



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

---

**18 VAC 10-20 Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 5594/9911**  
March 8, 2023

---

The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB’s best estimate of these economic impacts.<sup>1</sup>

### **Summary of the Proposed Amendments to Regulation**

The Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (Board) proposes to increase all license renewal fees, while decreasing some initial license fees, so that projected revenues are sufficient to cover projected expenditures while minimizing the cost of entering these professions.

### **Background**

Section 54.1-406 of the Code of Virginia (Code) provides for licensure requirements for architects, engineers, surveyors, and landscape architects and § 54.1-414 establishes the certification of interior designers. In general, Virginia Code § 54.1-201 A.4 imposes a duty on professional boards to “levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportional share of the expenses of the Department of Professional and Occupational

---

<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

Regulation (DPOR)....” In addition, Virginia Code § 54.1-113, known as the Callahan Act, requires DPOR boards to distribute excess revenue to current regulants and reduce the fees when “unspent and unencumbered revenue exceeds \$100,000 or 20 percent of the total expenses allocated to the regulatory board for the past biennium, whichever is greater.”<sup>2</sup> Lastly the Appropriation Act was amended in 2019 to require DPOR to hold funds in reserve to “offset the anticipated, future costs of restructuring its organization, including additional staffing needs and the replacement or upgrade of the Department’s information technology systems requirements.” The most recent version of this language appears in Item 369 of the 2022 Appropriation Act.<sup>3</sup>

The Board last increased fees in 2004 to comply with the Callahan Act requirements in place at that time.<sup>4</sup> DPOR reports that all costs have increased in the interim: specifically, the costs due to the department’s information technology services have increased 193 percent and staffing expenses have increased 67 percent.<sup>5</sup> DPOR also notes that expenses have consistently exceeded revenue, and that they expect the gap to widen as the agency continues to fill vacancies and costs grow with inflation.<sup>6</sup> DPOR further states that the unfilled vacancies are causing current staff to work extra hours in an unsustainable manner (for example, three licensing specialists are processing licensing applications for five different boards covering 19 different professions and occupations).<sup>7</sup> Based on DPOR’s projections for Board revenues and expenditures at the current fee levels, the Board indicates that its fees are no longer sufficient to cover expenses in accordance with the Code provisions cited above. Unless fees are increased, the Board is projected to incur a deficit in the 2026-2028 biennium.

---

<sup>2</sup> See <https://law.lis.virginia.gov/vacode/title54.1/chapter1/section54.1-113/> for the full requirements of the Act. The new requirements regarding unspent revenue took effect on July 1, 2022; these changes were made by Chapters 517 and 697 of the 2019 *Acts of Assembly*. The Callahan Act previously required DPOR boards, as well as those administered by the Department of Health Professions, to adjust fees in situations in which “expenses allocated to [the board] for the past biennium...[are] more than ten percent greater or less than money collected on behalf of the board.”

<sup>3</sup> See <https://budget.lis.virginia.gov/item/2022/2/HB30/Chapter/1/369/>. Under Item 4-13.00 of the Appropriation Act, “the provisions of this act shall prevail over any conflicting provision of any other law, without regard to whether such other law is enacted before or after this act.” Consequently, if a situation were to arise where the Appropriation Act conflicted with the new provisions of the Callahan Act, the language in the Appropriation Act would apply.

<sup>4</sup> See <https://townhall.virginia.gov/l/ViewAction.cfm?actionid=1251>.

<sup>5</sup> Agency Background Document (ABD), page 4. See [https://townhall.virginia.gov/l/GetFile.cfm?File=7\5594\9911\AgencyStatement\\_DPOR\\_9911\\_v3.pdf](https://townhall.virginia.gov/l/GetFile.cfm?File=7\5594\9911\AgencyStatement_DPOR_9911_v3.pdf)

<sup>6</sup> Email from DPOR dated February 7, 2023.

<sup>7</sup> Email from DPOR dated February 22, 2023.

Accordingly, the Board proposes to increase the license renewal fees charged to architects, professional engineers, land surveyors, and certified interior designers, as well as the registration fees for business entities and business entity branches. Initial license fees for architects, engineers, surveyors, and landscape architects, as well as the initial registration fees for business entities would be reduced; however, the initial certification fee for interior designers would be modestly increased. The Board seeks to make all initial fees and all renewal fees the same across the five professions, which has now become standard for other boards such as the Board for Professional Soil Scientists, Wetland Professionals, and Geologists.<sup>8</sup> As a result, certified interior designers would see the highest percent increase in renewal fees. Late renewal fees would also be increased. The proposed fee increases are expected to increase the Board's revenues by approximately \$1.18 million per biennium.<sup>9</sup> The fee changes are summarized in the table below.

### **Estimated Benefits and Costs**

DPOR reports that the Board had a balance of \$1,633,365 at the end of the 2020-2022 biennium, of which \$1,448,807 was held in the Dedicated Special Revenue Fund.<sup>10</sup> If fees remain unchanged, the Board's balance is projected to be \$970,922 at the end of the current biennium (2022-2024), \$183,789 at the end of the following biennium (2024-2026), and - \$638,589 (a deficit) at the end of the 2026-2028 biennium. Further, DPOR projections indicate that the fee increases would bring in an additional \$1,183,411 in biennial revenue, starting in FY 2025.<sup>11</sup> Based on the Board's projected expenditures, the Callahan Act Cap (20 percent of the previous biennium's expenditures) would be (i) exceeded by the projected balance for the current biennium without the additional \$1.18 million fee revenue, and (ii) exceeded by the projected balances for the next two biennia, which include the additional fee revenues. However, since this Board is part of the Dedicated Special Revenue Fund, some portion of the projected balances may be held in reserve pursuant to Item 369 B of the 2022 Appropriations Act, provided that language continues to be included in the budget each year.

