



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 10-20: Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Rules and Regulations Department of Professional and Occupational Regulation January 4, 2001

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1.G 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 Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (board) proposes to make several changes to these regulations. Changes that may have a significant impact include: 1) changing the required minimum number of days prior to the date of examination that applications are received, from a specified number to "the date established by the board," 2) changing the required minimum number of days prior to the date of landscape architect certification examination that applicants register and submit their application fee, from 75 days to a time designated by the board," 3) requiring that "every applicant applying for licensure or certification shall be able to speak and write English to the satisfaction of the Board," 4) allowing architect's required letters of reference to come from Canada, 5) allowing a greater proportion of a professional engineer's qualifying experience to occur prior to graduation from an engineering curriculum, 6) increasing the

experience requirement for one of the routes to the land surveyor-in-training designation, 7) changing the frequency of land surveyor licensure examinations from semiannually to “times designated by the board,” 8) establishing an accuracy standard for GPS, 9) allowing certified interior designers to form professional corporations and professional limited liability companies, 10) requiring that any licensed or certified employee responsible for a professional corporation or professional limited liability company to notify the board in writing of any changes of his employment status within ten days of such change, and 11) allowing the use of electronic seals when specified criteria are met.

Estimated Economic Impact

Under the current regulations, complete applications for licensure, certification and registration must be received in the board’s office no later than 120 days prior to the scheduled examination date. The proposed regulations require that applications be received in the board’s office by “the date established by the board.” The proposed new language would permit the board to require that applications be submitted by greater than 120 days prior to the scheduled examination. This would be costly to potential licensees and certificate holders by delaying the potential advancement of their careers. A potential applicant may have satisfied the requirements to take the exam 120 days prior to the scheduled examination, but not say 150 days ahead of time. This could delay entry into the profession by, for example, six months for an exam given semiannually. The Department of Professional and Occupational Regulation (DPOR) has indicated that the board does not intend to require that applications be received by a date greater than 120 days prior to examination. DPOR has indicated that the board would be willing to change the language of the regulations to indicate that applications shall be received by a date established by the board which is at most 120 days prior to the scheduled examination. If the language is amended to indicate that applications shall be received by a date established by the board which is at most 120 days prior to the scheduled examination, then the proposed change would introduce no new costs and may be beneficial for applicants if the time is reduced to less than 120 days.

The current regulations also require that applicants approved to sit for the landscape architect certification examination shall register and submit the required examination fee to the board office no

later than 75 days before the next administration of the exam. The proposed regulations require that the registration and exam fee be received in the board office “at a time designated by the board.” This proposed new discretion for the board would allow the board to require that applicants register and submit the required exam fee by greater than 75 days prior to the scheduled examination. This could be costly to potential certified landscape architects by delaying the potential advancement of their careers. A potential applicant may have satisfied the requirements to take the exam 75 days prior to the scheduled examination, but not say 90 days ahead of time. This could delay entry into the profession. According to DPOR, the board would be willing to change the proposed language to indicate that applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office by a date established by the board, which is at most 75 days prior to the scheduled examination. If the language is amended to indicate that the due date established by the board will not be greater than 75 days prior to the scheduled examination, then the proposed change would introduce no new costs and may be beneficial for potential certified landscape architects if the time is reduced to less than 75 days.

The proposed regulations require that “every applicant applying for licensure or certification shall be able to speak and write English to the satisfaction of the Board.” Previously this only applied to professional engineers. Now it would apply to all professions addressed within the regulations. This proposed change could be beneficial in that individuals who cannot communicate effectively and accurately in English may be more prone to have misunderstandings and miscommunication with clients, leading to unsatisfactory work. Requiring that applicants have or obtain minimum English skills may help protect the public from some potential unsatisfactory work. On the other hand, individuals that are competent or even very talented in their field, but are not fluent in English, would be prevented from obtaining licensure or certification in Virginia. The proposed change would clearly be costly for such individuals, and possibly potential clients who are aware of their language limitations. Individuals may still do work related to architecture, land surveying, interior design, etc. without licensure or certification, but another licensed or certified person in the appropriate field must be involved in and supervise the work.¹ For example, say a Virginia builder wishes to hire a renowned foreign architect, who does not

¹ Source: Department of Professional and Occupational Regulation

speaking fluent English, to design a building. The foreign architect could work with an architect licensed in Virginia, but not on his own. The licensed architect would be the architect of record.

Applicants for licensure as an architect must submit three letters of reference. The current regulations require that the writers of the reference letters be licensed as architects within the United States. The proposed regulations allow one or more of the writers to be licensed in Canada. This clearly could be beneficial to potential applicants by increasing the pool of licensed architects from whom allowable reference letters could be obtained. Assuming that Canadian architects are as reliable reference letter writers as American architects, the proposed change should not put the public at additional risk. Thus this proposed change should produce a net benefit.

The proposed regulations allow a greater proportion of a professional engineer's qualifying experience to occur prior to graduation from an engineering curriculum. "The board, in its sole discretion, may permit partial credit, not to exceed 1/2 of that required, for approved qualifying engineering experience obtained prior to graduation from an engineering curriculum." Previously, the regulation read "not to exceed 1/4 of that required." This proposed change would likely produce a net benefit. It allows individuals that have gained significant relevant experience, either during a break from or before engineering courses, to apply more of that experience toward qualifying experience. This change does not appear to put the public at any additional risk of having an incompetent engineer licensed.

