

Regulatory Analysis Form

This space for use by IRRC

2001WR-5 2/13/12

REGULATORY
REVIEW COMMISSION

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Funeral Directors

(2) I.D. Number (Governor's Office Use)

16A-4811

IRRC Number: # 2333

(3) Short Title

Biennial Renewal Fee

(4) PA Code Cite

49 Pa. Code § 13.12

(5) Agency Contacts & Telephone Numbers

Primary Contact: Thomas A. Blackburn, Counsel,
State Board of Funeral Directors (717) 783-7200

Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Policy Statement

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed amendment would amend the fee schedule for the State Board of Funeral Directors to revise the biennial renewal fee. The current fee has not been revised since 1992.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulatory amendments are adopted under Section 18.1 of the Funeral Director Law, act of January 14, 1952 (P.L. 1951-1898) as amended, 63 P.S. § 479.18.1.

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. If revenues generated by fees, together with civil penalties imposed and collected, are not sufficient to match expenditures of a two-year period, Section 18.1 of the Funeral Director Law requires the Board to increase its fees by regulation such that projected revenues will meet or exceed projected expenditures.

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(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Section 18.1 of the Funeral Director Law requires that the Board set fees by regulation so that revenues meet or exceed expenditures over a biennial period. The Board has recently revised its fees for services to recover the cost of providing those services. The balance of the operating expenses of the Board must be borne by the licensee population through biennial renewal revenue.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Nonregulation could potentially adversely impact the fiscal integrity of the Board. If the renewal fee is not revised, the Board may be financially unable to meet its statutory obligation of public protection.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The general public and licensees will benefit from the regulation through the assurance that the Board will remain fiscally sound and able to meet its statutory obligation of public protection.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Licensees of the Board will be adversely affected by the regulation by having to pay a higher biennial license renewal fee.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

There are approximately 6510 licensees, whether individual funeral director, funeral supervisor, or funeral home entity. Each licensee will be required to comply with the regulation.

Regulatory Analysis Form

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Because this amendment does not place requirements on licensees concerning their conduct or compliance with state law regarding the performance of a licensing duty under licensing statutes, but only adjusts the biennial renewal fee, the Board did not seek input from the regulated community.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The Board estimates that the aggregate additional costs for the regulated community will be approximately \$358,050 per biennial renewal period. The Board estimates that there will be no other costs or savings to the regulated community associated with compliance with this regulation.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no costs or savings to local governments associated with compliance with the proposed regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Board will process applications for limited licenses and biennial renewals. There are no other costs or savings to state government associated with implementation of the proposed regulation.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY+1	FY+2	FY+3	FY+4	FY+5
SAVINGS:	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						

Regulatory Analysis Form

Regulated Community		\$358,050		\$358,050		\$358,050
Local Government						
State Government						
Total Costs		\$358,050		\$358,050		\$358,050
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(20a) Explain how the cost estimates listed above were derived.

The biennial renewal fee for each license would increase \$55, from the current \$130 to the proposed \$185. There are approximately 6510 licensees.

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3 (FY 99-00)	FY-2 (FY 00-01)	FY-1 (FY 01-02)	Current FY (FY 02-03)
Pa. State Board of Funeral Dir.	\$549,986	\$450,131	\$513,693	\$550,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Because the Board is required by statute to raise its fees to match expenditures, the need to assure fiscal integrity of the Board outweighs the increased cost to the regulated community.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Because the Act requires the Board to promulgate regulations to set its fees, the Board considered no non-regulatory alternatives.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Board considered no alternative regulatory schemes, because the Funeral Director Law requires the Board to promulgate regulations to change fees.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

The proposed regulatory amendments do not overlap or conflict with any federal requirements.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Each state licensing agency charges a renewal fee. Maryland charges \$300 for biennial renewal of individual mortician, funeral director, and surviving spouse licenses, and \$400 for biennial renewal of funeral establishment licenses. New Jersey charges \$170 for biennial renewal of individual practitioner, embalmer, and funeral director licenses, and \$350 for biennial renewal of mortuary registrations. New York charges \$50 for biennial renewal of funeral director licenses and \$150 for biennial renewal of funeral firm licenses. Ohio charges \$120 for biennial renewal of embalmer or funeral director licenses and \$250 for biennial renewal of funeral home licenses. West Virginia charges \$30 for annual renewal of embalmer and funeral director licenses and \$125 for annual renewal of funeral establishment licenses.

