

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

INDEPENDENT REGULATORY
REVIEW COMMISSION

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(1) Agency:

Department of State, Bureau of Professional and Occupational Affairs, State Board of Accountancy

(2) Agency Number: **16A**

Identification Number: **5512**

IRRC Number:

2759

(3) Short Title: **Biennial Renewal Fees**

(4) PA Code Cite: **49 Pa. Code §11.4**

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: **Steven Wennberg, Board Counsel, One Penn Center, 2601 North Third Street, Third Floor, Harrisburg, PA 17110; Tele: (717) 783-7200; Fax: (717) 787-0251; E-mail: swennberg@state.pa.us**

Secondary Contact: **Joyce McKeever, Deputy Chief Counsel, One Penn Center, 2601 North Third Street, Third Floor, Harrisburg, PA 17110; Tele: (717) 783-7200; Fax: (717) 787-0251; E-mail: jmckeever@state.pa.us**

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The regulation raises the biennial license renewal fee for certified public accountants, public accountants and public accounting firms from \$45 to \$100 and raises the biennial approval renewal fee for continuing education program sponsors from \$120 to \$150, effective with the biennial renewal period beginning January 1, 2010. The regulation also makes an editorial change to the description of the fees.

(9) Include a schedule for review of the regulation including:

- | | |
|---|------------------|
| A. The date by which the agency must receive public comments: | N/A |
| B. The date or dates on which public meetings or hearings will be held: | N/A |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | November 1, 2009 |
| D. The expected effective date of the final-form regulation: | January 1, 2010 |
| E. The date by which compliance with the final-form regulation will be required: | January 1, 2010 |
| F. The date by which required permits, licenses or other approvals must be obtained: | N/A |

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

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

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Section 6 of the CPA Law, Act of May 26, 1947, P.L. 318, as re-enacted and amended, 63 P.S. §9.6.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Section 6 of the CPA Law mandates that the Board establish its fees by regulation and that such fees generate sufficient revenues for the Board's operations.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Section 6 of the CPA Law requires the Board to generate adequate revenues through fees to meet its expenses over a biennial period. Biennial renewal fees currently account for approximately 84% of the Board's biennial revenues from fees. Biennial renewal revenues defray general operating expenses and overhead that cannot be apportioned to individual credential-holders in the regulated community. The current biennial renewal fees are inadequate to meet the Board's revenue requirements. According to the Department of State's Bureau of Finance and Operations (BFO), the Board will incur large deficits over the next several fiscal bienniums -- resulting in a cumulative deficit of approximately \$1,635,063 by the end of FY11-12 -- unless the new biennial renewal fees are adopted. The new biennial renewal fees established by the regulation should allow the Board to enjoy positive biennial revenue balances through FY15-16.

The regulation benefits the Board's regulated community and the public at large by ensuring that the Board has adequate revenues to discharge its duties under the CPA Law.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

The Board cannot identify any group that will be adversely affected by the regulation.

(16) 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.

Certified public accountants, public accountants, public accounting firms, and continuing education program sponsors will be required to pay the new biennial renewal fees. The Board estimates that approximately 21,581 certified public accountants, 264 public accountants, and 1,283 public accounting firms will renew their licenses for the biennial renewal period that begins January 1, 2010. The Board estimates that approximately 746 continuing education program sponsors will renew their approval for the biennial renewal period that begins January 1, 2010.

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

The Board estimates that approximately 23,874 persons and entities will pay the new biennial renewal fees established by the regulation. The Board estimates that the total additional cost to the regulated community during each biennial renewal period will be approximately \$1,294,420. This cost estimate is based on the estimated number of persons and entities renewing a credential during each biennial renewal period multiplied by the additional cost imposed by the regulation:

<u>Category</u>	<u>Number of Renewing Credential-holders</u>		<u>Additional Cost</u>		
a) Certified Public Accountant	21,581	x	\$55	=	\$1,186,955
b) Public Accountant	264	x	\$55	=	\$14,520
c) Public Accounting Firm	1,283	x	\$55	=	\$70,565
d) Continuing Education Program Sponsor	746	x	\$30	=	\$22,380
				Total:	\$1,294,420

The regulation will not impose new legal, accounting or consulting procedures.

