

PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 101]

Termination Pay, Severance Pay and Early Retirement Incentive Programs

The Department of Revenue (Department), under authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7354), proposes to amend §§ 101.1 and 101.6 (relating to definitions; and compensation) to read as set forth in Annex A.

Purpose of Proposed Amendments

This regulatory change will clarify the taxation of termination pay, severance pay, early retirement incentive programs and programs offered by employers to provide benefits to employees in addition to those in qualifying retirement plans upon separation from service.

The proposed amendments also interprets section 301(d) of the (TRC 72 P.S. § 7301(d)) to mean that Federal insurance benefits paid under the Railroad Retirement Act and guaranteed payments to a partner of a partnership for services to the partnership are excluded from compensation.

Explanation of Regulatory Requirements

Section 101.1 is proposed to be amended by adding the definitions of "limited plan of termination," "qualified annuity" and "severance pay." Section 101.6(a) is proposed to be amended by updating the list of examples of compensation. Section 101.6(c)(3) is proposed to be amended to reflect the Department's interpretation of the Pennsylvania Income Tax law with regard to Federal insurance benefits paid under the Railroad Retirement Act. Text from § 101.6(a) has been deleted and moved to a new paragraph (9) in § 101.6(c). Paragraph (9) reflects the Department's interpretation of the Pennsylvania Income Tax law with regard to guaranteed payments to a partner of a partnership for services to the partnership. The numbering of this new paragraph will change upon the Department's adoption of Regulation 15-402, relating to payments for employee welfare benefit plans and cafeteria plans (see 28 Pa.B. 1946 (April 25, 1998)) and the promulgation of a proposal relating to supplemental unemployment benefit plans. The numbering of this new paragraph could also change upon adoption of Regulation 15-414 at 30 Pa.B. 2236 (May 6, 2000).

Finally, a new subsection (e) has been added to § 101.6 to explain superannuation requirements and the voluntary discontinuance of a plan. The lettering of this new subsection will change upon the Department's adoption of Regulation 15-402.

Affected Parties

This proposed rulemaking could affect employers with early-out incentive programs and employees receiving severance pay.

Fiscal Impact

The Department has determined that the proposed rulemaking will have no fiscal impact on the Commonwealth.

Paperwork

The proposed rulemaking will not require additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The proposed rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. The regulations are scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing comments, suggestions or objections regarding the proposed amendments to Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days after the date of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on May 3, 2000, the Department submitted a copy of this proposed rulemaking to IRRC and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

ROBERT A. JUDGE, Sr.,
Secretary

Fiscal Note: 15-413. No fiscal impact; (8) recommends adoption. This rulemaking clarifies the Department's current policies.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE V. PERSONAL INCOME TAX

CHAPTER 101. GENERAL PROVISIONS

§ 101.1. Definitions.

The following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Limited plan of termination—A plan that has one or more of the following attributes:

(i) The plan, when begun, is scheduled to be complete on a certain date or upon the occurrence of one or more specified events.

(ii) The number, percentage or class of employes whose services are to be terminated are specified in advance.

(iii) The plan is otherwise temporary or limited.

* * * * *

Qualified annuity—An arrangement under which the payee is entitled to equal, or substantially equal, periodic payments, paid not less frequently than annually, for:

(i) The life of the participant, or, if applicable, the joint lives of the recipient and recipient's designated beneficiary.

(ii) The life expectancy of the participant, or, if applicable, the joint life expectancies of the recipient and recipient's designated beneficiary.

(iii) A period of at least 10 years.

* * * * *

Severance pay—A payment made upon separation from employment under:

(i) A plan which has both of the following attributes:

(A) Payments are not contingent solely upon an employe's retirement from service or being the same age as, or older than, the earliest retirement age under a qualifying retirement benefit plan or qualifying retirement income plan sponsored by the employer.

(B) Total payments cannot exceed twice the employe's annual compensation during the year preceding the employe's termination.

(ii) A plan under which all payments to any plan participant are completed within 120 months of the participant's termination.

(iii) A plan under which no benefit is payable to, or subject in any manner to anticipation, assignment or pledge by, an employe except upon voluntary separation from the employment of the employer before the participant reaches normal retirement age or service.

(iv) A plan, including a stock bonus or profit-sharing plan formed by a trust that meets the requirements for qualification described in section 401 of the IRC (26 U.S.C.A. § 401) or employe stock ownership plan, with one or more of the following attributes:

(A) The amount of earnings on contributions (or allocations of contributions or earnings) and amount of benefits are determined with regard to the current or accumulated profits or losses of the employer.

(B) The employer can contribute only in those years when it has current or accumulated profits.

(C) The employer's contributions can fluctuate depending on the level of its profits.

(D) The employer's contributions are made out of current or accumulated profits.

(E) Distributions are paid with respect to stock of a corporation which is held by an employe stock ownership plan.

(v) A plan under which the accrued benefit payable to each vested participant who does not die

before the payment starting date is neither paid nor payable in the form of a qualified annuity.

(vi) A limited plan of termination.

* * * * *

§ 101.6. Compensation.

