



Economic Impact Analysis Virginia Department of Planning and Budget

8 VAC 40-31 – Regulations Governing the Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates State Council of Higher Education for Virginia January 5, 2006

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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The State Council of Higher Education for Virginia (SCHEV) proposes to promulgate regulations to administer the certification of private and out-of-state postsecondary schools.¹ The proposed regulation combines the previous regulations used by SCHEV regulating institutions of higher education (8 VAC 40-31) and the regulations used by the Board of Education to regulate the career-technical schools² (8 VAC 20-350), and will replace the current emergency regulation (8 VAC 40-31) effective since November 2004. Major changes include:

¹ Postsecondary schools include institutions of higher education and noncollege degree schools. Noncollege degree schools may be academic-career-technical or career-technical schools.

² Chapter 991 of the 2004 Acts of Assembly, which was enacted on July 1, 2004, repealed the authority of the Virginia Board of Education of regulating the proprietary schools and granted it to SCHEV.

1. The initial fee for certification will be increased from \$300 to \$2500 for all new career-technical schools.
2. The renewal fee structure for career-technical schools, which was \$150 plus 0.1% of gross tuition receipts for the prior assessment year, will be changed. The renewal fees will be \$500 for schools with gross tuition equal or less than \$50,000; \$1,000 for schools with gross tuition between \$50,000 and \$100,000; \$1,500 for schools with gross tuition between \$100,000 and \$150,000; and \$2,500 for schools with gross tuition above \$150,000.
3. The annual payment to the Student Tuition Guaranty Fund (STGF) will be eliminated.
4. Some individual fees will be eliminated for certain actions such as change of location (\$100), addition of programs (\$100), program deletion (\$50), addition of branch campus (\$100), revised program review and approval/program name change (\$50), extension classroom/additional space approval (\$50), and catalog review (\$50).
5. Career-technical schools offering exclusively religious instruction will continue to be exempted by the proposed regulation, but they need to apply to continue the exemption every five years if the exemption is granted after July 1, 2002.

Estimated Economic Impact

Chapter 991 of the 2004 Acts of Assembly, which became effective on July 1, 2004, repealed the authority of the Virginia Board of Education to regulate the proprietary schools and granted it to SCHEV. The proposed regulation will be used to administer the certification of all postsecondary schools including institutions of higher education and career-technical schools.

The proposed regulation will increase the initial fee for certification from \$300 to \$2500 for all new career-technical schools. According to SCHEV, there have been 29 new certification applications since July 1, 2004. Supposing that there will be approximately 10 new certification applications in each fiscal year, the increased cost for applicants due to this proposed regulatory change will be \$22,000 statewide in each fiscal year.

The proposed regulation will also change the renewal fee structure for the career-technical schools. The previous fees for renewal of certificate were \$150 plus 0.1% of gross tuition receipts for the prior assessment year. Under the new structure, the renewal fees will be

\$500 if Gross Tuition \leq \$50,000;

\$1,000 if $\$100,000 \geq \text{Gross Tuition} > \$50,000$;

\$1,500 if $\$150,000 \geq \text{Gross Tuition} > \$100,000$;

\$2,500 if $\text{Gross Tuition} > \$150,000$.

Although the proposed renewal fees are lower than those in the current emergency regulation, compared to the previous Board of Education regulation (8 VAC 20-350), the annual renewal fees will increase for the 114 small career-technical schools but drop for the two biggest ones.