(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. Explain how the dollar estimates were derived.

The regulation will not result in costs or savings to local government.

(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. Explain how the dollar estimates were derived.

The regulation will not result in costs or savings to state government. However, the Board estimates that the regulation will generate approximately \$1,294,420 in additional revenues during each biennial renewal period.

Regulatory Analysis Form

(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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	None	None	None	None	None	None
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	1,294,420	None	1,294,420	None	1,294,420	None
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	None	None	None	None	None	None
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

Program	FY -3	FY -2	FY -1	Current FY
Accountancy Bd.	\$927,487	\$1,062,108	\$1,129,000 (est.)	\$1,163,000 (est.)

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The regulation ensures that the Board fulfills its statutory mandate to raise sufficient revenues in each biennial period to offset its expenses for that period.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

Because the regulation relates to the revenues needed by the Board to carry out its statutory duties, the Board relied on the fiscal analysis of the BFO in drafting in the regulation and did not solicit pre-drafting input from the public or any advisory council or group. However, the Board invited the major professional organizations that represent the regulated community to submit comments following publication of the notice of proposed rulemaking.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

In January 2007, based on financial information provided that month by the BFO, the Board authorized rulemaking that would raise the biennial renewal fee for certified public accountants, public accountants and public accounting firms from \$45 to \$90 and the biennial renewal fee for continuing education program sponsors from \$120 to \$150, effective with the start of the 2008-2009 biennial renewal period on January 1, 2008. The Board projected that the proposed fee increases would enable it to maintain positive revenue balances through FY 13-14. In October 2007, the Board withdrew its proposal after determining that it was not possible to complete proposed and final rulemaking prior to January 1, 2008, and that it would not be in the best interests of the regulated community to extend the 2006-2007 biennial renewal period pending the adoption of new biennial renewal fees. The Board determined that its biennial revenues would still be sufficient if it deferred adopting new biennial renewal fees until the start of the 2010-2011 biennial renewal period on January 1, 2010.

(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 regulations.

There are no federal standards applicable to the fees charged by the Board.

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(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The new biennial renewal fees are within the range of renewal fees that regulatory boards of neighboring states charge to certified public accountants, public accountants, public accounting firms, and continuing education program sponsors. A list of the renewal fees charged by the regulatory boards of neighboring states is attached as Exhibit 1.

The regulation will not have any adverse impact on Pennsylvania's competitiveness with other states.

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

The regulation will not affect other existing or proposed regulations of the Board or of any other state agency.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulation will require the Board to revise its biennial renewal forms to reflect the new biennial renewal fees. The regulation will not change existing reporting, recordkeeping or other paperwork requirements.

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(28) 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 regulation will apply uniformly to all persons and entities that biennially renew their credentials. The Board does not have authority to waive payment of a biennial renewal fee.

FEES CHARGED BY REGULATORY BOARDS OF NEIGHBORING STATES FOR RENEWAL OF LICENSE OR APPROVAL OF CERTIFIED PUBLIC ACCOUNTANT, PUBLIC ACCOUNTANT, PUBLIC ACCOUNTING FIRM, AND CONTINUING EDUCATION PROGRAM SPONSOR

(AS OF 8/25/08)

DELAWARE

Certified Public Accountant (2-year renewal term):	\$108
Public Accountant (2-year renewal term);	\$103
Public Accounting Firm (2-year renewal term):	\$114 (PA firm), \$134 (CPA firm)
Continuing Education Program Sponsor:	None

MARYLAND:

Certified Public Accountant (2-year renewal term):	\$40
Public Accountant (2-year renewal term):	\$40
Public Accounting Firm (2-year renewal term):	\$50
Continuing Education Program Sponsor:	None

NEW JERSEY:

Certified Public Accountant (3-year renewal term):	\$90
Public Accountant (3-year renewal term):	\$90
Public Accounting Firm (3-year renewal term):	\$90
Continuing Education Program Sponsor (3-year renewal term):	\$100

NEW YORK:

Certified Public Accountant (3-year renewal terms):	\$245
Public Accountant (3-year renewal term):	\$245
Public Accounting Firm (3-year renewal term):	\$50 (partnership), \$105 (professional corporation)
Continuing Education Program Sponsor (3-year renewal term):	\$250-\$2,000 (depending on number of courses offered)

