

Board of Education Agenda Item

Item: _____ A. _____

Date: Octoberber 28, 2004

Topic: First Review of Notice of Intended Regulatory Action (NOIRA) to Promulgate Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions (HB 978)

Presenter: Mrs. Anne Wescott, Assistant Superintendent for Policy and Communications

Telephone: 804/225-2403

E-mail: awescott@mail.vak12ed.edu

Origin:

Topic presented for information only (no board action required)

Board review required by

State or federal law or regulation

Board of Education regulation

Other: Board of Education By-laws

Action requested at this meeting

Action requested at future meeting: First review of the proposed regulations will be followed by the final adoption according to the requirements of the Administrative Process Act.

Previous Review/Action:

No previous board review/action

Previous review/action

date:

action:

Background Information: Chapter 917, 2004 Acts of Assembly, directs the state Board of Education to promulgate regulations providing for a process where school divisions may submit proposals for consolidation. A new regulation must be promulgated to comply with the terms of Chapter 917. HB 978 amended § 22.1-25 of the Code to add the following language:

Consistent with its authority pursuant to Article VIII, Section 5 of the Constitution of Virginia to designate school divisions in the Commonwealth of such geographic size and school-age population as will best promote the realization of the standards of quality, the Board shall promulgate regulations

consistent with the provisions of this section that provide for a process whereby school divisions may submit proposals for the consolidation of school divisions. Such regulations shall provide for, among other things, a public notice and hearing process to be conducted by the applicant school divisions.

School divisions submitting proposals for consolidation shall include such information and data as may be required by the Board, including (i) the criteria set forth in subsection C; (ii) evidence of the cost savings to be realized by such consolidation; (iii) a plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division; (iv) procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms; (v) a plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights; and (vi) evidence of local support for the proposed consolidation.

For five years following completion of such consolidation, the computation of the state and local share for an educational program meeting the standards of quality for school divisions resulting from consolidations approved pursuant to this subsection shall be the lower composite index of local ability-to-pay of the applicant school divisions, as provided in the appropriation act.

Summary of Major Elements: Title 22.1-25, *Code of Virginia*, states that the state Board of Education shall promulgate regulations that provide for a process whereby school division may submit proposals for the consolidation of such school divisions. The mandate to promulgate regulations is the result of actions taken by the 2004 General Assembly, as reflected in Chapter 917, 2004 Acts of Assembly.

The proposed regulations must include a public notice and hearing process that would be conducted by the applicant school division.

Consolidation proposals must include the following information:

- The school-age population of the division proposed for consolidation.
- The potential of the proposed school division to offer a K-12 program at the levels of the established standards of quality.
- The potential of the proposed school division to promote efficiency in operations.
- Anticipated increases or decreases in the number of school-age children in the proposed school division.
- Evidence of cost savings from consolidation.
- A plan for the transfer of title to school board property to a resulting combined school board.

- Procedures and a schedule for the consolidation.
- A plan for proportional school board representation.
- Evidence of local support for the proposed consolidation.

The proposed regulations will ensure that all consolidation proposals benefit the school-age population.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education staff to proceed with the requirements of the Administrative Process Act regarding the Notice of Intended Regulatory Action for promulgating regulations.

Impact on Resources: N/A

Timetable for Further Review/Action: The NOIRA process calls for an initial 30-day public comment time. Following the comment period, proposed regulations will be developed and presented to the Board of Education for first review.



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	VAC -
Regulation title	Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions
Action title	Submission of proposals for the consolidation of school divisions. This is new regulation resulting from the enactment of Chapter 917, 2004 Acts of Assembly.
Document preparation date	October 15, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

Chapter 917, 2004 Acts of Assembly, directs the state Board of Education to promulgate regulations providing for a process where school divisions may submit proposal for consolidation. A new regulation must be promulgated to comply with the terms of Chapter 917.

Legal basis

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

Title 22.1-25, *Code of Virginia*, states that the state Board of Education shall promulgate regulations that provide for a process whereby school division may submit proposals for the consolidation of such school

divisions. The mandate to promulgate regulations is the result of actions taken by the 2004 General Assembly, as reflected in Chapter 917, 2004 Acts of Assembly.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The proposed regulations must include a public notice and hearing process that would be conducted by the applicant school division.

Consolidation proposals must include the following information:

- The school-age population of the division proposed for consolidation.
- The potential of the proposed school division to offer a K-12 program at the levels of the established standards of quality.
- The potential of the proposed school division to promote efficiency in operations.
- Anticipated increases or decreases in the number of school-age children in the proposed school division.
- Evidence of cost savings from consolidation.
- A plan for the transfer of title to school board property to a resulting combined school board.
- Procedures and a schedule for the consolidation.
- A plan for proportional school board representation.
- Evidence of local support for the proposed consolidation.

The proposed regulations will ensure that all consolidation proposals benefit the school-age population.

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

The need to promulgate new regulations for the consolidation of school divisions is mandated in the *Code of Virginia*. Therefore, no alternative exists to the proposed regulatory action.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

This regulation would not negatively affect families. School division consolidations would only be undertaken if it could be demonstrated that such consolidations benefited the school-age population.