Table 1 lists the gross tuition of the career-technical schools and their renewal fees under different regulations.³ The gross tuition in FY 2005 (Column 2), the renewal fees in FY 2006 under the current emergency regulation (Column 3) and the estimated renewal fee in FY 2007 based on the proposed regulation (Column 4) are provided by SCHEV.^{4 5} The 5th column shows the renewal fees that would have been charged under the Board of Education regulation, which is \$150 plus 0.1% of gross tuition.⁶ Compared with column 5, the proposed renewal fees in FY 2007 (column 4) will drop significantly for the two biggest career-technical schools while increase for the other 114 schools. For example, the largest school, whose gross tuition in FY 2005 was more than 12 millions, will have its annual renewal fee dropped from \$12,688 to \$2,500. While the second largest, which had a gross tuition of about 6 millions and used to pay about \$6,149, will need to pay only \$2,500 each year. However, the renewal fees will increase for all of the other schools. Approximately 40 schools will have their renewal fees doubled, 20 will see their fees tripled, and 40 schools will have to pay more than four times as much as what they would otherwise under the Board of Education regulation. As an example, a small school which had a gross tuition of \$203,497 in FY 2005 and would pay \$353 annually under the previous regulation, will have to pay \$2,500 every year according to the proposed regulation, with a rate of increase of more than 500%. Approximately, the total renewal fees gathered from the 116 schools will increase from \$71,407 to \$178,500.

³ The names of the schools are deleted for privacy.

⁴ For some of the career-technical schools, the gross tuition in FY 2005 is not available from SCHEV and is replaced with either the upper limit or the average of the category. See the note of Table 1.

⁵ The proposed regulation has lowered the renewal fees for some schools compared to the fees required in the emergency regulation.

⁶ These are not the actual renewal fees paid in the previous fiscal years because the gross tuition used to calculate the fees are those in FY 2005.

On the other hand, the proposed regulation will eliminate the annual payment to the Student Tuition Guaranty Fund which is calculated based on the gross tuition of the previous assessment year, while keeping the requirement on guaranty instruments.⁷ According to 8VAC 20-350-490, the Student Tuition Guaranty Fund was created and maintained in order to reimburse tuition and fees due students when the institution ceases to operate. Each institution granted a certificate to operate shall pay into the fund the amount set forth based on the previous assessment year's operation.⁸ The proposed regulation will eliminate the payment into STGF, resulting in cost savings for the schools which range from \$200 to \$14,538 as shown in the 6th column of Table 1.⁹ For example, the biggest school, with a gross tuition of more than 12 millions, will save \$14,538 from this regulatory change. A small school that had a gross tuition of \$203,497 in FY 2005 will save \$500 annually. The total saved cost for the 116 schools is approximately \$88,050.

The proposed regulation will also eliminate some individual fees for certain actions such as change of location (\$100), addition of programs (\$100), program deletion (\$50), addition of branch campus (\$100), revised program review and approval/program name change (\$50), extension classroom/additional space approval (\$50), and catalog review (\$50). Elimination of these fees will reduce cost for schools taking these actions, but since these actions do not often occur, the statewide reduced cost will be moderate.

Career-technical schools that offer exclusively religious instruction will continue to be exempted by the proposed regulation. However, the proposed regulation states that the exemptions granted after July 1, 2002 are valid for only 5 years at which time the school must apply to continue the exemption. Therefore each school will incur a \$300 application fee every five years, which results in an increased cost of \$60 annually if the \$300 is spread evenly among the five years. According to SCHEV, currently there are 105 religious exempt schools, thus the total increased cost will be approximately \$6,300 statewide every year.

In sum, the proposed regulation will increase the initial certification fees and cause an increased cost of \$22,000 for new career-technical schools seeking certification. Requirement of

⁷ 8VAC 20-350-480 lists the schedule for payment into the STGF.

⁸ New schools would pay an initial fee of \$150 upon receipt of its Certificate to Operate.

⁹ According to the Board of Education, the payment into STGF had been mistakenly waived for many schools since a few years ago but would have been re-charged by the Board of Education if not for the transition of authority.

re-application for exemption every five years will result in an increased cost of \$6,300 annually for the religious exempt schools statewide. For the existing career-technical schools that are already certified to operate, the change of renewal fee structure will reduce renewal fees for the two biggest schools while increasing renewal fees for the other 114 schools. Approximately the total renewal fees gathered from the 116 schools will increase by \$107,093.¹⁰ On the other hand, elimination of annual payment into STGF will save costs for both new schools and existing schools, with an estimated total cost savings of \$88,050. Thus the net increased cost from the new renewal fee structure and the elimination of payment into STGF will be \$19,044.