OHIO:

Certified Public Accountant (3-year renewal term):	\$150
Public Accountant (3-year renewal term):	\$150
Public Accounting Firm (3-year renewal term):	\$30
Continuing Education Program Sponsor:	None

WEST VIRGINIA:

Certified Public Accountant (1-year renewal term):	\$65 or \$130 (depending on services offered)
Public Accountants (1-year renewal term):	\$65 or \$130 (depending on services offered)
Public Accounting Firm (1-year renewal term):	\$65 or \$130 (depending on services offered)
Continuing Education Program Sponsor:	None

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

(Pursuant to Commonwealth Documents Law)

Copy below is hereby approved as to form and legality. Attorney General

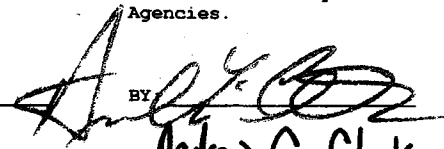
Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

State Board of Accountancy

(AGENCY)

BY: _____
(DEPUTY ATTORNEY GENERAL)

BY: 
Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 16A-5512

SEP 2 2009

DATE OF ADOPTION: _____

DATE OF APPROVAL

DATE OF APPROVAL

BY: 
Samuel J. Stephenson, CPA

(Deputy General Counsel
(Chief Counsel,
Independent Agency
(Strike inapplicable
title))

Chairman

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

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

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF ACCOUNTANCY
(49 PA. CODE, CHAPTER 11)

Biennial Renewal Fees

PREAMBLE

The State Board of Accountancy (Board) amends § 11.4 (relating to fees) to read as set forth in Annex A.

Description of Rulemaking

Effective with the biennial renewal period that begins January 1, 2010, the final-form rulemaking raises the biennial renewal fee for certified public accountants, public accountants and public accounting firms from \$45 to \$100 and the biennial renewal fee for continuing education program sponsors from \$120 to \$150. The final-form rulemaking also makes an editorial change by deleting a now-unnecessary reference to the date that the current biennial renewal fee for program sponsors took effect.

Background and Need for Rulemaking

Section 6 of the CPA Law (63 P.S. § 9.6) provides that the Board's biennial revenues from fees, fines and civil penalties shall meet or exceed the Board's biennial expenditures. Because fines and civil penalties have historically accounted for a small percentage of the Board's total revenues, the Board must generate most of its revenues from fees.

The Board's principal sources of fee revenues are the fees charged to certified public accountants, public accountants and public accounting firms for biennial renewal of their licenses and to continuing education program sponsors for biennial renewal of their approvals. The Board's biennial renewal fees currently account for approximately 84% of the Board's fee revenues during each biennial renewal period.

The biennial renewal fee for the approximately 23,128 active certified public accountants, public accountants and public accounting firms was last raised in June 1990, going from \$30 to \$45. The biennial renewal fee for the approximately 746 active continuing education program sponsors was established in January 2001 and was first assessed for the biennial renewal period that began January 1, 2004.

According to an analysis prepared by the Department of State's Bureau of Finance and Operations (BFO), the Board's current biennial renewal fee structure is inadequate to meet the Board's revenue needs. Based on projections on made by BFO in January 2008, unless the biennial renewal fees are increased, the Board will face a growing, cumulative deficit that will measure \$579,063 as June 30, 2010, \$1,577,063 as of June 30, 2011, and \$1,635,063 as of June 30, 2012.

Using fiscal information provided by BFO, the Board determined in 2008 that it would need to increase its biennial renewal fee for certified public accountants, public accountants and public accounting firms by approximately 125% in order to have sufficient biennial revenues to offset its biennial expenditures over the next nine years. The Board opted to raise the biennial renewal fee by 122% – from \$45 to \$100 – effective with the biennial renewal period that begins January 1, 2010. The revenues from the higher biennial renewal fee should defer the need for a further fee increase until the biennial renewal period that begins January 1, 2018.

