

2005 JUN 26 AM 9:29

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b>
(1) Agency  <b>Department of State, Bureau of Professional and Occupational Affairs, State Board of Veterinary Medicine</b>		IRRC Number: <b>2497</b>
(2) I.D. Number (Governor's Office Use)  <b>16A-5717</b>		
(3) Short Title  <b>Biennial Renewal Fees</b>		
(4) PA Code Cite  <b>49 Pa. Code §31.41</b>	(5) Agency Contacts & Telephone Numbers  <b>Primary Contact: Teresa Lazo-Miller, Counsel State Board of Veterinary Medicine (717) 783-7200 Secondary Contact: Joyce McKeever Deputy Chief Counsel (717) 783-7200</b>	
(6) Type of Rulemaking (check one)  <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking <input type="checkbox"/> Omitted	(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  <b>The Board proposes to amends its fee schedule to increase the biennial renewal fees for veterinarians and veterinary technicians so that it may meet it's statutory mandate that it be self-sustaining. The Board proposes to increase the biennial fee for veterinarians from \$225 to \$300 and for technicians from \$60 to \$75 in order to assure that its revenues will meet its expenditures.</b>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  <b>Section 13 of the Veterinary Medicine Practice Act (63 P.S. §485.13).</b>		

Regulatory Analysis Form

(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. Sections 13(a) and (b) of the Veterinary Medicine Practice Act (63 P.S. §485.13(a) and (b)) require that Board fees be fixed by regulation and that fees be increased if not sufficient to meet expenditures.**

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

**The new fees will allow the Board to comply with the legislative mandate of its enabling statute that the Board sustain its operating and enforcement costs through fees imposed on its licensees.**

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

**If the Board does not increase its fees in accordance with its statutory mandate, the public health and safety may be adversely affected by a reduction in enforcement efforts to regulate the practice of veterinary medicine in the Commonwealth.**

(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 regulated practitioners will benefit from fee increases which assure that the Board will have sufficient revenue to carry out its operating and enforcement activities and ensure the Commonwealth will have an adequate supply of competent practitioners.**

Regulation Analysis Form

(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.)

**On a biennial basis approximately 3,325 veterinarians and 1,026 veterinarian technicians who apply for biennial renewal will pay an additional \$75.00 and \$15.00 respectively. This represents a biennial cost to the regulated community of \$249,375.00 for veterinarians and \$15,390.00 for veterinarian technicians.**

(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.)

**Approximately 3,325 veterinarians and 1,026 veterinarian technicians renew their licenses biennially.**

(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.

**The amendment was developed in consultation with the Department of State budget and fiscal offices. In drafting the regulation, the Board considered the fees as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.**

(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.

**No legal, accounting or consulting costs are anticipated as a result of the amendment. Biennial renewal fees will total \$997,500.00 for veterinarians and \$76,950.00 for veterinary technicians.**

Regulatory Analysis Form

(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.

**Local governments would not be affected by this amendment.**

(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.

**Because the Board must charge fees that reflect its actual costs in providing services to licensees and applicants, implementing the amendment will produce no identifiable costs or savings to state government.**



**Regulatory Analysis Form**

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

<b>Program</b>	<b>FY -01-02</b>	<b>FY -02-03</b>	<b>FY -03-04</b>	<b>Budgeted 04-05</b>
State Board of Veterinary Medicine	359,780.14	397,604.84	423,064.31	457,000.00

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

**By the amendment, licensees will pay for the Board's operations and enforcement costs through biennial fees. The Board's biennial revenue, by law, must meet or exceed biennial expenditures.**

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

**No non-regulatory approaches were considered as Section 13(b) of the Veterinary Medicine Practice Act (63 P.S. §485.13(b)) requires a regulatory approach.**

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

**See paragraph 22 above.**

**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.

**There are no federal standards that apply.**

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

**Veterinarians**

	<b>Application Fee</b>	<b>Biennial Renewal Fee</b>
<b>Pennsylvania</b>	<b>\$35</b>	<b>\$300 (proposed)</b>
<b>New Jersey</b>	<b>\$200</b>	<b>\$250</b>
<b>Ohio</b>	<b>\$250 to 375 (by examination), \$300 to 425 (by reciprocity)</b>	<b>\$150 to 450 (by date)</b>
<b>West Virginia</b>	<b>\$200</b>	<b>\$300</b>