However, this \$19,044 is unevenly distributed among the career-technical schools and the proposed regulation places a disproportionate burden on the smaller ones. The new renewal fee structure and the elimination of payment into STG will reduce costs for the eight biggest schools while increasing costs for the 108 smaller ones. The 10th column of Table 2 shows the net increase in costs from the new renewal fee structure and the elimination of payment into STG for the 8 biggest schools and the 17 smaller schools which will expect the biggest increase in net costs.^{11 12} The 8 biggest schools will benefit from the proposed regulatory change with cost savings ranging from \$392 to \$24,727. For example, the biggest school whose gross tuition in FY 2005 exceeded 12 millions, will save \$24,727. And the second largest, which had a gross tuition of about 6 millions, will save \$11,649. The reduced fees for these big schools will reduce their costs and commensurately increase their profits. On the other hand, the other 108 schools will have their costs increased by \$20-\$1,795. As shown in Table 2, 17 out of the 108 schools will have to pay more than a thousand dollars more. The last one on the list, which had a gross tuition of \$155,335 in FY 2005 and used to pay \$305 renewal fees plus \$705 to STGF, will have to pay \$2,500 renewal fee according to the proposed regulation, resulting in an increase in cost of \$1,795. Another small school, with a gross tuition of \$226,280 in FY 2005, will have to pay \$1,624 more due to the proposed regulatory change. The increase in fees may raise costs and commensurately reduce profits for the smaller career-technical schools.

¹⁰Calculation: \$107,093 = \$178,500 - \$71,407

¹¹ The names of the schools are deleted for privacy.

¹² These 17 schools are also those that will expect the biggest increase in renewal fees.

Businesses and Entities Affected

The proposed regulation will affect the new career-technical schools seeking a certificate to operate by increasing the initial certificate fees from \$300 to \$2,500. All of the 116 existing schools will be affected by the new renewal fee structure and elimination of payment into STGF. Overall the proposed regulatory change will reduce fees for the 8 biggest schools and increase their profit. For the other 108 schools, the proposed change will increase fees and raise their cost and thus reduce their profit or even cause losses.

Localities Particularly Affected

The proposed regulation affects localities throughout the Commonwealth.

Projected Impact on Employment

The proposed regulation may have a small negative impact on employment for the 108 smaller schools. The increase in cost will reduce their profits and may result in a small number of people being laid off. For the eight biggest schools, the reduced cost will increase their profits and may have a small positive impact on their employment.

Effects on the Use and Value of Private Property

The proposed regulation will have a negative impact on the use and value of private properties for the 108 smaller schools because of the increased costs and reduced profits. On the other hand, the proposed regulation will reduce costs and raise profits for the eight biggest schools and therefore will have a positive impact on the use and value of their properties.

Small Businesses: Costs and Other Effects

The proposed renewal fee structure places a disproportionate burden on the smaller schools by reducing cost for bigger schools while increasing costs for the smaller ones. Considering the gross tuition in FY 2005, all of the schools except the biggest one are small businesses.¹³ Among them, only 5 to 6 schools will have their fees reduced, the other small schools will be negatively affected by the combination of the new renewal fee structure and elimination of payment into STGF. The increase in fees will raise their cost and reduce their profit or even cause losses. The proposed regulation will also increase costs for small career-technical schools

¹³ The number of employment is not available according to SCHEV.

that seek initial certification to operate by increasing the initial certificate fees from \$300 to \$2,500.

Small Businesses: Alternative Method that Minimizes Adverse Impact

An alternative could be a different fee structure that would spread the increased renewal fee more evenly among the schools while keeping the total fees at a similar level. However, according to SCHEV, since each higher education institution pays up to \$2,500 renewal fee annually, it is not reasonable to have a fee structure that charges more than \$2,500 renewal fees for a career-technical school.