The Board also opted to raise the biennial renewal fee for continuing education program sponsors by 25% – from \$120 to \$150 – effective with the biennial renewal period that begins January 1, 2010. When establishing program sponsor fees in 2001 as part of a restructuring of its regulatory scheme for approving program sponsors, the Board estimated that there would be approximately 1,150 active Board-approved program sponsors as of the start of the first biennial renewal period on January 1, 2004. The Board's estimate proved too optimistic; at present there are 35% fewer active Board-approved program sponsors than originally estimated. The 25% increase in the biennial renewal fee for program sponsors will recapture a portion of the revenues that had been projected when the fee was initially established.

According to BFO, the higher biennial renewal fees will raise biennial renewal revenues from the current \$1,130,280 to \$2,424,700. BFO estimates that these additional biennial revenues will enable the Board to maintain positive biennial revenue balances through the end of FY15-16, when the revenue balance is projected to be \$512,937.

Summary of Comments and Responses to Proposed Rulemaking

The Board published a notice of proposed rulemaking at 39 Pa. B. 2208 (May 2, 2009), with a 30-day public comment period. The Board received comments from the Pennsylvania Institute of Certified Public Accountants (PICPA).

The Board received comments from the House Professional Licensure Committee (House Committee) and the Independent Regulatory Review Commission (IRRC) as part of their review of the proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1 – 745.15). IRRC's comments asked the Board to consider the comments from the House Committee and the PICPA but did not identify any additional issues for the Board to consider. The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (Senate Committee) as part of its review of the proposed rulemaking under the Regulatory Review Act.

Noting the large percentage increases in the biennial renewal fees being promulgated by the Board, the House Committee asked the Board to explain why more than 18 years have elapsed since the Board last sought a biennial renewal fee increase for individual practitioners and firms.

Under Section 6 of the CPA Law (63 P.S. § 9.6), the Board is required to increase fees if its expenses exceed its revenues on a biennial basis. Over the past 18 years, the Board's expenses have not exceeded its revenues over each fiscal biennium. During this period, the Board did not consider it necessary to increase biennial renewal fees solely for the purpose of creating a larger revenue cushion. In January 2007, BFO advised the Board that its biennial expenses would soon exceed its biennial revenues and recommended that the Board increase its biennial renewal fees effective with the biennial renewal period beginning January 1, 2008. The Board attempted to promulgate the renewal fee increases for that renewal period but later discontinued the effort after it became apparent that proposed and final rulemaking could not be completed before January 1, 2008.

It is the Board's understanding that the Commissioner of the Bureau of Professional and Occupational Affairs (BPOA) and BFO are committed to a new fiscal approach, endorsed by the House Committee, of encouraging BPOA licensing boards to avoid potential biennial revenue deficits by adopting smaller biennial renewal fee increases at more frequent intervals rather than adopting larger biennial renewal fee increases at less frequent intervals. The Board anticipates that, as part of this approach, BFO will begin providing it with fiscal options that include a graduated schedule of biennial renewal fee increases.

The House Committee asked the Board to explain why it did not propose increases in other fee categories instead of relying solely on large increases in its biennial renewal fees. In addition to biennial renewal fees, the Board's schedule of fees in § 11.4 includes fees for initial certification and licensure of a certified public accountant (\$65); initial licensure of a public accounting firm (\$45); initial approval of a continuing education program sponsor (\$145); issuance of a temporary practice permit (\$25); reinstatement of an inactive or expired license (\$35); certification of examination scores (\$25); and verification of certification, registration or licensure status (\$15). All of these nonbiennial renewal fees were either revised or initially established in December 2000 and January 2001.

Nonbiennial renewal fees serve a different fiscal purpose than biennial renewal fees. Nonbiennial renewal fees are intended to cover the actual cost of providing particular services (i.e., average number of minutes to perform service multiplied by pay rate of staff member performing service) plus a small share of administrative overhead. In contrast, biennial renewal fees are intended to defray, in addition to the minimal actual cost of processing biennial renewal applications, those general operating expenses of the Board that are not susceptible of being apportioned to individual users. BFO has not advised the Board that any of its nonbiennial renewal fees is currently inadequate to defray the

cost of the service provided.

The PICPA asked the Board to provide more detail about the nature of the expenditures that justify the imposition of substantially higher biennial renewal fees and to identify the programs and Board functions to which the additional fee revenues will be applied. The PICPA also commented that the Board should have realized significant cost savings as a result of its recent transition to electronic biennial renewals and electronic newsletters. The House Committee asked the Board to provide information about the Board's "major cost centers" where significant increases in expenditures have occurred.