**Veterinary Technicians**

	<b>Application Fee</b>	<b>Biennial Renewal Fee</b>
<b>Pennsylvania</b>	<b>\$35</b>	<b>\$75 (proposed)</b>
<b>New Jersey</b>	<b>Not licensed</b>	<b>Not licensed</b>
<b>Ohio</b>	<b>\$35 to 60</b>	<b>\$35 to 60 (by date)</b>
<b>West Virginia</b>	<b>\$60</b>	<b>\$40</b>

**The fees proposed for veterinarians are comparable to the fees in those surrounding states that are also required to have the state's governing board be self-sustaining. The fees proposed for veterinary technicians are slightly higher than the fees in surrounding states; however, many employers pay the renewal fee for their employees. The proposed fees should not cause a competitive disadvantage to Pennsylvania in attracting competent veterinarians and veterinary technicians or in providing consumers with access to veterinary care.**

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

**The regulation proposes to amend § 31.41, (relating to schedule of fees) in existing regulations. The proposal will not affect 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 provides an opportunity for public input into its activities, including its rulemaking proposals, at its regulatory scheduled monthly meetings. The dates, times and places of the Board's meetings are available at the Department of State's website, [www.dos.state.pa.us](http://www.dos.state.pa.us).**

**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.

(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 identified no group or subset of a group with particular needs which would be affected by the amendment. Therefore, no special provisions have been developed or anticipated.**

(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 amendment will be effective on publication of the final form regulation in the Pennsylvania Bulletin. The new fee will be required for the biennial renewal period commencing November 30, 2006.**

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

**As part of its annual review process, the Board will review the effectiveness of this regulation.**



# FEE REPORT FORM

Agency: State - BPOA

Date: 03/17/2004

Contact: Basil Merenda

Phone No. 783-7192

## Fee Title, Rate and Estimated Collections:

Veterinarian Biennial Renewal Fee: \$300.00

Veterinarian Technician Biennial Renewal Fee: \$75.00

### Estimated Biennial Revenue:

Veterinarian - \$1,017,000.00 (3,380 renewals x \$300.00)

Veterinarian Technician - \$78,825.00 (1,051 renewals x \$75.00)

Total Estimated Biennial Revenue: \$1,092,825.00

## 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 Veterinary Medicine'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:

Estimated balance at end of 05/06 cycle:	(35,890.59)
<b>FOR BIENNIAL CYCLE 7/01/06-6/30/07</b>	
Estimated non-renewal revenue:	25,000.00
Estimated renewal revenue @ above rates:	1,092,825.00
Total revenue available:	1,081,934.41
Estimated expenditures:	474,000.00
Estimated ending balance on 6/30/07:	<u>607,934.41</u>
<b>FOR BIENNIAL CYCLE 7/01/07-6/30/08</b>	
Estimated non-renewal revenue:	25,000.00
Estimated renewal revenue @ above rates:	50,000.00
Estimated expenditures:	488,000.00
Estimated ending balance on 6/30/08:	<u>194,934.41</u>

## Analysis, Comment, and Recommendation:

It is recommended that the above renewal fee's be established to cover projected funding shortfalls between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.

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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

RECEIVED  
NOV 10 11:23  
LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

# 2497

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General  
*[Signature]*

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies  
*[Signature]*

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

State Board of Veterinary Medicine  
(AGENCY)

DAVID J. DEVRLES

NOV 10 2005

DOCUMENT/FISCAL NOTE NO. 16A-5717

6.7.05

DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

DATE OF APPROVAL

BY: Brian V. Harpster VMD  
Brian V. Harpster, V.M.D.

EXECUTIVE  
(Deputy General Counsel  
(Chief Counsel  
Independent Agency  
Strike Inapplicable  
Title)

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 VETERINARY MEDICINE  
49 PA. CODE, CHAPTER 31  
BIENNIAL RENEWAL FEES

The State Board of Veterinary Medicine (Board) proposes to amend § 31.41 (relating to schedule of fees) to read as set forth in Annex A. The proposed regulation would increase the biennial license renewal fee for veterinarians from \$225 to \$300, and would increase the biennial license renewal fee for certified veterinary technicians from \$60 to \$75.

