



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Board for Contractors
VAC Chapter Number:	18 VAC 50-22-10 et seq. and 18 VAC 50-30-10 et seq.
Regulation Title:	Board for Contractors Rules and Regulations AND Board for Contractors – Tradesman Regulations
Action Title:	Amending
Date:	05/01/03

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The intent of the proposed changes in regulations is to increase licensing fees for regulants of the Board for Contractors. The board must establish fees adequate to support the costs of the board operations and a proportionate share of the Department's operations. By the close of the current biennium, fees will not provide adequate revenue for those costs.

The Department of Professional and Occupational Regulation (DPOR) receives no general fund money but, instead, is funded almost entirely from revenue collected for license applications, renewal, examination fees, and other licensing fees. DPOR is self-supporting and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts that will provide that revenue. Fee revenue collected on behalf of the various boards funds the Department's authorized special revenue appropriation.

The Board for Contractors has no other source of revenue from which to fund its operations.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The proposed regulatory action is mandated by the following sections of the Code of Virginia. To comply with these statutes, the Board evaluates its current and projected financial position, and determines the type of fees and amounts to be established for each fee that will provide revenue sufficient to cover its expenses.

§ 54.1-113 (Callahan Act) Regulatory boards to adjust fees – Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

§ 54.1-201.4 describes each regulatory board’s power and duty to “levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department...”

§ 54.1-304.3 describes the power and duty of the Director to “collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory boards, and the Department shall be paid...”

§ 54.1-308 provides for compensation of the Director, employees, and board members to be paid out of the total funds collected. This section also requires the Director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

These Code sections require the Department to:

- pay expenses of each board and the Department from revenues collected;
- establish fees adequate to provide sufficient revenue to pay expenses;
- account for the revenues collected and expenses charged to each board; and
- revise fees as necessary to ensure that revenue is sufficient but not excessive to cover all expenses.

To comply with these requirements, the Department:

Examinations	32,523	40,154	49,417	54,346
Enforcement	2,406,476	3,406,236	4,192,010	4,610,096
Legal Services	98,359	163,566	108,997	119,868
Information Systems	733,825	864,603	1,279,426	1,407,028
Facilities/ Support Services	763,168	758,783	872,290	959,287
Agency Administration	660,709	818,107	939,146	1,032,810
Transfers/Other	14,891	22,641	150,933	165,986
Total Expenditures	6,021,111	7,584,572	9,334,233	10,265,173
Cash Balance	1,096,719	-930,483	-1,386,194	-2,417,704
Callahan Percentage	<u>18.2%</u>	<u>-12.3%</u>	<u>-14.9%</u>	<u>-23.6%</u>

NOTES:

a Prior to the 2000-02 biennium, board expenditures for Contractors included both direct board costs, and administrative staff and support costs. As a result of an agency reorganization that combined other boards with the Contractors section, administrative support costs were separated from board costs so they could be allocated to each board in the section. The Contractors Board is by far the largest board, and so receives most of the section's allocated administrative costs.

For comparison, board expenditures for 1998-00 may be compared to the total of board expenditures and board administration for future biennia.

b Most legal services costs represent services provided by the Office of the Attorney General. The OAG determines DPOR's annual cost for services. Attorney hours reported to DPOR were used as the method of allocating OAG costs to the boards until the 2000-02 biennium, when the OAG stopped reporting those hours. A new allocation methodology was implemented, which resulted in increased Contractor costs for the biennium. In 2002-04, the OAG again reported attorney hours, and DPOR returned to that methodology for allocating legal services costs.

c Information Systems projections include estimates for development of the new licensing and enforcement system over the next few years.

d Information Systems, Facilities/Support Services, and Agency Administration are allocated based on the number of licensees for each board. The number of Contractor licensees has increased from 73,000 in FY98 to almost 82,000 currently, so the board's percentage of costs based on number of licenses has increased from 30% to almost 33%. The increased percentage accounts for about 10% of the cost increases in those categories since the 1990-00 biennium.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The Department has considered the following alternatives to increasing fees for the Board for Contractors.

- Reduce services: Because the regulatory activities conducted by the Board are mandated by statute, this is not considered a viable alternative. In addition, reductions in services would result in delays in issuing licenses, creating barriers to citizens' ability to work, and would decrease the Department's effectiveness in ensuring that licensees conduct their activities in a manner adequate to protect the public health, safety and welfare.

- Obtain a Treasury loan to fund operations: The Department could request a loan from the general fund to cover the Board's deficit and supplement its ongoing operations. However, this would be a short-term solution only, and would only delay the need for fee increases. When eventually implemented, fee increases would need to be even greater to provide for repayment of the loan.

- Supplement Board activities with general funds: The Department currently receives no general fun revenue, and this alternative would require a change in the Code of Virginia and the Appropriations Act. Regulatory and advisory boards housed at the Department are intended to be self-funding per §§ 54.1-113, 54.1-201.4, 54.1-304.3 and 54.1-308 of the Code of Virginia. Use of general funds to support board operations does not appear to be an appropriate use of taxpayer dollars.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These fee increases are not anticipated to have any significant impact on Virginia's families.