The biennial renewal fees defray the Board's generalized costs, which comprise the following categories: Board Administration (i.e., timesheet-based staff expenses relating to the Board's administrative staff and direct Board expenses such as printing and mailing costs); BPOA Commissioner's Office (i.e., timesheet-based staff expenses relating to staff in the Commissioner's Office and Revenue Office); Departmental Services (i.e., timesheet-based charges for support of offices within the Department of State, including Offices of the Secretary of the Commonwealth and the Deputy Secretaries, Office of Policy, Office of Chief Counsel, Office of Legislative Affairs, Office of Communications and Press, Office of Human Resources, Bureau of Management Information Services, and BFO); Legal Office (i.e., timesheet-based staff expenses relating to Board counsel, Board prosecutors and legal support staff); Hearing Expense (i.e., timesheet-based staff expenses relating to hearing examiners and support staff and direct charges for court reporting services); Legislative and Regulatory Analysis (i.e., timesheet-based staff expenses relating to legal review of policy and regulatory matters); Enforcement and Investigation (i.e., timesheet-based staff expenses for investigative, paralegal and support staff in the Bureau of Enforcement and Investigation and the Professional Compliance Office); and Board Member Expenses (i.e., Board member per diem, travel expenses, conference fees and membership dues in national professional organizations). During the 1987-1989 fiscal biennium, the Board's generalized costs totaled \$689,871; during the 2005-2007 fiscal biennium, the Board's generalized costs had risen to \$1,712,367.

The cost centers for Board Administration, Enforcement and Investigation, and Legal Office account for over 80% of the Board's generalized costs. During the 1987-1989 fiscal biennium, which presaged the last increase in the biennial renewal fee for individual practitioners and firms, the Board's costs related to Board Administration, Enforcement and Investigation, and Legal Office were \$219,822, \$56,540 and \$100,149, respectively, during the 2005-2007 fiscal biennium, those costs were \$518,226, \$474,170, and \$439,342, respectively.

The greatly expanded scope of the Board's operations over the past two decades is reflected in areas such as the numbers of complaints processed and disciplinary sanctions imposed. During the

1987-1989 fiscal biennium, 145 complaint files were opened and 28 disciplinary sanctions were imposed. During the 2005-2007 fiscal biennium, 509 complaint files were opened and 141 disciplinary sanctions were imposed. Over an eight-year period ending June 30, 2008, a total of 2,719 complaint files were opened, 2,823 complaint files were closed, and 1,278 disciplinary sanctions were imposed.

The Board's recent transition to electronic biennial renewals and electronic newsletters is more of a benefit to licensees than a significant cost savings to the Board. The cost savings realized from no longer having to manually process most biennial renewal applications is offset in part by the charges the Department of State pays to credit card companies that allow biennial renewal fees to be paid online. As for the electronic newsletter, the annual savings in printing and mailing costs over a paper newsletter is expected to be approximately \$13,100, which currently represents only slightly more than 1% of the Board's annual expenditures.

The House Committee asked the Board to explain how it expects to maintain its projected revenue stream from the higher biennial renewal fees over the next several biennial renewal periods given the declining population of active public accountants.

The number of active public accountants has declined since 1985, when the Board's authority to credential new public accountants under the CPA Law was eliminated. The current number of active public accountants is approximately 264. As reflected in the chart below, owing to their small population, public accountants are expected to contribute only \$14,520, or 1.12%, of the \$1,294,420 in additional revenues that will be realized biennially from the higher biennial renewal fees. Any lost fee revenues caused by the retirement of the remaining active public accountants in the coming biennial renewal periods will be offset by expected modest net increases in the ranks of active certified public accountants and public accounting firms.

Fiscal Impact

The final-form rulemaking will generate approximately \$1,294,420 in additional biennial renewal revenues, broken down as follows:

<i>Regulated Class</i>	<i>Number of Renewing Credential-holders</i>		<i>Fee Increase</i>	<i>Additional Revenues</i>
Certified Public Accountant	21,581	x	\$55	\$1,186,955
Public Accountant	264	x	\$55	\$14,520

Public Accounting Firm	1,283	x	\$55	\$70,565
Continuing Education Program Sponsor	746	x	\$30	\$22,380

Paperwork Requirements

The final-form rulemaking will require the Board to change its biennial renewal forms to reflect the new fees. The final-form rulemaking will not create additional paperwork for the regulated community.