The proposed fee is consistent with fees charged by surrounding states. The proposed regulation will not put Pennsylvania at a competitive disadvantage with these other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will have no effect on other regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the first Wednesday of each month, at 116 Pine Street in Harrisburg. More information can be found on the Board's web-site (professional licensing link from the Department of State page, dos.state.pa), or by calling the Board office at (717) 783-3397.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No change to reporting, recordkeeping or other paperwork is required by this regulation.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication in final form in the *Pennsylvania Bulletin*, for renewals beginning with the 2004-2006 biennial renewal period.

(31) Provide the schedule for continual review of the regulation.

The Board reviews its revenues and costs of its programs on a fiscal year and biennial basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

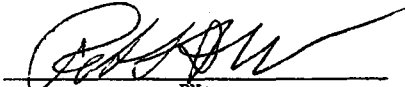
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DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
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Copy below is hereby certified to be a true and correct
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Executive or Independent
Agencies.


BY:
(DEPUTY ATTORNEY GENERAL)


State Board of Funeral Directors

(AGENCY)

BY:

2/7/03
DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-4811


DATE OF APPROVAL
1/31/03
(Deputy General Counsel
~~Chief Counsel~~
~~Independent Agency~~
~~(Strike inapplicable title)~~)

DATE OF ADOPTION:

BY: 
James O. Pinkerton, FD

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if applicable.
No Attorney General approval
or objection within 30 day
after submission.

PROPOSED RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF FUNERAL DIRECTORS

49 Pa. Code §§ 13.12
Renewal Fee

The State Board of Funeral Directors (Board) proposes to amend its regulations at 49 Pa. Code § 13.12 (relating to fees) by raising the biennial renewal fee, as set forth in Annex A.

Effective date

The amendment will be effective upon publication of the final regulation in the *Pennsylvania Bulletin*, beginning with renewal for the 2004-2006 biennial renewal period.

Statutory Authority

The amendment is authorized under section 18.1 of the Funeral Director Law (63 P.S. § 479.18.1).

Background and Need for the Amendment

The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties and to periodically review its expenditures and revenue streams to assure that revenues meet or exceed expenses. The Board was last required to increase its biennial renewal fees in 1992.

At its March 6, 2002, meeting, the Board reviewed the following summary of its revenues and expenses prepared by the Bureau of Professional and Occupational Affairs Revenue Office and the Bureau of Finance and Operations.

Financial Status	Actual FY 00-01	Projected FY 01-02	Projected FY 02-03	Projected FY 03-04	Projected FY 04-05	Projected FY 05-06	Projected FY 06-07
Beginning Balance	579,991.	127,741.	375,402.	(25,656.)	274,990.	(232,810.)	33,836.
Revenue	71,750.	841,646.	49,200.	841,646.	49,200.	841,646.	49,200.
Prior Year Returned Funds	0.	0.	74,742.	0.	0.	0.	0.
Funds Available	<u>651,741.</u>	<u>969,387.</u>	<u>499,344.</u>	<u>815,990.</u>	<u>324,190.</u>	<u>608,836.</u>	<u>83,036.</u>
Prior Year Expense	0.	87,986.	0.	0.	0.	0.	0.
Expenses	<u>524,000.</u>	<u>506,000.</u>	<u>525,000.</u>	<u>541,000.</u>	<u>557,000.</u>	<u>575,000.</u>	<u>592,000.</u>
Remaining Balance	127,741.	375,402.	(25,656.)	274,990.	(232,810.)	33,836.	(508,964.)

As the chart indicates, a deficit of almost \$26,000 is projected at fiscal year ending June 30, 2003, a deficit of over \$230,000 is projected at fiscal year ending June 30, 2005, and a deficit of over \$500,000 is projected at fiscal year ending June 30, 2007. The Board must generate revenues of about \$1,100,000 to meet its anticipated expenditures in fiscal years 2003-04 and 2004-05, in addition to recovering the anticipated deficit of June 30, 2003.

