

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency
**Department of State, Bureau of Professional and
Occupational Affairs, State Board of Barber Examiners**

(2) Agency Number: 16A

Identification Number: 16A-428

IRRC Number: 2998

(3) PA Code Cite: 49 Pa. Code § 3.103

(4) Short Title: Fees

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

Primary Contact: **Cynthia K. Montgomery, Regulatory Counsel, Department of State, P.O. Box 2649,
Harrisburg, PA 1105-2649 (phone 717-783-7200) (fax 787-0251) cymontgome@pa.gov.**

Secondary Contact: **Juan Ruiz, Counsel, State Board of Barber Examiners, P.O. Box 2649,
Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251) jruiz@pa.gov.**

(6) 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

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

The proposed rulemaking would provide for increases to the biennial license renewal fees for all licensees of the Barber Board and would also adjust certain application fees to cover the costs of processing those applications.

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

Section 14(b) of the act of June 19, 1931 (P.L. 589, No. 202) (63 P.S. § 564(b))(act) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

(9) 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.

Except as set forth in paragraph (8), the regulation is not mandated by any federal or state law or court order or federal regulation.

(10) 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.

Under section 14 of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the vast majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees and civil penalties.

The biennial renewal fees have not been increased since May 7, 1988. See 18 Pa.B. 2106. Biennial renewal fees support the general operations of the Board. All licensees are charged the biennial renewal fees when they renew their licenses which expire on April 30 of even-numbered years. Application fees, on the other hand, are intended to offset the costs associated with the processing of the various applications and related inspections. The last time any of the application fees were adjusted was in 2001. See 31 Pa.B. 1225.

At the June 25, 2012, Board meeting, representatives from the Department of State's Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for fiscal years 2009-2010 and 2010-2011, and projected revenue and expenses through 2014-2015. BFO pointed out that as of June 2012, in spite of it being a renewal year, the Board had incurred a deficit of \$46,816.71. Projected revenues for the fiscal year 2012-2013, a non-renewal year, were estimated at approximately \$85,000. However, the Board's projected expenditures for the current fiscal year are in the area of \$640,000, resulting in a projected deficit as of June 2013 of \$601,816.71. BFO projected that, without an increase to the biennial renewal fees, the Board will incur additional deficits totaling approximately \$686,816.71 in fiscal year 2013-2014, and \$1,281,816.71 in fiscal year 2014-2015.

Thus, the Board determined that it was necessary to raise fees to meet or exceed projected expenditures, in compliance with section 14 of the act. As a result, the Board voted to increase the biennial renewal fees by 200% to be effective with the April 30, 2014 renewal. The Board finds this to be the only viable option at this time that will eliminate the deficits and place the Board on firm financial ground so that the Board can continue to carry out its legislative mandate in the interests of the public health, safety and welfare. In addition, the Board had previously voted to adjust certain application fees to more appropriately reflect the current costs of processing the applications. These adjustments are also included in this proposed rulemaking.

(11) 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 subject matter of the regulation.

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

Comparison with other states is not particularly instructive because some of the surrounding states have significantly differing regulatory schemes. For example, like Pennsylvania, New York, Ohio and Maryland have a separate Barber Board and a separate Cosmetology Board. In New Jersey and West Virginia, those professions are regulated by a single board. In New York, barber shops and barber schools are not licensed, but the shop owners are. Likewise, Maryland does not license shops and schools. Additionally, some of the boards in other states are self-funded and some share in general fund revenues.

In Ohio, barbers pay a fee of \$120 for their initial license and \$110 for biennial renewal. Initial license of a barber shop is \$110 with a biennial renewal fee of \$75. Barber teachers in Ohio pay \$185 for initial licensure and \$150 for biennial renewal. An initial school license costs \$1,000 for the license, \$750 for the inspection and \$1,000 to renew biennially. Finally, barbers licensed by reciprocity in Ohio pay a \$300 fee.

