



Fast Track Proposed Regulation Agency Background Document

Agency name	State Board of Elections
Virginia Administrative Code (VAC) citation	1 VAC 20-90-20
Regulation title	Campaign Finance Filing Fee
Action title	This regulation would provide for the State Board of Elections to charge a \$25 administrative fee for each non-electronic report filed with the Board.
Date this document prepared	December 2, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

Item 79(D) of the 2010-2012 budget bill (Chap. 874) contained the following language, "The State Board of Elections shall by regulation provide for an administrative fee up to \$25 for each non-electronic report filed with the Board under § 24.2-947.5. The regulation shall provide for waiver of the fee based upon indigence." Currently there is no charge for filing a non-electronic form with the State Board of Elections. This regulation is proposed to encourage people to file electronically and also to assist with the Governor's budget reduction strategies.

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.

**Campaign Finance Filing Fee
State Board of Elections**

The State Board of Elections shall by regulation provide for an administrative fee up to \$25 for each non-electronic report filed with the Board under § 24.2-947.5. The regulation shall provide for waiver of the fee based upon indigence.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Item 79(D) of the 2010-2012 budget bill (Chap. 874) contained the following language, "The State Board of Elections shall by regulation provide for an administrative fee up to \$25 for each non-electronic report filed with the Board under § 24.2-947.5. The regulation shall provide for waiver of the fee based upon indigence."

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The goal is to give effect to the language in Item 79(d) of the 2010-2012 budget bill. This item encourages the use of the State Board of Elections' electronic filing system for candidates, committees and PACs. Increased staff time is necessary to process paper-filed reports which causes distraction and delays in completing other tasks. The regulation also reflects the Governor's budget reduction strategies in this manner. The goal is to increase the use of the electronic campaign filing software to promote efficiency. The Governor's 2010 Executive Budget Document contained the following budget reduction strategy for the State Board of Elections:

"Implements an administrative fee of \$25 per report for campaign finance disclosure reports filed in paper form. Electronic filing software is made available free of charge to filers."

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: 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 (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and

(ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The General Assembly already approved the promulgation of this regulation in the budget bill using the exact verbiage proposed. Furthermore, an “opt-out” clause has been built in for those proving indigence who still wish to file on paper. Fast-track approval is requested because the proposal is noncontroversial, the continuous nature of the campaign finance filing system, and the desire to have the policy implemented quickly.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the “Detail of changes” section.)

N/A

Issues

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

- 1) Candidates, committees and PAC’s will be encouraged to file electronically, helping to eliminate human error in processing forms. Reports will be uploaded easier and earlier for public inspection.
- 2) Increased staff efficiency.
- 3) No disadvantages to the public or Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.

N/A

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

N/A

Regulatory flexibility analysis

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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

N/A

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	\$0
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	\$0
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	Political committees that file paper campaign finance reports with the State Board of Elections.
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 (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	70
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be	\$8,750.

<p>sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>\$8,750.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

The agency considered writing a definition of indigent committees into the regulation but left it to the discretion of the State Board of Elections.

Family impact

Please assess the 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.

No expected family impact.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
1-20-90	New campaign finance filing fee.	n/a	

Enter any other statement here