The Board raises virtually all its revenues through fees. The biennial license renewal fee is the most substantial revenue-generating fee of the fees charged by the Board. Section 18.1(a) of the Funeral Director Law (63 P.S. § 479.18.1(a)) requires the Board to increase fees by regulation if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

The Board proposes to begin recovering that deficit during the 2004-06 biennial period. The Board anticipates that the proposed new fees and the increased user fees which have recently been promulgated would enable it to recapture the current deficit, meet its estimated expenditures for the upcoming fiscal years and generate a surplus of approximately \$160,000 at the end of fiscal year 2004-05.

Description of the Proposed Amendments

Existing section 13.12 would be amended to increase the biennial renewal fee from \$130 to \$185.

Compliance with Executive Order 1996-1

In compliance with Executive Order 1996-1, “Regulatory Review and Promulgation,” in drafting and promulgating the proposed amendment, the Board considered the proposed amendment as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

Fiscal Impact and Paperwork Requirements

The proposed amendment would increase the biennial renewal fee for funeral directors and funeral establishments in this Commonwealth, but, otherwise, should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The amendments will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions, or the private sector.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Pursuant to section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of this proposed regulation on March 5, 2003, to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), and the House Professional Licensure Committee (HPLC). In addition to submitting the regulation, the Board has provided IRRC, SCP/PLC and HPLC with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has any comments, recommendations or objections regarding any portion of the proposed regulation, it will notify the Board within 30 days after the expiration of the public comment period. Such notification will specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly and the Governor, prior to publication of the regulation.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Michelle DeMerice, Administrative Officer, State Board of Funeral Directors, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-4811 (Renewal fee), when submitting comments.

James O. Pinkerton, FD
Chairperson

ANNEX A

**PENNSYLVANIA ADMINISTRATIVE CODE
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS**

§ 13.12. Fees.

Following is the schedule of fees charged by the Board:

* * *

Biennial renewal\$ [130] 185

FEE REPORT FORM

Agency: State - BPOA
Contact: David Williams
Phone No. 783-7194

Date: 10/1/2002

Fee Title, Rate and Estimated Collections:

Fee for all Funeral Licenses Subject to Biennial Renewal: \$185.00

Estimated Biennial Revenue: \$1,204,350.00 (6,510 renewals x \$185.00)

Fee Description:

The fee will be charged biennially to every applicant for license renewal.

Fee Objective:

The fee should defray a substantial portion of the State Board of Funeral Director's administrative overhead, specifically the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.

Fee-Related Activities and Costs:

Projected Deficit as of 6/30/03:	(25,655.86)
Estimated non-renewal revenue:	14,000.00
Estimated renewal revenue @ above rates:	1,204,350.00
Total revenue available:	1,192,694.14
Estimated expenditures:	541,000.00
Estimated ending balance on 6/30/04:	<u>651,694.14</u>
Estimated revenue 7/01/04-6/30/05:	64,200.00
Estimated expenditures 7/01/04-6/30/05:	557,000.00
Estimated ending balance on 6/30/05:	<u>158,894.14</u>
Estimated revenue 7/01/05-6/30/06:	1,218,341.00
Estimated expenditures 7/01/05-6/30/06:	575,000.00
Estimated ending balance on 6/30/06:	<u>802,235.14</u>

Analysis, Comment, and Recommendation:

It is recommended that a renewal fee of \$185.00 be established to cover the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF FUNERAL DIRECTORS

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-3397

March 5, 2003

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Proposed Regulation
State Board of Funeral Directors
16A-4811: Renewal Fee

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Funeral Directors pertaining to renewal fee.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,


James O. Pinkerton, FD, Chairperson
State Board of Funeral Directors

JOP/TAB/kp

Enclosure

c: Andrew Sislo, Chief Counsel
Department of State
Scott J. Messing, Deputy Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
Thomas A. Blackburn, Counsel
State Board of Funeral Directors
State Board of Funeral Directors

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-4811
 SUBJECT: State Board of Funeral Directors – Renewal Fees
 AGENCY: DEPARTMENT OF STATE # 2333

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

INDEPENDENT REGULATORY REVIEW COMMISSION
 FEBRUARY 5 2003 12

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/5/03	Lou A. Clark	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
3/5/03	May Walmer	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
3/5/03	Mimi Eckert	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
3/5/03	Mayra Casas	LEGISLATIVE REFERENCE BUREAU