Table 1. Gross Tuition, Renewal Fees and Payment to the Student Tuition Guaranty Fund of the Career Schools

School Number	Gross Tuition (FY 2005) ^a	Renewal Fee (FY 2006) ^b	Estimated Renewal Fee (FY 2007) ^c	Fees under Board of Education Regulation ^d	Payment to STGF ^{d,e}	Renewal Fee plus Payment to STGF ^d
1	18,365	1,500	500	168	200	368
2	50,000	1,500	500	200	250	450
3	20,696	1,500	500	171	200	371
4	14,360	1,500	500	164	200	364
5	30,000	1,500	500	180	250	430
6	20,276	1,500	500	170	200	370
7	33,000	1,500	500	183	250	433
8	19,779	1,500	500	170	200	370
9	22,750	1,500	500	173	200	373
10	47,911	2,500	500	198	250	448
11	23,835	1,500	500	174	200	374
12	38,482	1,500	500	188	250	438
13	27,014	1,500	500	177	250	427
14	14,334	1,500	500	164	200	364
15	24,000	1,500	500	174	200	374
16	13,400	1,500	500	163	200	363
17	14,039	1,500	500	164	200	364
18	22,963	1,500	500	173	200	373
19	9,821	2,500	500	160	200	360
20	50,000	1,500	500	200	250	450
21	50,000	1,500	500	200	250	450
22	50,000	1,500	500	200	250	450
23	25,487	No Pmt	500	175	250	425
24	50,000	2,500	500	200	250	450
25	50,000	2,500	500	200	250	450
26	50,000	1,500	500	200	250	450
27	50,000	2,500	500	200	250	450
28	20,000	2,500	500	170	200	370
29	50,000	No Pmt	500	200	250	450
30	50,000	1,500	500	200	250	450
31	18,500	1,500	500	169	200	369
32	50,000	No Pmt	500	200	250	450
33	50,000	1,500	500	200	250	450
34	50,000	2,500	500	200	250	450
35	60,200	1,500	1,000	210	300	510
36	50,352	1,500	1,000	200	300	500
37	68,756	1,500	1,000	219	300	519
38	57,463	1,500	1,000	207	300	507
39	77,579	1,500	1,000	228	300	528
40	69,700	1,500	1,000	220	300	520
41	82,682	1,500	1,000	233	300	533
42	95,864	1,500	1,000	246	300	546

Table 1. Gross Tuition, Renewal Fees and Payment to the Student Tuition Guaranty Fund of the Career Schools (Continued)

School Number	Gross Tuition (FY 2005) ^a	Renewal Fee (FY 2006) ^b	Estimated Renewal Fee (FY 2007) ^c	Fees under Board of Education Regulation ^d	Payment to STGF ^{de}	Renewal Fee plus Payment to STGF ^d
43	89,894	2,500	1,000	240	300	540
44	97,000	2,500	1,000	247	300	547
45	100,000	1,500	1,000	250	300	550
46	150,000	1,500	1,500	300	400	700
47	150,000	1,500	1,500	300	400	700
48	127,068	2,500	1,500	277	400	677
49	117,866	2,500	1,500	268	400	668
50	150,000	1,500	1,500	300	400	700
51	150,000	1,500	1,500	300	400	700
52	150,000	1,500	1,500	300	400	700
53	150,000	1,500	1,500	300	400	700
54	129,500	2,500	1,500	280	400	680
55	150,000	1,500	1,500	300	400	700
56	150,000	1,500	1,500	300	400	700
57	150,000	1,500	1,500	300	400	700
58	150,000	1,500	1,500	300	400	700
59	150,000	1,500	1,500	300	400	700
60	149,178	1,500	1,500	299	400	699
61	150,000	1,500	1,500	300	400	700
62	150,000	No Pmt	1,500	300	400	700
63	150,000	No Pmt	1,500	300	400	700
64	150,000	2,500	1,500	300	400	700
65	150,000	No Pmt	1,500	300	400	700
66	150,000	No Pmt	1,500	300	400	700
67	150,000	1,500	1,500	300	400	700
68	120,570	1,500	1,500	271	400	671
69	150,000	1,500	1,500	300	400	700
70	150,000	2,500	1,500	300	400	700
71	143,623	1,500	1,500	294	400	694
72	150,000	1,500	1,500	300	400	700
73	900,000	2,500	2,500	1,050	1,250	2,300
74	405,214	2,500	2,500	555	700	1,255
75	5,999,445	2,500	2,500	6,149	7,999	14,149
76	900,000	2,500	2,500	1,050	1,250	2,300
77	900,000	2,500	2,500	1,050	1,250	2,300
78	483,964	1,500	2,500	634	700	1,334
79	195,600	2,500	2,500	346	400	746
80	203,497	1,500	2,500	353	500	853
81	900,000	2,500	2,500	1,050	1,250	2,300
82	472,995	2,500	2,500	623	700	1,323
83	337,769	2,500	2,500	488	600	1,088
84	176,449	2,500	2,500	326	400	726
85	1,242,422	2,500	2,500	1,392	1,500	2,892

