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Fast-Track Regulation Agency Background Document

Agency name	Department of Elections
Virginia Administrative Code (VAC) citation(s)	1 VAC 20-90-20
Regulation title(s)	Filing Fee
Action title	Repeal
Date this document prepared	August 16, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

1 VAC 20-90-20 provides campaign committees the option of paying the Department of Elections an administrative fee to transcribe any nonelectronic campaign finance report required to be submitted to the State Board of Elections. 1 VAC 20-90-20 provides that upon receipt of the \$25 administrative fee, Department of Elections staff will manually transfer the information from a nonelectronic report into the electronic reporting system on behalf of the campaign committee.

This regulation was promulgated when submitting campaign finance reports electronically was optional. Subsequent changes to the Code of Virginia 24.2-947.5 now require candidates for statewide office, the General Assembly, and candidates for local or constitutional office in any locality with a population of more than 70,000 persons to file reports “by computer or electronic means in accordance with the standards approved by the State Board.”

1 VAC 20-90-20 offers paper filers the option for the Department to transcribe their reports into the electronic reporting system, but the Code of Virginia does not currently provide for the filing of nonelectronic reports by candidates required to file with the State Board of Elections. Accordingly, the regulation pertains to law that no longer exists, and offers an option not contemplated by the current Code of Virginia. The State Board of Elections voted to repeal 1 VAC 20-90-20 via the fast-track regulatory process at its regularly scheduled meeting on August 6, 2019.

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.

Not applicable.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Board of Elections voted to repeal 1 VAC 20-90-20 via the fast-track regulatory process at its regularly scheduled meeting on August 6, 2019.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, please also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The State Board of Elections is the policy-making board responsible for election law regulations. This repeal is expected to be noncontroversial because the regulation under consideration applies to law that no longer exists, as discussed above in the background section, and below in the purpose section.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The Virginia Department of Elections is promulgating this regulation on behalf of the State Board of Elections, which is authorized under the Code of Virginia §24.2-103 to “make rules and regulations and issue instructions and provide information ... to promote the proper administration of election laws”.

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The regulation provides that any campaign committee that files nonelectronic campaign finance reports with the Board under §24.2-947.5 can pay \$25 in order to transcribe a paper report. However, that Code section has been updated in recent years to transition away from paper filing to electronic submissions. During the 2019 session, the legislature completed this transition, so now, §24.2-947.5 requires all reports to the Board be submitted electronically.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The regulation will be repealed.

Issues

Please identify the issues associated with the regulatory change, 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 there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

There are no disadvantages to the public or the Commonwealth.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

No applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

No agency, locality or entity is particularly affected, as this change will only remove ambiguity from the Code of Virginia dealing with campaign finance reporting.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	As current law does not provide for the filing of nonelectronic reports to the State Board of Elections, the regulation does not apply, so its repeal would not result in any change to the current operations of ELECT or any other state agency.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	
Benefits the regulatory change is designed to produce.	

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	
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<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:</p> <ul style="list-style-type: none"> a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. 	<p>As current law does not provide for the filing of nonelectronic reports to the State Board of Elections, the repeal would not result in any consequence to individuals, businesses or other entities.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. 	<p>See above.</p>
<p>Benefits the regulatory change is designed to produce.</p>	

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

No alternatives were considered.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

The Department promulgates this regulatory action on behalf of the State Board of Elections. This repeal removes a regulation that no longer applies.

Public Participation

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Detail of Changes

Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.

If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Delete inapplicable tables.

If the regulatory change is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below. Please include citations to the specific section(s) of the regulation that are changing.

If an existing regulation or regulations (or parts thereof) are being repealed and replaced by one or more new regulations, please use the following chart:

Current chapter-section number	New chapter-section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
1 VAC 20-90- 20	N/A	Requires State Board of Elections to transcribe nonelectronic campaign finance reports required to be submitted to the State Board of Elections pursuant to §24.2-947.5, for an administrative fee of \$25.	Repeal will reflect current law.