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The new biennial renewal fees will apply to those that renew their licenses or approvals for the biennial renewal period that begins January 1, 2010.

Statutory Authority

Section 6 of the CPA Law (63 P.S. § 9.6) requires the Board to establish fees by regulation and to ensure that revenues derived from fees, fines and civil penalties are adequate to cover the Board's expenditures over a biennial period.

The Board considers the final-form rulemaking to be both required by law and the least restrictive means of covering the cost of activities that the Board is required to perform.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 2208, to IRRC and the chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Board provided IRRC and the House and Senate Committees with copies of comments received during the public comment period. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the House and Senate Committees, and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), the final-form

rulemaking was approved by the House Committee on _____, 2009, and deemed approved by the Senate Committee on _____, 2009. Under Section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on _____, 2009, and approved the final-form rulemaking.

Additional Information

Persons who desire additional information about the final-form rulemaking may submit inquiries to Sara L. Fox, Administrator, State Board of Accountancy, P.O. Box 2649, Harrisburg, PA 17105-2649. The Board's telephone number is (717) 783-1404 and its e-mail address is ST-ACCOUNTANCY@state.pa.us.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L.769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the CPA Law.

Order

The Board, acting under authority of the CPA Law, orders that:

- (a) The regulations of the Board, 49 Pa. Code, Chapter 11, are amended by amending § 11.4 to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 11. STATE BOARD OF ACCOUNTANCY

* * * * *

GENERAL PROVISIONS

* * * * *

§ 11.4. Fees.

Following is the schedule of fees charged by the Board:

* * * * *

Biennial renewal of license of certified public accountant, public accountant

or public accounting firm[~~\$45~~] \$100

* * * * *

Biennial renewal of approval of program sponsor [beginning January 1, 2004].....[~~\$120~~] \$150

**LIST OF NAMES AND ADDRESSES OF PUBLIC
COMMENTATORS FOR REGULATION 16A-5512**
(1 Pa. Code §307.2(c)(6))

- (1) Eric P. Wallace, CPA, President
Albert E. Trexler, CEO and Executive Director
Pennsylvania Institute of Certified Public Accountants
1650 Arch Street, 17th Floor
Philadelphia, PA 19103

STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

Biennial Renewal Fees

The State Board of Accountancy (Board) proposes to amend § 11.4 (relating to fees) to read as set forth in Annex A.

Description of Proposed Rulemaking

Section 11.4 sets forth a schedule of fees charged by the Board. The proposed rulemaking would raise the biennial renewal fee for certified public accountants, public accountants and public accounting firms from \$45 to \$100 and the biennial renewal fee for continuing education program sponsors from \$120 to \$150. The proposed rulemaking also would make an editorial change by deleting a now-unnecessary reference to the date that the current biennial renewal fee for program sponsors took effect.

Background and Need for Proposed Rulemaking

Section 6 of the CPA Law (63 P. S. § 9.6) provides that the Board's biennial revenues from fees, fines and civil penalties shall meet or exceed the Board's biennial expenditures. Because fines and civil penalties have historically accounted for a small percentage of the Board's total revenues, the Board must generate most of its revenues from fees.

The Board's principal sources of fee revenues are the fees charged to certified public accountants, public accountants and public accounting firms for biennial renewal of their licenses and to continuing education program sponsors for biennial renewal of their approvals. The Board's biennial renewal fees currently account for approximately 84% of the Board's fee revenues during each biennial renewal period. The biennial renewal fees defray general operating expenses and overhead—primarily in the areas of investigation, prosecution and enforcement—that are not susceptible of being apportioned to individual credential-holders in the regulated community.

The biennial renewal fee for certified public accountants, public accountants and public accounting firms was last raised in June 1990, going from \$30 to \$45, and currently applies to 23,128 active licensees. The biennial renewal fee for continuing education program sponsors was established in January 2001 and was first assessed on renewing program sponsors for the biennial renewal period that began January 1, 2004. It currently applies to 746 active program sponsors.

