



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 47-20 – Cemetery Board Regulations
Department of Professional and Occupational Regulation
December 15, 2011

Summary of the Proposed Amendments to Regulation

The Cemetery Board (Board) proposes to increase all fees paid by licensees and registrants that are subject to the Board's authority.

Result of Analysis

There is insufficient information to accurately gauge whether benefits are likely to outweigh costs for these proposed changes.

Estimated Economic Impact

Under current regulations, cemetery companies pay \$50 for initial licensure for one cemetery, \$50 for each additional cemetery licensed and \$50 each for both license renewal and license reinstatement. Cemetery sales personnel currently pay \$20 for initial registration and \$20 for both registration renewal and reinstatement. The Board now proposes to increase all of these fees.

Below is a comparison table for current and proposed fees:

FEE TYPE	CURRENT FEE	PROPOSED FEE	% INCREASE
Cemetery Company Licensure	\$50	\$200	300%
Addition of Cemetery	\$50	\$200	300%
Sales Personnel Registration	\$20	\$75	275%

Renewal of Cemetery Company License	\$50	\$200	300%
Reinstatement of Cemetery Company License	\$50	\$200	300%
Renewal of Sales Personnel Registration	\$20	\$75	275%
Reinstatement of Sales Personnel Registration	\$20	\$75	275%

Board staff reports that fees were reduced in 2006 because they were set at a level that was too high to be justified by Board expenditures. As a consequence of high fees prior to 2006, the Board had a surplus that has offset fees that were too low to cover all Board expenses (per regulant expenditures for 02-04 biennium were, for instance, approximately \$61 but most regulants paid only \$20 and the highest fee charged was \$50). Absent some fee increase, Board staff reports that the Board will run a deficit this coming year. In addition to a large surplus finally being depleted, Board staff reports that fees will need to be raised because expenses have greatly increased over the last several years for several reasons:

- The number of individuals and companies that the Board regulates has increased (from 1,061 in the 02-04 biennium to 1,769 as of September 1,2011) and so application costs and customer support services costs have increased,
- Enforcement actions have increased and
- Information technology expenses have risen significantly.

While the number of entities that the Board regulates has increased, other things being equal, the fees from additional regulants would be expected to cover application costs, customer support services costs and any other expenses that the Board might incur in regulating them. Because fees have been kept artificially low for the last decade so that the Board could use up the

very large surplus that it had accrued, fees from each new licensee or registrant may not, in this instance, been enough to cover the per person application and customer support costs.

Board staff reports that enforcement activity has increased precipitously in the last Biennium and that most of the increase in complaints (enforcement actions) concern cemetery companies improperly depositing money into the companies' trust accounts. Board staff reported the number of enforcement actions for each year from FY02 to FY11 which will now be listed in the format FY(number of disciplinary cases): FY02(80), FY03(96), FY04(80), FY05(57), FY06(53), FY07(52), FY08(57), FY09(67), FY10(97) and FY11(103). While complaints have increased precipitously over the last two years, the number of complaints per person for FY10-FY11 (.0556 complaints per regulated entity) is still well below the per person complaint level in FY02-FY03 (.0829 complaints per regulated entity). DPB does not have information about the long term disciplinary case average and, therefore, does not know whether the years FY05 through FY08 represent a lull in enforcement activity or whether both ends of the data stream reported represent unusually high levels of disciplinary cases.

Board staff reports that the Department of Professional and Occupational Regulation (DPOR) has already paid \$3.6 million, and expects to pay an additional \$1.6 million, for its new automated licensure system. The Board's portions of those costs are \$21,600 and \$9,600, respectively. These costs are additional to other IT (VITA) costs which have increased for all state agencies. It is likely that most of the per regulant expenditure increase in the last decade is due to these increased information systems costs. Over the 02-04 biennium, the Board spent \$60.98 per regulant; for the 04-06 biennium, per regulant spending was \$52.19. During the 06-08 biennium, per regulant spending increased to \$76.63 and has increased in both of the biennia since (estimated spending for the current biennium is approximately \$87 per regulant). Given this information, it is not at all clear that these increased information systems costs represent a net benefit for the Board's regulated entities.

Increasing fees will likely increase the cost of being licensed or registered and, so, will likely slightly decrease the number of people who choose to be remain in these jobs or businesses. To the extent that the public benefits from the Board regulating these professional populations, they will also likely benefit from the Board's proposed action that will increase fees

to support Board activities. There is insufficient information to ascertain whether benefits will outweigh costs.

Businesses and Entities Affected

Board staff reports that the Board currently regulates 1,796 individuals and companies: Of this number, 92 are cemetery companies, 146 are cemeteries and 1531 are cemetery sales personnel.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

Fee increases in this regulatory action will likely marginally decrease the number of individuals who choose to work in professional fields that are regulated by the Board. Individuals who work part time or whose earnings are only slightly higher in these regulated fields than they would be in other jobs that do not require licensure or registration will be more likely to be affected.

Effects on the Use and Value of Private Property

Fee increases will likely slightly decrease business profits and make affected businesses slightly less valuable.

Small Businesses: Costs and Other Effects

Board staff reports that most of the firms regulated by the Board likely qualify as small businesses. Affected small businesses will bear the costs of proposed increased fees.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are several actions that the Board could take that might mitigate the necessity of raising fees overall. The Board could slightly lengthen the time that it takes to process both license applications and complaints so that staff costs could be cut. This option would benefit current licensees but would slightly delay licensure, and the ability to legally work, for new applicants. Affected small businesses would also likely benefit from increased scrutiny of the IT costs that are driving increases in Board expenditures.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

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 36 (06). 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.