In New Jersey, barbers pay an application fee of \$50, plus an initial licensure fee of \$60. Biennial renewal is \$60. Barbershops pay an application fee of \$150, an initial licensure fee of \$130, and a renewal fee of \$130. Barber schools pay an application fee of \$250, an initial licensure fee of \$300 and biennial renewal fee of \$300. Licensure by endorsement in New Jersey costs \$100 plus the initial license fee.

In West Virginia, initial licensure as a barber costs \$35, with an annual renewal of \$35. Instructors pay an initial licensure fee of \$50, with a \$50 annual renewal fee. A barber shop pays \$50 for initial licensure and inspection, and \$40 for annual renewal. Barber schools pay \$1000 for initial licensure and inspection, and \$250 for annual renewal. Finally, licensure by reciprocity in West Virginia requires a \$100 fee.

In Maryland, the initial licensure fee and biennial renewal fees for individual barbers are identical. Barbers and master barbers pay a fee of \$50. For shop owners, the fee for initial licensure is \$200, while biennial renewal is \$50. Maryland's Barber Board is funded by their general fund. All of the fees Maryland charges are placed in this general fund.

In New York, applicants for a barber license pay \$40; with a four year renewal fee of \$40. Shop owners and renters pay an application fee of \$60 and a four year renewal fee of \$60. However, in New York, the Department of Education, Office of Professional Education regulates barbers and all fees are placed in the general fund, along with tax revenues.

The Board does not believe the regulation will put the Commonwealth at a competitive disadvantage.

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

The proposed regulation should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

Because the reconciliation of its budget is an administrative function for which public input is not required, the Board did not solicit input from or provide an exposure draft of this proposed rulemaking to interested parties. However, the Board received the various financial reports and discussed possible renewal fee increases in public session at meetings routinely attended by members of the regulated community and their professional associations.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

There are approximately 2,545 licensed barber shops and 14 privately-owned licensed barber schools operating in the Commonwealth of Pennsylvania that will be affected by the regulation. (There are a total of 30 licensed barber schools, however 14 of those are operated by the Commonwealth at the State Correctional Institutions, one is operated by the Allegheny County Community College, and one by the Philadelphia School District. The remaining 14 are privately-owned and operated.) There are also approximately 2,979 licensed barbers, 3,552 licensed barber managers and 238 licensed barber teachers in Pennsylvania that will be affected by the regulation.

For the business entities listed above (barber shops and privately-owned barber schools), small businesses are defined in Section 3 of the Regulatory Review Act, Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, size standards are provided at 13 CFR § 121.201. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses listed above (NAICS Code 611511 – Cosmetology and Barber Schools; and 812111 – Barber Shops), a small business is one with \$7.0 million or less in average annual receipts. The Board believes that most of the barber schools and barber shops licensed by the Board are considered small businesses because they would fall under this threshold amount.

Small businesses would be affected by the increase in the biennial renewal fee for the business itself (\$144 increase for shops; \$224 increase for schools). Barber shops and schools would also be affected by the increase in the biennial renewal fees for barbers, barber managers and barber teachers to the degree the business pays the licensure fees of its employees.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

There are approximately 2,545 licensed barber shops and 30 licensed barber schools operating in the Commonwealth of Pennsylvania that will be affected by the regulation. There are also approximately 2,979 licensed barbers, 3,552 licensed barber managers and 238 licensed barber teachers in Pennsylvania that will be affected by the regulation.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

All barbers, barber managers, barber teachers, barber shops and barber schools will be impacted by the increase in the biennial renewal fees. In addition, applicants for various licenses will incur greater costs associated with processing applications and conducting inspections. The Board believes that a majority of barber shops and privately owned and operated barber schools in the Commonwealth qualify as “small businesses” pursuant to the federal SBA standards. Therefore, small businesses will be impacted by the increase in their biennial renewal fees; and will also be impacted to the degree that the shop or school pays the licensure fees for its employees. However, this increase is necessary to ensure the fiscal integrity of the board and to assure that the board’s mandate to license individuals and inspect schools and shops in order to protect the health, safety and welfare of the public is carried out.