According to an analysis prepared by the Department of State's Bureau of Finance and Operations (BFO), the Board's current biennial renewal fee structure is inadequate to meet the Board's revenue needs. Unless the biennial renewal fees are increased, the Board faces large deficits in the coming years, as reflected in the following projections made by the BFO:

<i>Financial Status</i>	<i>FY07-08</i>	<i>FY08-09</i>	<i>FY09-10</i>	<i>FY10-11</i>	<i>FY11-12</i>
Beginning Balance:	(\$61,682.47)	\$312,936.92	(\$616,063.08)	(\$579,063.08)	(\$1,577,063.08)
Revenue:	\$1,200,000.00	\$200,000.00	\$1,200,000.00	\$200,000.00	\$1,200,000.00
Prior Yr. Returned Funds:	\$329,014.63	0	0	0	0
Total Revenue:	\$1,467,331.96	\$512,936.92	\$583,936.92	(\$379,063.08)	(\$377,063.08)
Adjust. For Prior Year Expenses:	\$58,395.04	0	0	0	0
Expenses:	\$1,096,000.00	\$1,129,000.00	\$1,163,000.00	\$1,198,000.00	\$1,258,000.00
Remaining Balance:	\$312,936.92	(\$616,063.08)	(\$579,063.08)	(\$1,577,063.08)	(\$1,635,063.08)

Based on fiscal information provided by the BFO, the Board determined that it would need to increase its biennial renewal fee for certified public accountants, public accountants and public accounting firms by approximately 125% in order to have sufficient biennial revenues to offset its biennial expenditures over the next nine years. Accordingly, the Board has opted to raise the biennial renewal fee from \$45 to \$100—a 122% increase—effective with the biennial renewal period that begins January 1, 2010. The revenues from the higher biennial renewal fee should defer the need for a further fee increase until the biennial renewal period that begins January 1, 2018.

The Board has also opted for a 25% increase in the \$120 biennial renewal fee for continuing education program sponsors, effective with the biennial renewal period that begins January 1, 2010. When establishing program sponsor fees in 2001 as part of a restructuring of its regulatory scheme for approving program sponsors, the Board estimated that there would be approximately 1,150 active Board-approved program sponsors as of the start of the first biennial renewal period on January 1, 2004. (Program sponsors approved by the National Association of State Boards of Accountancy are exempt from the Board's approval requirements.) The Board's estimate proved too optimistic; at present there are 35% fewer active Board-approved program sponsors than originally

estimated. The 25% increase in the biennial renewal fee for program sponsors would recapture a portion of the revenues that had been projected when the fee was initially established.

According to the BFO, the higher biennial renewal fees would raise biennial renewal revenues from the current \$1,130,280 to \$2,424,700. The BFO estimates that these additional biennial revenues would enable the Board to maintain positive biennial revenue balances through the end of FY15-16, when the revenue balance is projected to be \$512,936.92.

Fiscal Impact

The proposed rulemaking would generate approximately \$1,294,420 in additional biennial renewal revenues, broken down as follows:

<i>Regulated Class</i>	<i>Number of Renewing Credential-holders</i>	<i>Fee Increase</i>	<i>Additional Revenues</i>
Certified Public Accountant	21,581	× \$55	\$1,186,955
Public Accountant	264	× \$55	\$14,520
Public Accounting Firm	1,283	× \$55	\$70,565
Continuing Education Program Sponsor	746	× \$30	\$22,380

Paperwork Requirements

The proposed rulemaking would require the Board to change its biennial renewal forms to reflect the new fees. The proposed rulemaking would not create additional paperwork for the regulated community.

Effective Date

The proposed rulemaking would become effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*. The new biennial renewal fees would apply to those that renew their licenses or approvals for the biennial renewal period that begins January 1, 2010.

Statutory Authority

Section 6 of the CPA Law requires the Board to establish fees by regulation and to ensure that revenues derived from fees, fines and civil penalties are adequate to cover the Board's expenditures over a biennial period.

The Board considers the proposed rulemaking to be both required by law and the least restrictive means of covering the cost of activities that the Board is required to perform.