Table 1. Gross Tuition, Renewal Fees and Payment to the Student Tuition Guaranty Fund of the Career Schools (Continued)

School Number	Gross Tuition (FY 2005) ^a	Renewal Fee (FY 2006) ^b	Estimated Renewal Fee (FY 2007) ^c	Fees under Board of Education Regulation ^d	Payment to STGF ^{de}	Renewal Fee plus Payment to STGF ^d
86	1,618,007	2,500	2,500	1,768	2,000	3,768
87	856,196	2,500	2,500	1,006	1,250	2,256
88	900,000	2,500	2,500	1,050	1,250	2,300
89	226,280	2,500	2,500	376	500	876
90	2,311,862	2,500	2,500	2,462	4,312	6,774
91	288,467	2,500	2,500	438	500	938
92	332,704	2,500	2,500	483	600	1,083
93	186,609	2,500	2,500	337	400	737
94	12,538,254	2,500	2,500	12,688	14,538	27,227
95	792,129	1,500	2,500	942	1,250	2,192
96	900,000	2,500	2,500	1,050	1,250	2,300
97	900,000	2,500	2,500	1,050	1,250	2,300
98	669,326	2,500	2,500	819	1,000	1,819
99	769,189	2,500	2,500	919	1,250	2,169
100	<u>102,754</u>	2,500	<u>2,500</u>	253	400	653
101	818,346	2,500	2,500	968	1,250	2,218
102	1,486,732	2,500	2,500	1,637	1,500	3,137
103	319,000	2,500	2,500	469	600	1,069
104	200,000	2,500	2,500	350	400	750
105	241,350	2,500	2,500	391	500	891
106	900,000	2,500	2,500	1,050	1,250	2,300
107	900,000	2,500	2,500	1,050	1,250	2,300
108	900,000	2,500	2,500	1,050	1,250	2,300
109	900,000	2,500	2,500	1,050	1,250	2,300
110	900,000	2,500	2,500	1,050	1,250	2,300
111	810,632	1,500	2,500	961	1,250	2,211
112	167,199	2,500	2,500	317	400	717
113	1,475,787	2,500	2,500	1,626	1,500	3,126
114	155,335	1,500	2,500	305	400	705
115	156,702	2,500	2,500	307	400	707
116	1,250,000	2,500	2,500	1,400	1,500	2,900
Total	52,806,521	216,500	178,500	71,407	88,050	159,456

Note:

^a: provided by the State Council of Higher Education for Virginia (SCHEV)

^b: Renewal fees in FY 2006 are based on the current emergency regulation and provided by SCHEV.

^c: Estimated renewal fees in FY 2007 are based on the proposed regulation and provided by SCHEV.