---

<sup>8</sup> Email from DPOR dated February 7, 2022.

<sup>9</sup> ABD, page 6.

<sup>10</sup> Email from DPOR dated February 7, 2023. The Dedicated Special Revenue Fund is one of the funds included in Item 369 of the 2022 Appropriations Act discussed previously in footnote 3.

<sup>11</sup> Although the ABD (p.3) indicates that the new fees are expected to go into effect in FY 2023, DPOR's projections that were shared with DPB assumed that additional revenue would be added FY 2025.

Fees	Current Fee	Proposed Fee	Change Per Fee	
			\$ Change	% Change
<i>INITIAL FEES</i>				
Architect	\$75	\$50	-25	-33.33
Professional Engineer	\$60	\$50	-10	-16.67
Land Surveyor	\$90	\$50	-40	-44.44
Land Surveyor B	\$90	\$50	-40	-44.44
Surveyor Photogrammetrist	\$90	\$50	-40	-44.44
Surveyor-in-Training Designation	\$60	\$30	-30	-50.00
Certified Interior Designer	\$45	\$50	5	11.11
Landscape Architect	\$125	\$50	-75	-60.00
Business Entity Registration	\$90	\$50	-40	-44.44
Business Entity Branch Registration	\$45	\$40	-5	-11.11
<i>RENEWAL FEES</i>				
Architect	\$55	\$95	40	72.73
Professional Engineer	\$80	\$95	15	18.75
Land Surveyor	\$90	\$95	5	5.56
Land Surveyor B	\$90	\$95	5	5.56
Surveyor Photogrammetrist	\$90	\$95	5	5.56
Certified Interior Designer	\$45	\$95	50	111.11
Landscape Architect	\$110	\$95	-15	-13.64
Business Entity Registration	\$45	\$105	60	133.33
Business Entity Branch Registration	\$35	\$75	40	114.29
<i>LATE FEES</i>				
For all licenses, certification, and registration	\$25	\$35	10	40.00

### Businesses and Other Entities Affected

DPOR reports that as of December 1, 2022, there were 7,674 architects, 30,533 professional engineers, 1,232 land surveyors, 63 land surveyors B, 101 land surveyor photogrammetrists, 470 certified interior designers, 951 landscape architects, and 4,858 businesses.<sup>12</sup> Of the businesses, 3,918 were business entities and 940 were business entity branch offices. With the exception of landscape architects, all these professionals and entities would incur higher costs when renewing their credentials. The proposed amendments would also affect new applicants. DPOR reports that there were 2,920 total new applicants in FY 2021 and 2,951

<sup>12</sup> ABD, page 7.

in FY 2022.<sup>13</sup> Of the 2,951 new applicants in FY 2022, there were 401 architects, 1519 professional engineers, 17 applicants for the surveyor-in-training designation, 26 land surveyors, no new applicants for land surveyor B or photogrammetrists, 48 landscape architects, 22 interior designers, 286 business entities and 92 business entity branch offices. All such applicants, with the exception of certified interior designers, would benefit from lower initial fees.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>14</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. Because the proposal raises fees, an adverse impact is indicated.

### **Small Businesses<sup>15</sup> Affected:<sup>16</sup>**

#### Types and Estimated Number of Small Businesses Affected

DPOR reports that most of the 4,858 currently licensed business entities mentioned above are considered small businesses and would be affected by the higher fees. However, the Board does not collect information regarding the size of firms or business entities and does not charge different fees to those that are small businesses and those that are not.

---

<sup>13</sup> For each of the professional licenses, a significant majority of new licenses are acquired by comity rather than by examination. Thus “entry” fees largely affect experienced workers new to practicing their profession in Virginia, who may also be establishing new small businesses, and not necessarily newly trained workers.

<sup>14</sup> Pursuant to Code § 2.2-4007.04(D): 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. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>15</sup> 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.”

<sup>16</sup> 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.

### Costs and Other Effects

Firms and business entities that are small businesses would face lower initial fees but increased renewal fees, as detailed in the table above.

### Alternative Method that Minimizes Adverse Impact

If the Board collected information on the size of the firm or business entity at the time of license application and renewal, they could charge different fees accordingly. However, if most businesses in this industry are small firms, such cross-subsidization may not be practicable. Moreover, the costs incurred by DPOR do not appear to vary by the size of the firm.

### **Localities<sup>17</sup> Affected<sup>18</sup>**

Localities would not be directly affected by the proposed fee changes and local governments would not incur new costs. Local government entities that choose to assume the license application fee costs for their employees to obtain and maintain architect licenses may be indirectly impacted as a result of the change.

### **Projected Impact on Employment**

The decreases in initial fees and increases in renewal fees are unlikely to have a significant impact on individuals' incentives to obtain or maintain a license in these professions relative to the salaries offered in those professions. Further, employment levels in these professions are likely driven by the level of activity in the real estate market. If the relatively robust real estate market in Virginia in the 2020-2022 biennium continues in future years, then the proposed fee increases are unlikely to negatively impact employment in these professions.

### **Effects on the Use and Value of Private Property**

Registered business entities would face increased costs due to the higher renewal fees, whereas new business entities would face lower costs due to the lower initial registration fees. However, these changes in cost would not likely be large enough to substantively affect the actions and value of these private businesses.

---

<sup>17</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>18</sup> Code § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

---

The proposed amendments do not directly affect real estate development costs. In theory, these professionals could pass on additional costs to the developers and entities that hire them. However, the magnitude of any such changes is likely too small relative to the overall costs of real estate development.