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

Section 14(b) of the act of June 19, 1931 (P.L. 589, No. 202) (63 P.S. § 564(b)) (act) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period. The regulation benefits every citizen of the Commonwealth in that it will ensure the fiscal integrity of the Board and allow the Board to carry out its mission. The costs to licensees, which equates to \$42 per year for barbers, \$62 for barber managers, \$67 per year for barber teachers, \$72 per year for barber shops, and \$112 per year for barber schools, is outweighed by the Board’s duty to issue licenses, regulate the barbering profession and inspect barber shops and schools in the public interest.

(19) 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.

Beginning with the 2014 biennial renewals, the regulated community will incur increased costs in the amount of \$1,095,776 every other year calculated as follows:

2,979 barbers x \$84 increase = \$250,236 3,552 barber managers x \$124 increase = \$440,448

238 barber teachers x \$134 increase = \$31,892 2,545 barber shops x \$144 increase = \$366,480

30 barber schools x \$224 increase = \$6,720

In addition, the Board estimates that costs to applicants will increase annually \$3,915, calculated as follows:

Applicants for barber license by reciprocity – 24 x \$35 increase = \$840

Applicants for barber shop license – 141 x \$55 increase = \$1,320

Applicants for barber school license – .5 x \$140 decrease = (\$70)

Applicants for barber shop change (inspection required) – 40 x \$ 35 increase = \$1,400

Applicants for barber shop change (no inspection required) – 15 x \$25 increase = \$375

Reinspection of school or shop after first failure – 1 x \$50 increase = \$50

(20) Provide a specific estimate of the costs and/or savings to the **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 would not result in costs or savings to local government.

(21) Provide a specific estimate of the costs and/or savings to the **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 Board will not incur an increase in administrative costs by implementing the rulemaking. Indeed, the regulatory amendment will permit the Board to recoup the costs of its operations. There are no other costs or saving to state government associated with compliance with the proposed rulemaking.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

This proposed rulemaking would not require any additional recordkeeping or other paperwork.

(23) 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 12-13	FY +1 FY 13-14	FY +2 FY 14-15	FY +3 FY 15-16	FY +4 FY 16-17	FY +5 FY 17-18
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community	\$0	\$1,099,691	\$3,915	\$1,099,691	\$3,915	\$1,099,691
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$1,099,691	\$3,915	\$1,099,691	\$3,915	\$1,099,691
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 FY 2009-2010	FY -2 FY 2010-2011	FY -1 FY 2011-2012	Current FY FY-2012-2013
State Board of Barber Examiners	\$613,033.68	\$674,412.84	\$530,000.00	\$640,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

- (a) Assuming that the majority of barber shops and barber schools qualify as “small businesses” as that term is defined by the Regulatory Review Act and the SBA, there could be as many as 2,559 small businesses subject to the regulation.**
- (b) There are no projected reporting, or recordkeeping costs required for compliance. There are no additional administrative costs required for compliance. (The administrative costs would be those associated with filling out the biennial renewal form or online renewal application and either writing a check or processing the payment of the fee. These costs would be the same regardless of the increase in the fee.) Also, some of these fees can be avoided by the small businesses by requiring employees to pay their own biennial renewal fees.**
- (c) The probable effect on impacted small businesses would be a \$144 increase in the biennial renewal fee for each barber shop and a \$224 increase for each barber school. It may also affect the small businesses to the degree they pay the licensure fees of their employees.**
- (d) The Board considered breaking the increases down into two steps – one to be effective in 2014 and one to be effective in 2018, however, doing so does not eliminate the Board’s deficit situation. In the end, the Board determined that this was the only viable option to recoup existing deficits, comply with the mandate to produce sufficient revenues to cover expenditures over each biennial renewal period, and continue to carry out its mission to issue licenses, regulate the barber profession, and inspect shops and schools in the public interest.**

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

The Board has perceived no special needs of any subset of its applicants or licenses for whom special accommodations should be made.

(26) 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.

