

Comments of the Independent Regulatory Review Commission



State Registration Board for Professional Engineers, Land Surveyors and Geologists Regulation #16A-4713 (IRRC #3097)

Renewal Fee

July 15, 2015

We submit for your consideration the following comments on the proposed rulemaking published in the May 16, 2015 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) to respond to all comments received from us or any other source.

1. Determining whether the regulation is in the public interest; Economic or fiscal impacts; Direct and indirect costs to the private sector; Need for the regulation.

Section 5.2 of the RRA (71 P.S. § 745.5b) directs this Commission to determine whether a regulation is in the public interest. When making this determination, the Commission considers criteria such as economic or fiscal impact and reasonableness. To make that determination, the Commission must analyze the text of the Preamble and proposed regulation and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under Section 745.5(a) in the Regulatory Analysis Form (RAF). Some of the information contained in the RAF submitted with this rulemaking is not sufficient to allow this Commission to determine if the regulation is in the public interest.

In the RAF, the Board explains that in March 2014, the Department of State's Bureau of Finance and Operations (BFO) projected that the Board would end fiscal year 2013-2014 with a deficit of approximately \$226,000. BFO projected that the deficit would continue to grow thereafter.

The Professional Engineer, Land Surveyor and Geologist Registration Act (act) provides, in part:

... If the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of this act are not sufficient to match expenditures over a two-year period, the board shall increase those fees by regulation . . . such that the projected revenues will meet or exceed projected expenditures.

63 P.S. § 156(a).

BFO presented the Board with schedules and projections based on the possibility of increasing the renewal fee by \$75—from \$50 to \$125. The Board states it had concerns about implementing such an increase and, instead, chose to increase the biennial renewal fee by \$50 to \$100. However, the RAF and supporting documentation submitted by the Board are based on a renewal fee of \$125.

We ask the Board to provide with the final-form regulation a revised Preamble and revised RAF that include updated revenues and expenses, as well as BFO schedules based on the actual renewal fee that the Board intends to implement.

Comments from the regulated community oppose the fee increase, contending the increase will have an adverse fiscal impact on licensees of the Board. The House Professional Licensure Committee has requested information related to the Board's major cost centers, any significant increases in its expenditures, and any other measures the Board has considered that would help reduce the projected deficits. We ask the Board to provide more detailed information in the final-form Preamble and RAF to support the need for the regulation.

2. Clarity and lack of ambiguity; Implementation procedures and timetables for compliance.

The Board indicates throughout the RAF that the renewal fee will be increased in 2015. However, in the Preamble, the Board states that it anticipates the increased renewal fee will be implemented with the 2017 biennial renewal period. We ask the Board to clarify when the renewal fee will be implemented, and ensure that its responses to the RAF are consistent with the implementation timeframe.