### **Effective Date**

The amendment will be effective upon final publication in the Pennsylvania Bulletin. The new fees will take effect for the biennial period commencing December 1, 2006.

### **Statutory Authority**

Section 13(a) of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.13(a)) requires the Board to fix the fees for renewal of licenses and certificates by regulation. Section 13(b) of the act (63 P.S. § 485.13(b)) requires the Board to increase fees when revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

### **Background and Need for Amendment**

The Board's current biennial license renewal fees were established by regulation and took effect for the December 1, 2000, biennial renewal period. The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. The Veterinary Medicine Practice Act mandates that the Board protect the public by adopting rules and regulations that govern the practice of veterinary medicine and administer and enforce the laws, rules and regulations that relate to the practice of veterinary medicine.

The Board raises virtually all its revenue through fees and the biennial license renewal fee is the most substantial revenue-generating fee of the fees charged by the Board. If the Board anticipates that its revenue will not meet its expenditures, the Board must increase its revenue.

At its March 17, 2005, Board meeting, the Offices of Revenue and Budget for the Department of State presented a summary of the Board's actual revenues and expenses for fiscal years (FY) 1999 – 2000 to FY 2002 – 2003 and projected revenues and expenses for FY 2005 – 2006 through FY 2010 - 2011.

At the close of FY 2003 - 2004, the Board's expenses exceeded its revenues by \$36,890.59. The Budget Office estimates that deficits will continue to grow, with an anticipated 2007 - 2008

deficit of \$79,890.59 and a FY 2009 – 2010, projected deficit of \$182,890.59. The Budget Office anticipates that the proposed new fees will enable the Board to recapture the current deficit and meet its estimated expenditures through at least FY 2010 - 2011.

The Board, as with other licensing boards and commissions within the Bureau of Professional and Occupational Affairs, budgets on the basis of the following categories: Administrative Costs, broken into Board Administration (bureau-wide operating expenses such as printed forms, office supplies, interagency billings), Commissioner's Office (staff expenses) and Departmental Services (centralized support services such as the executive office, public information office, and legislative affairs office); Legal Costs, broken into Legal Office (staff expenses), Hearing Expenses (staff of hearing examiner's office and stenographer services) and Legislative and Regulatory Analysis (staff expenses); Enforcement and Investigation Costs, broken into Non-Travel (staff expenses) and Travel expenses; Professional Health Monitoring Program Expenses (staff expenses); and Board Member Expenses (travel to meetings, accommodations when necessary).

The increases in the Board's biennial expenses occurred due to increases in costs of both Board services and Departmental expenses. The increases experienced by the Board itself are primarily in cost centers allocated to law enforcement costs and legal office costs. These increased expenditures are directly related to increases in the number of complaints filed, number of cases prosecuted and discipline imposed, the complexity of the cases, number of regulations promulgated and, finally, number of appeals taken to Commonwealth Court.

The increased expenses in the areas of law enforcement and legal office expenses have been the most significant, as indicated by the following.

#### Law Enforcement Expenses

<u>Budgeted</u>	<u>Expended</u>
FY99-00 \$99,500	\$68,941
FY00-01 \$91,000	\$99,403
FY01-02 \$96,000	\$148,372
FY02-03 \$105,000	\$175,556
FY03-04 \$170,000	\$209,209.86 (projected)

#### Legal Office Expenses

<u>Budgeted</u>	<u>Expended</u>
FY99-00, \$85,500	\$62,743
FY00-01 \$72,450	\$101,404
FY01-02 \$95,000	\$99,995
FY02-03 \$98,000	\$114,844

FY03-04 \$135,000

\$129,151 (projected)

An increased number of complaints have been filed with the Board. In the 4 years leading up to the last biennial renewal fee increase, the Board averaged 99.25 complaints filed per year. From 2000 through 2003, an average of 125.75 complaints were filed each year. Each complaint filed produces costs in law enforcement and in the complaints and prosecution divisions of the legal office. Of particular note are the expenses incurred in expert review of files involving practice issues. For those cases in which formal charges are filed, additional legal expenses are incurred through the legal counsel division and hearing examiner's office. In the 4-year period from 1996-1999, an average of 5.5 disciplinary sanctions were imposed each year, with an average of one serious sanction imposed each year. In the 4-year period from 2000-2003, an average of 17.5 disciplinary sanctions were imposed each year, with an average of four serious sanctions imposed. The increase in the number of serious sanctions imposed indicates an increase in the complexity of cases before the Board, as serious sanctions are likely to be imposed only in cases involving veterinary malpractice. Serious sanctions include active suspension or revocation.