The Board carefully considered reports and recommendations from the Department's Bureau of Finance and Operations (BFO) in developing this proposed rulemaking. At the August 2012 Board meeting, BFO presented the Board four options. The first option was to consider no fee increases, which would result in a continually growing deficit projected to reach \$5 million by fiscal year 2022-2023. The next option proposed was a one-time 200% increase in biennial renewal fees effective in April of 2014. This option eliminates all deficits by the end of fiscal year 2017-2018 and provides a positive, albeit declining, balance in the Board's account through fiscal year 2023-2024. The third option proposed would break the 200% increase down into two increments, one taking effect in April of 2014; and the second taking effect in April of 2018. This proposal results in continued deficits through fiscal year 2023-2024. Finally, BFO presented as a fourth option, the fee increase that the Board had previously considered, which included an increase of 125% to take place in fiscal year 2013-2014; followed by an increase of an additional \$15 for all license categories to take place in fiscal year 2015-2016. This option also fails to eliminate the deficits into the foreseeable future.

As recommended by BFO, the Board voted to increase the biennial renewal fees by 200% to be effective with the April 30, 2014 renewal. The Board finds this to be the only viable option at this time that will eliminate the deficits and place the Board on firm financial ground. The Board concludes that this proposed rulemaking is the least burdensome acceptable alternative to allow the Board to comply with the statute and assure the ongoing fiscal integrity of the Board.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

- a) & b) All licenses renew biennially. The Board did not consider less stringent reporting requirements or deadlines for small businesses or for licensees that work for small businesses.
- c) There are no compliance or reporting requirements that could be consolidated or simplified. The biennial renewal process is the same whether a particular barber shop or school is a small business or whether a particular licensee is employed by a small business or a large business.

- d) **The regulations do not contain design or operational standards that need to be altered for small businesses.**
- e) **To exclude any licensees from the requirements contained in the regulation (an increased biennial renewal fee) based on the size of the business would not be consistent with public health, safety and welfare because it would prevent the Board from obtaining adequate revenue to meet projected expenditures and it would not be able to carry out its legislative mandate to issue licenses, regulate the barber profession and inspect shops and schools in the public interest.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is based upon financial reports made by the Department of State's Bureau of Finance and Operations. This proposed rulemaking is not based upon any scientific data, studies, or references.

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

- A. The date by which the agency must receive public comments: **Within 30 days of publication as proposed rulemaking.**
- B. The date or dates on which public meetings or hearings will be held: **No public hearings are contemplated, however the Board meets in regular public meetings six times a year, at which time its regulatory matters are considered. In 2013, the Barber Board is scheduled to meet on the following dates: February 25, April 15, June 17, August 19, October 21, and December 9.**
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: **Within 2 years of the close of public comments; but in no event later than Saturday, February 1, 2014, because the Board begins accepting renewal applications three months before the end of the biennial renewal period which ends on April 30, 2014.**
- D. The expected effective date of the final-form regulation: **The increased application fees will be effective upon publication of the final-form rulemaking; the increased biennial renewal fees will go into effect with the renewal cycle commencing in 2014.**
- E. The date by which compliance with the final-form regulation will be required: **Upon publication of the final-form rulemaking.**
- F. The date by which required permits, licenses or other approvals must be obtained: **N/A**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally six times a year. More information can be found on the Board's website (www.dos.state.pa.us/). Additionally, the Department of State, Bureau of Finance and Operations, makes annual financial reports to the Board.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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]

State Board of Barber Examiners
(AGENCY)

BY: _____
(DEPUTY ATTORNEY GENERAL)

BY: *[Signature]*
SHAWN E. SMITH

DOCUMENT/FISCAL NOTE NO. 16A-428

MAR 11 2013

DATE OF APPROVAL

DATE OF ADOPTION: _____

BY: *[Signature]*
John E. Payne, Jr.

FEB 21 2013

DATE OF APPROVAL

(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.