Regulatory Review

On April 22, 2009, as required under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted copies of this proposed rulemaking, a Regulatory Analysis Form and Fee Report Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. Copies of the Regulatory Analysis Form and Fee Report Form are available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act sets forth detailed procedures that permit the Board, the General Assembly and the Governor to review any comments, recommendations or objections prior to final publication of the rulemaking.

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed rulemaking to Steven Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

SAMUEL J. STEPHENSON, CPA,
Chairperson

Fiscal Note: 16A-5512. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 11. STATE BOARD OF ACCOUNTANCY

GENERAL PROVISIONS

§ 11.4. Fees.

Following is the schedule of fees charged by the Board:

	* * * * *
Biennial renewal of license of certified public accountant, public accountant or public accounting firm.....	[\$45] \$100
	* * * * *
Biennial renewal of approval of program sponsor [beginning January 1, 2004]	[\$120] \$150

[Pa.B. Doc. No. 09-799. Filed for public inspection May 1, 2009, 9:00 a.m.]

FEE REPORT FORM

Agency: State - BPOA

Date: 01/25/08

Contact: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs

Phone No 783-7192

Fee Title, Rate and Estimated Collections:

Biennial Renewal Fee For Certified Public Accountant,
Public Accountant and Public Accounting Firm: \$100.00

Biennial Renewal Fee for Continuing Education
Program Sponsor: \$150.00

Estimated Biennial Revenues:

Certified Public Accountant:	\$2,158,100.00	(21,581 x \$100.00)
Public Accountant:	\$26,400.00	(264 x \$100.00)
Public Accounting Firm:	\$128,300.00	(1,283 x \$100.00)
Continuing Education Program Sponsor:	\$111,900.00	(746 x \$150.00)

Total Estimated Biennial Revenues: \$2,424,700.00

Fee Description:

The fees will be charged to applicants for biennial renewal of licensure or approval.

Fee Objective:

The fees should defray a substantial portion of the State Board of Accountancy'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 ending balance on 6/30/09:	(616,063.08)
FOR FISCAL YEAR 09-10	
Estimated non-renewal revenue:	128,000.00
Estimated renewal revenue at above rates:	2,270,000.00
Total revenue available:	1,781,936.92
Estimated expenditures:	1,163,000.00
Estimated ending balance on 6/30/10:	618,936.92
FOR FISCAL YEAR 10-11	
Estimated non-renewal revenue:	128,000.00
Estimated renewal revenue at above rates:	155,000.00
Estimated expenditures:	1,198,000.00
Estimated ending balance on 6/30/11	296,063.08

Analysis, Comment, and Recommendation:

It is recommended that the above renewal fees be established to cover projected funding shortfalls 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 ACCOUNTANCY
P.O. BOX 2649
HARRISBURG, PENNSYLVANIA 17105-2649

Telephone: (717) 783-1404
Fax: (717) 705-5540

ST-ACCOUNTANCY@state.pa.us

September 21, 2009

The Honorable Arthur Coccodrilli
Chairman, Independent Regulatory Review Commission
Harristown II, 14th Floor
333 Market Street
Harrisburg, PA 17101

RE: Final Rulemaking of the State Board of Accountancy
Relating to Biennial Renewal Fees (16A-5512)

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Accountancy relating to biennial renewal fees.

The Board stands ready to provide whatever information or assistance your Commission may require during its review of this final rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Stephenson".

Samuel J. Stephenson, CPA, Chairman
State Board of Accountancy

SJS:SW
Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs

Peter V. Marks, Sr., Executive Deputy Chief Counsel
Department of State

Joyce McKeever, Deputy Chief Counsel
Department of State

Cynthia K. Montgomery, Senior Counsel in Charge
Department of State

Steven Wennberg, Counsel
State Board of Accountancy

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

I.D. NUMBER: 16A-5512
SUBJECT: BIENNIAL RENEWAL FEES
AGENCY: DEPARTMENT OF STATE
STATE BOARD OF ACCOUNTANCY

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 Tolerated Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
2009 SEP 21 PM 2:46
INDEPENDENT REGULATORY
REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9/21/09	<i>Arnstor Hall</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>The Honorable</u> Michael P. McGeehan
9/21/09	<i>May Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>The Honorable</u> Robert M. Tomlinson
9/21/09	<i>Kathy Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only) LEGISLATIVE REFERENCE BUREAU (for Proposed only)