

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

22 VAC 40-41 Neighborhood Assistance Tax Credit Program
Department of Social Services
Town Hall Action/Stage: 4340/7194
July 28, 2015

Summary of the Proposed Amendments to Regulation

The State Board of Social Services proposes to amend its neighborhood assistance tax credit program (NAP) regulation to harmonize it with legislative changes that were passed in 2009 (Chapter 815 of the 2009 Act of the Assembly) and 2015 (Chapters 56 and 153 of the 2015 Acts of the Assembly). Specifically, the Board proposes to 1) update definitions, 2) allow physician specialists to be eligible for tax credits for donated specialty medical services, 3) remove the list of information needed on a certification form and instead cite the Code of Virginia sections where the list of necessary information can be found and 4) remove language that allowed NAP applicants to appeal adverse decisions to the Commissioner of the Department of Social Services.

Result of Analysis

Since all proposed changes to this regulation are already the law in Virginia, the benefits of harmonizing this regulation with the Code of Virginia likely exceed the costs of doing so.

Estimated Economic Impact

In 1981, the General Assembly passed legislation that authorized the Board's neighborhood assistance program (NAP) to, "...encourage businesses, trusts and individuals to make donations to approved 501(c) (3) organizations for the benefit of low-income persons. In

return for their contributions, businesses, trusts and individuals may receive tax credits equal to 65 percent of the donation that may be applied against their state income tax liability.”¹ The Board now proposes to amend its regulation for this program to account for legislative changes that occurred in 2009 and 2015.

The Board proposes to add two definitions, for “affiliate” and “poverty guidelines”, as well as substitute Code of Virginia (COV) references for finding information required on certification forms in the code for an obsolete list of required information that is currently in the regulation. These changes likely have no costs attached but will provide the benefit of clarity for readers of the regulation.

The Board also proposes to harmonize this regulation with the COV by allowing physician specialists to get NAP credits for donating specialty medical services. This change to the COV that is mirrored in this regulation may increase the hours of specialty medical services donated as the donating physicians will likely be able to deduct a large portion of the value of those services from their state taxes. No entities are likely to incur net costs on account of this change. Physicians who donate their services, the non-profits that they donate them to and the patients who will receive those services will all likely benefit from this change.

Currently, this regulation has provision for any affected non-profit that disagrees with any decision on an application for NAP credits to appeal that decision to the Commissioner of the Department of Social Services. Legislation in 2009, however, made all decisions on the disposition of such applications final and non-appealable. To eliminate confusion over the rules for all affected parties, the Board now proposes to eliminate the regulatory language that deals with appeals. Since COV language has precedence and no appeals have been allowable since 2009, no entity will be adversely affected by removing the appeal process from this regulation. Interested parties will benefit from confusing language that contradicts the prevailing rules in the COV being removed from the regulation.

¹ Description taken from the Department of Social Services’ NAP website at <http://www.dss.virginia.gov/community/nap.cgi>

Businesses and Entities Affected

These proposed changes mirror legislative changes in 2009 and 2015 which affected all individuals, businesses and trusts that donate to the non-profit organizations that participate in the NAP as well as the 257 non-profits that receive those donations.

Localities Particularly Affected

This proposed change will not particularly affect any locality in the Commonwealth.

Projected Impact on Employment

This proposed change will likely not affect employment in the Commonwealth.

Effects on the Use and Value of Private Property

Allowing medical specialists to receive credits for donating their time and medical services to qualifying non-profits may increase the number of hours spent providing donated medical care which may slightly decrease the number of hours spent providing medical services for revenue for any affected medical professional.

Real Estate Development Costs

This proposed change will likely not affect real estate development costs.

Small Businesses:**Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “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.”

Costs and Other Effects

No small businesses will incur costs on account of this regulatory change.

Alternative Method that Minimizes Adverse Impact

No small businesses will incur costs on account of this regulatory change.

Adverse Impacts:**Businesses:**

This proposed change is unlikely to adversely impact any business in the Commonwealth.

Localities:

This proposed change is unlikely to adversely impact localities.

Other Entities:

This proposed change is unlikely to adversely impact any other entities in the Commonwealth.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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