NOTICE OF PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF BARBER EXAMINERS
49 PA. CODE § 3.103
FEES

The State Board of Barber Examiners (Board) proposes to amend § 3.103 (relating to fees) to read as set forth in Annex A. The proposed rulemaking would provide for increases to the biennial license renewal fees for all licensees of the Barber Board and would also adjust certain application fees to cover the costs of processing those applications.

Effective Date

The amendment will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin. The new application fees will be implemented immediately upon publication of the final-form rulemaking. The new biennial renewal fees will take effect for the biennial period commencing May 1, 2014.

Statutory Authority

Section 14(b) of the act of June 19, 1931 (P.L. 589, No. 202) (63 P.S. § 564(b)) (act) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

Background and Need for Amendment

Under section 14 of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the vast majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees and civil penalties.

The biennial renewal fees have not been increased since May 7, 1988. See 18 Pa.B. 2106. Biennial renewal fees support the general operations of the Board. All licensees are charged the biennial renewal fees when they renew their licenses which expire on April 30 of even-numbered years. Application fees, on the other hand, are intended to offset the costs associated with the processing of the various applications and related inspections. The last time any of the application fees were adjusted was in 2001. See 31 Pa.B. 1225.

At the June 25, 2012, Board meeting, representatives from the Department of State's Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for fiscal years 2009-2010 and 2010-2011, and projected revenue and expenses through 2014-2015. BFO pointed out that as of June 2012, in spite of it being a renewal year, the Board had incurred a deficit of \$46,816.71. Projected revenues for the fiscal year 2012-2013, a non-renewal year, were estimated at approximately \$85,000. However, the Board's projected expenditures for the current fiscal year are in the area of \$640,000, resulting in a projected deficit as of June 2013 of \$601,816.71. BFO projected that, without an increase to the biennial renewal fees, the Board will

incur additional deficits totaling approximately \$686,816.71 in fiscal year 2013-2014, and \$1,281,816.71 in fiscal year 2014-2015. At that time, BFO recommended that the Board consider increasing the biennial renewal fees by 205% to recoup the existing deficits and provide adequate revenues to meet the Board's operational needs. The Board voted to table the matter until the August meeting and asked BFO to provide them with some options.

Thereafter, representatives from BFO returned to the August 20, 2012, Board meeting. At that time, they presented the Board with four options. The first option was to consider no fee increases, which would result in a continually growing deficit projected to reach \$5 million by fiscal year 2022-2023. The next option proposed was a one-time 200% increase in biennial renewal fees effective in April of 2014. This option eliminates all deficits by the end of fiscal year 2017-2018 and provides a positive, albeit declining, balance in the Board's account through fiscal year 2023-2024. The third option proposed would break the 200% increase down into two increments, one taking effect in April of 2014; and the second taking effect in April of 2018. This proposal results in continued deficits through fiscal year 2023-2024. Finally, BFO presented as a fourth option, the fee increase that the Board had previously considered, which included an increase of 125% to take place in fiscal year 2013-2014; followed by an increase of an additional \$15 for all license categories to take place in fiscal year 2015-2016. This option also fails to eliminate the deficits into the foreseeable future.

Thus, the Board determined that it was necessary to raise fees to meet or exceed projected expenditures, in compliance with section 14 of the act. As a result, the Board voted to increase the biennial renewal fees by 200% to be effective with the April 30, 2014 renewal. The Board finds this to be the only viable option at this time that will eliminate the deficits and place the Board on firm financial ground so that the Board can continue to carry out its legislative mandate in the interests of the public health, safety and welfare. In addition, the Board had previously voted to adjust certain application fees to more appropriately reflect the current costs of processing the applications. These adjustments are also included in this proposed rulemaking.

Description of Proposed Amendments

Based upon the above expense and revenue estimates provided to the Board, the Board proposes to amend § 3.103 (relating to fees) to increase the biennial renewal fees for all classes of licensees. The biennial renewal fees will increase in 2014 by 200% - from \$42 to \$126 for barbers; from \$62 to \$186 for barber shop managers; from \$67 to \$201 for barber teachers; from \$72 to \$216 for barber shops and from \$112 to \$336 for barber schools.