^d: Calculated based on 8 VAC 20-350.

^e: STGF: Student Tuition Guaranty Fund

In Italic: Gross Tuitions are not available according to SCHEV and are replaced with the upper limits of the brackets based on the renewal fees in FY 2006 in Column 4.

In Bold: Gross tuitions are not available according to SCHEV and are replaced with \$900,000 (the approximate average gross tuition for those with gross tuition above 150000).

Underlined: the renewal fees don't match the gross tuitions.

Table 2. Gross Tuitions, Renewal fees, and Payment to STGT of Selected Schools Sorted by the Estimated Net Increased Cost

Rank Based on Estimated Net Increased Cost	Gross Tuition ^a (FY 2005)	Renewal Fee (FY 2006) ^b	Estimated Renewal Fee (FY 2007) ^c (1)	Fees under Board of Education Regulation ^d (2)	Payment into STGF ^d (3)	Renewal Fee plus Payment to STGF ^d (4)	Estimated Increase in Renewal Fee (1)-(2)	Estimated Growth Rate in Renewal Fee [(1)-(2)]/(2)	Estimated Net Increase in Cost (1)-(4)	Estimated Growth Rate in Total Cost (1)-(4)]/(4)
1	12,538,254	2,500	2,500	12,688	14,538	27,227	-10,188	-80%	-24,727	-91%
2	5,999,445	2,500	2,500	6,149	7,999	14,149	-3,649	-59%	-11,649	-82%
3	2,311,862	2,500	2,500	2,462	4,312	6,774	38	2%	-4,274	-63%
4	1,618,007	2,500	2,500	1,768	2,000	3,768	732	41%	-1,268	-34%
5	1,486,732	2,500	2,500	1,637	1,500	3,137	863	53%	-637	-20%
6	1,475,787	2,500	2,500	1,626	1,500	3,126	874	54%	-626	-20%
7	1,250,000	2,500	2,500	1,400	1,500	2,900	1,100	79%	-400	-14%
8	1,242,422	2,500	2,500	1,392	1,500	2,892	1,108	80%	-392	-14%
100	483,964	1,500	2,500	634	700	1,334	1,866	294%	1,166	87%
101	472,995	2,500	2,500	623	700	1,323	1,877	301%	1,177	89%
102	405,214	2,500	2,500	555	700	1,255	1,945	350%	1,245	99%
103	337,769	2,500	2,500	488	600	1,088	2,012	413%	1,412	130%
104	332,704	2,500	2,500	483	600	1,083	2,017	418%	1,417	131%
105	319,000	2,500	2,500	469	600	1,069	2,031	433%	1,431	134%
106	288,467	2,500	2,500	438	500	938	2,062	470%	1,562	166%
107	241,350	2,500	2,500	391	500	891	2,109	539%	1,609	180%
108	226,280	2,500	2,500	376	500	876	2,124	564%	1,624	185%
109	203,497	1,500	2,500	353	500	853	2,147	607%	1,647	193%
110	200,000	2,500	2,500	350	400	750	2,150	614%	1,750	233%
111	195,600	2,500	2,500	346	400	746	2,154	623%	1,754	235%
112	186,609	2,500	2,500	337	400	737	2,163	643%	1,763	239%
113	176,449	2,500	2,500	326	400	726	2,174	666%	1,774	244%
114	167,199	2,500	2,500	317	400	717	2,183	688%	1,783	249%
115	156,702	2,500	2,500	307	400	707	2,193	715%	1,793	254%
116	155,335	1,500	2,500	305	400	705	2,195	719%	1,795	254%

Note:

^a: provided by the State Council of Higher Education for Virginia (SCHEV)

^b: Renewal fees in FY 2006 are based on the current emergency regulation and provided by SCHEV.

^c: Estimated renewal fees in FY 2007 are based on the proposed regulation and provided by SCHEV.

^d: Calculated based on 8 VAC 20-350.