Additionally, the Board incurred unprecedented legal expenses in defending Board actions in disciplinary matters on appellate review. Only one appeal was filed in 2002 and none were filed in 2003. By comparison, four appeals were filed in 2004, and two appeals have been filed thus far in 2005.

The Board's regulatory agenda has also generated additional costs in the legal counsel division and regulatory review division. One rulemaking became final in each year from 2001 to 2003. In 2004, two rulemakings became final. The Board currently has drafts of four rulemaking packages, which will likely be proposed in 2005.

Departmental expenses allocated in part to the Board included a one-time additional charge of \$60,000 associated with its testing administration contract. In addition, during the 2003-2004 fiscal year, additional costs were incurred as a result of one-time charges to the Department for personnel costs. This one time charge was split equitably within the Professional Licensure Augmentation Account and other related restricted accounts administered by the Bureau of Professional and Occupational Affairs (BPOA).

#### **Description of Proposed Amendments**

Based upon the above expense and revenue estimates provided to the Board, the Board proposes to amend its fee schedule at § 31.41 to increase the fee for biennial renewal of licenses for veterinarians from \$225 to \$300 and increase the fee for veterinary technicians from \$60 to \$75. By this increase, the Board will recoup its deficit and offset the projected deficits.

### **Compliance with Executive Order 1996-1**

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation the Board considered the regulations 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**

The proposed amendments will increase the biennial renewal fee for veterinarians and veterinary technicians. A veterinarian will pay an additional \$75 for biennial renewal. A veterinary technician will pay an additional \$15 for biennial renewal. The proposed regulation should have no other fiscal impact on the private sector, the general public or political subdivisions.

### **Paperwork Requirements**

The proposed regulation will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed regulations should not create additional paperwork for the private sector.

### **Sunset Date**

The act requires that the Board monitors its revenue and cost on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

### **Regulatory Review**

Under Section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), the Board submitted a copy of this proposed regulation on January 26, 2006, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee (HPLC) and Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment. In addition to submitting the proposed regulation, the Board has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board. 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 comments, recommendations or objections regarding any portion of the proposed rulemaking, it will notify the Board within 30 days after the close of the public comment period. The notification shall 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 regulations.

### **Public Comment**

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Robert Kline, Administrator, State Board of Veterinary Medicine, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.



Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

FEES

§31.41. Schedule of fees.

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

*Veterinarians:*

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Biennial renewal.....\$[225]300

\*\*\*

*Veterinary technicians:*

\*\*\*

Biennial renewal.....\$[60]75

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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF VETERINARY MEDICINE

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7134

January 26, 2006

The Honorable John R. McGinley, Jr., Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

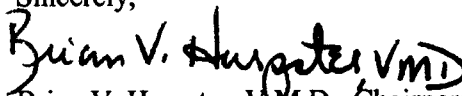
Re: Proposed Regulation  
State Board of Veterinary Medicine  
16A-5717: Biennial Renewal Fees

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Veterinary Medicine pertaining to biennial renewal fees.

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

Sincerely,

  
Brian V. Harpster, V.M.D., Chairperson  
State Board of Veterinary Medicine

BVH/TLM:apm

Enclosure

c: Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
Albert Masland, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Herbert Abramson, Senior Counsel in Charge  
Department of State  
Teresa Lazo-Miller, Counsel  
State Board of Veterinary Medicine  
State Board of Veterinary Medicine

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

2005 JUN 26 10 51 29

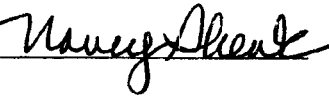
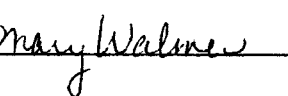
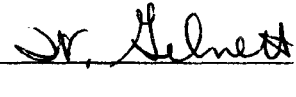

REGULATORY  
REVIEW COMMISSION

I.D. NUMBER: 16A-5717  
SUBJECT: State Board of Veterinary Medicine: Biennial Renewal Fees  
AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- X 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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
1/26/06		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
1/26/06		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
1/26/06		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
1/26/06		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

November 14, 2005