Under the proposed regulations, the experience requirement for one of the routes to the land surveyor-in-training designation would be increased. One of the current methods of meeting the education and experience requirement for the land surveyor-in-training designation is for an applicant to have earned at least a four-year bachelor's degree in a field unrelated to surveying and with a specific record of two years of approved land surveying experience. Now, the board is proposing to increase the required number years of approved land surveying experience to three. Clearly, this change creates an additional cost, one additional year of experience, for individuals seeking to obtain the land surveyor-in-training designation through this route. According to DPOR, the board proposes this change because it was brought to their attention that for someone "who has graduated from a surveying curriculum of

two years or more,” the applicant is required to have four years of approved land surveying experience. In comparison, for someone who has graduated from a curriculum with possibly no surveying, albeit with a four-year degree, to be required to only have two years of experience seems insufficient.

The board proposes to alter regulatory language describing the frequency that examinations for land surveyor licensure are given. The proposed regulations state that “these examinations shall be given at times designated by the board.” Previously, the regulations read: “these examinations shall be given semiannually at times designated by the board.” The proposed deletion of the word “semiannually” would allow the board to give the exam less often than semiannually. This could be costly to potential licensed land surveyors by delaying the potential advancement of their careers. According to DPOR, the board would be willing to change the proposed language to indicate that the examinations shall be given semiannually, or more frequently, if so designated by the board. If the language is amended to indicate that the exam will be given at least semiannually, then the proposed change would introduce no new costs and may be beneficial for potential land surveyors if the frequency that exams are given is greater than twice a year.

The Board also proposes to add accuracy standards for GPS used in land boundary surveying. Since GPS is used for surveying, including minimum accuracy standards is beneficial in guaranteeing the quality of land survey work, if the standards adopted by the board are reasonable. No public comment has been received to indicate otherwise.

The proposed regulations newly allow certified interior designers to form professional corporations and professional limited liability companies. Allowing certified interior designers to form professional corporations and professional limited liability companies is, of course, beneficial for interior designers. Interior designers will be able to shield their personal assets from liability, as the certified and licensed individuals for the other professions included in these regulations currently may. On the other hand, citizens and businesses who have legal claims against certified interior designers would see fewer assets to sue for with the advent of interior designer professional corporations and professional limited liability companies. In terms of equity, though, there is no compelling reason why certified interior designers should be denied the same legal protection afforded to other professions.

Also, under the proposed regulations, “for those corporations using the title of certified interior designers and providing the services of architects, professional engineers, or land surveyors, or any combination thereof, the capital stock of the corporation shall be held by individuals in accordance with 13.1-549 of the Code of Virginia. Section 13.1-549 of the Code of Virginia includes the following: “for those corporations using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, not less than two-thirds of the capital stock of the corporation shall be held by individuals who are duly licensed” as architects, professional engineers or land surveyors, respectively. Similar language exists for professional limited liability companies using the title of certified interior designers and providing the services of architects, professional engineers, or land surveyors, or any combination thereof. Unto itself, this proposed provision seems to unnecessarily restrict interior designers. But according to DPOR, interior designers did not object to this provision being added. Apparently, it was considered a compromise that would allow the addition of the provision permitting interior designers to form corporations.

The board also proposes to require that any licensed or certified employee responsible for a professional corporation or professional limited liability company notify the board in writing of any changes of his employment status within ten days of such change. This proposed change is designed to decrease the number of occurrences and length of time that firms operate without a responsible professional. This proposed change would likely create a net benefit. The public may experience less exposure to firms operating without a responsible professional, and firms that operate legally should not be negatively affected.

Additionally, the board proposes to allow the use of electronic seals when specified criteria are met. The application of a professional seal indicates that the professional has exercised complete direction and control over the work to which it is affixed. According to DPOR, the U.S. Navy and the Virginia Department of Mines, Minerals, and Energy have requested that electronic seals be permitted to be used in lieu of an original seal. The use of electronic seals would be beneficial in that more business could be conducted electronically, which would increase the speed at which business could be conducted.

Businesses and entities affected²

The proposed regulations affect the 5,627 licensed architects, 20,099 licensed professional engineers, 1,205 licensed land surveyors, 473 certified landscape architects, and 356 certified interior designers in the Commonwealth, as well as potential applicants for licensure or certification in those professions. The regulations also affect the 1,900 businesses registered in Virginia to do professional work in these areas, as well as potential new firms.

Localities particularly affected

The proposed amendments potentially affect all localities in Virginia.

Projected impact on employment

The proposed requirement that “every applicant applying for licensure or certification shall be able to speak and write English to the satisfaction of the Board,” may prevent or delay some individuals from gaining employment in fields covered by these regulations. Allowing certified interior designers to form professional corporations and professional limited liability companies may encourage the expansion or formation of firms, which could increase employment.

Effects on the use and value of private property

Allowing certified interior designers to form professional corporations and professional limited liability companies may increase the value of interior designer firms by allowing them to shield liability. Permitting the use of electronic seals may allow firms to conduct business more quickly and save on costs.

² Source for data: Department of Professional and Occupational Regulation