only source of revenues. Penalties assessed by the Board for violations of the accountancy statutes and regulations do not provide revenues for the Board. Instead, they are deposited into the Commonwealth's Literary Fund. Therefore, fees the Board charges for services it provides must be sufficient to fund both its operating expenses and the Trust Account (used primarily for the enforcement of the Board's statutes and regulations).

The Board forecasts that by early in 2013, it will have virtually no cash, either in the Operating Account or the Trust Account. The Board believes its operating activities are efficient and services cannot be eliminated without significantly impacting licensees and the public.

This regulatory action proposes increases in the prescribed fees that will ensure that the Board is able to fund its operating expenses and that, based on the experience of boards of accountancy in other states, the Trust Account will be sufficient to fund expenses the Board may incur in the enforcement of the Board's statutes and regulations.

As a gauge of the reasonableness of the fee increases proposed in this regulatory action:

- a. The current fees are considerably less than the fees adopted over 20 years ago (October 1991), but the proposed fees are not significantly higher than the fees adopted in October 1991.*
- b. The proposed fees are lower than the fees charged by the boards of accountancy in most of the other states, and in some cases are significantly lower.*