In addition, as a result of the review of the application fees conducted by BFO, the Board proposes to increase the fee for initial licensure by reciprocity from \$20 to \$55, as the existing fee is no longer adequate to cover the costs associated with processing the application. Likewise, the application fee for initial licensure of a barber shop, currently set at \$55, is insufficient to cover the costs associated

with processing the application and conducting the required inspection. Therefore, the Board voted to increase the fee to \$110. Conversely, the current fee for initial licensure of a barber school, which was increased in 2001 from \$100 to \$280 has proven to be excessive when compared to the actual costs associated with processing an application for licensure of a barber school, along with the required inspection. Therefore, the Board proposes a reduction in this fee from \$280 to \$140. There are two fees the Board charges when a barber shop proposes a change depending on whether the proposed change requires an inspection. The Board is proposing to increase the fee where an inspection is required from \$55 to \$90; and where no inspection is required from \$15 to \$40. Similarly, the fee to reinspect a shop or school after a failed inspection is proposed to increase from \$40 to \$90. Again, these increases are needed to cover actual costs associated with processing the applications and conducting the inspections.

Fiscal Impact

The proposed amendment will increase the biennial renewal fees for licensees of the Board. There are currently approximately 9,344 licensees that will be required to pay more to renew their licenses when they expire on April 30, 2014. In addition, applicants for various licenses will incur greater costs associated with processing applications and conducting inspections. The proposed regulation should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new fees; however, the amendment will not create additional paperwork for the regulated community or for the private sector.

Sunset Date

The act requires the Board to monitor its revenue and costs 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)), on March 25, 2013, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments,

recommendations or objections to the proposed rulemaking within 30 days of 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 specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of any comments, recommendations and objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Cynthia Montgomery, Regulatory Counsel, State Board of Barber Examiners, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

John E. Payne, Jr.,
Chairperson

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 3. STATE BOARD OF BARBER EXAMINERS

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§ 3.103. Fees.

The schedule of fees charged by the Board is as follows:

* * * * *

Licensure of barber by reciprocity	[\$20]	<u>\$55</u>
Licensure of barber shop.....	[\$55]	<u>\$110</u>
Licensure of barber school.....	[\$280]	<u>\$140</u>
Biennial renewal of barber license	[\$42]	<u>\$126</u>
Biennial renewal of barber shop manager license.....	[\$62]	<u>\$186</u>
Biennial renewal of barber teacher license.....	[\$67]	<u>\$201</u>
Biennial renewal of barber shop license.....	[\$72]	<u>\$216</u>
Biennial renewal of barber school license.....	[\$112]	<u>\$336</u>
Change in barber shop-inspection required.....	[\$55]	<u>\$90</u>
Change in barber shop-no inspection required.....	[\$15]	<u>\$40</u>
Reinspection after first fail-new or change (shop or school).....	[\$40]	<u>\$90</u>

* * * * *



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF BARBER EXAMINERS
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-3402**

March 25, 2013

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Barber Examiners
16A-428:FEES

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed rulemaking package of the State Board of Barber Examiners pertaining to Fees.

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

Sincerely,

A handwritten signature in cursive script that reads "John Payne".

John E. Payne, Jr., Chairperson
State Board of Barber Examiners

JEP/JAR: rs

Enclosure

cc: Katie True, Commissioner
Bureau of Professional and Occupational Affairs
Rebecca Oyler, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Juan A. Ruiz, Counsel
State Board of Barber Examiners
State Board of Barber Examiners

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

I.D. NUMBER: 16A-428
 SUBJECT: FEES
 AGENCY: DEPARTMENT OF STATE
 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
 STATE BOARD OF BARBER EXAMINERS

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
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
3/25/13	<i>Angie Kelly</i>	MAJORITY CHAIR <u>Julie Harhart</u>
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
3-25-13	<i>[Signature]</i>	MAJORITY CHAIR <u>Robt. M. Tomlinson</u>
3/25/13	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
3/25/2013	<i>Courne Inaut</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)