(a) Compensation includes items of remuneration received [by an employe or casual employe], directly or through an agent, in cash or in property, based on payroll periods or piecework, for services rendered as an employe or casual employe, agent or officer of an individual, partnership, [but not guaranteed payments to a partner for services rendered to the partnership,] business or nonprofit corporation, or government agency. These items include salaries, wages, commissions, bonuses, stock options, incentive payments, fees, tips, dismissal, termination or severance payments, early retirement incentive payments and other additional compensation contingent upon retirement, including payments in excess of the scheduled or customary salaries provided for those who are not terminating service, rewards, vacation and holiday pay, paid leaves of absence, payments for unused vacation or sick leave, tax assumed by the employer, or casual employe signing bonuses, amounts received under employe benefit plans and deferred compensation arrangements, and other remuneration received for services rendered.

* * * * *

(c) Compensation does not mean or include any of the following:

* * * * *

(3) [Payments commonly recognized as] Federal old age [or retirement benefits paid to persons retired from service after reaching a specified age or after a stated period of employment] insurance benefits payable under 42 U.S.C.A. § 401 et seq., Railroad Retirement Act benefits payable under 45 U.S.C.A. § 228 or § 231 et seq. or any retired or retainer pay of a member or former member of a uniformed service computed under 10 U.S.C.A. § 1401. [Retirement pay includes a distribution of a lump sum upon retirement, but does not include a severance payment by an employer to an employe who terminates employment without retiring. A payment of the latter type shall be considered compensation, if paid upon termination of employment, rather than as a retirement income, to the extent that the payment exceeds the employe's contribution to any plan out of which the payment may be made.]

* * * * *

(10) Guaranteed payments to a partner for services rendered to the partnership.

* * * * *

(e) For purposes of this section:

(1) A person who separated from service before satisfying superannuation requirements shall be deemed to be retired from service upon reaching

retirement age, regardless of whether the firm has permanently and wholly withdrawn from active working life or not.

(2) The voluntary discontinuance of a plan within 3 years after it has taken effect, for any reason other than business necessity, will be evidence that the plan was temporary and limited.

[Pa.B. Doc. No. 00-788. Filed for public inspection May 12, 2000, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 63, 65 AND 111]

Baitfish; Special Fish Regulation; Special Boating Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapters 63, 65 and 111 (relating to general fishing regulations; special fishing regulations; and special regulations counties). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to fishing and boating.

A. Effective Date

The proposed amendments, if approved on final rulemaking, will go into effect upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed changes, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. Statutory Authority

The proposed amendment to Chapter 63 is published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed amendment to Chapter 65 is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes). The proposed amendment to Chapter 111 is published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. Purpose and Background

The proposed amendments are designed to update, modify and improve Commission regulations relating to fishing and boating. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

(1) *Section 63.44 (relating to illegal baitfish)*. Until 1980, when the code was recodified, it was illegal to use goldfish as a baitfish. However, during the recodification, this prohibition was inadvertently omitted. Recently, the Commission's Bureau of Fisheries took action to prohibit the sale of the four species of baitfish (specifically, Goldfish (*Carassius auratus*), Comets (*Carassius auratus*), Koi (*Cyprinus carpio*) and Common carp (*Cyprinus carpio*)) by individuals possessing a live bait

dealer's license. To be consistent with this current change and also correct the previous omission, the Commission proposes the new regulation to read as set forth in Annex A.

(2) *Section 65.24 (relating to miscellaneous special regulations)*. A recent review of the Commission's regulations revealed that there are two miscellaneous special regulations that state that the creel limit for trout is eight per day. When the Commission amended its Statewide trout regulations last year to reduce the creel limit from eight to five, these miscellaneous regulations should have been amended as well. Accordingly, the Commission proposes the amendment to read as set forth in Annex A.

On March 11, 2000, the Commission's Executive Director, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), took immediate action to modify temporarily the miscellaneous special regulations to read as set forth in Annex A. This notice was published at 30 Pa. B. 1432 (March 11, 2000).

(3) *Section 111.67 (relating to York County)*. The Commission's regulations in § 111.67(c)(3) and (d)(3), require boaters under 9 years of age and nonswimmers to wear United States Coast Guard approved PFDs on Lake Redman and Lake Williams, respectively. The Commission promulgated these regulations prior to the Statewide regulation in § 97.1(h) (relating to personal flotation devices) requiring children 12 years of age and younger to wear an approved Type I, II, III or V PFD while underway on any boat 20 feet or less in length and all canoes and kayaks. In an effort to resolve this inconsistency, the Commission proposes to delete § 111.67(c)(3) and (d)(3).

F. Paperwork

The proposed amendments will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-107. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.44. Illegal baitfish.

It is unlawful for a person to use or possess Goldfish (*Carassius auratus*), Comets (*Carassius auratus*), Koi (*Cyprinus carpio*) and Common carp (*Cyprinus carpio*) as baitfish while fishing.

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
	* * * * *	
Huntingdon	Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to confluence with the Juniata River).	Trout (all species)—no closed season. Creel limits: Regular inland season—[eight] 5. Day after Labor Day to opening day of next regular inland season—[three] 3 (combined species). Size limits: Inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed 20 inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number. Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife on Lake Raystown. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 6 feet in radius (12 feet in diameter) with a mesh size of at least 3/8 inches.
	* * * * *	
Somerset, Fayette, Westmoreland and Allegheny	Youghiogheny River from Reservoir downstream to confluence with Casselman River	Closed season on trout: April 1 until 8 a.m., first Saturday after April 11. Daily limit—Opening day of trout season to Labor Day—[eight] 5 trout per day; day after Labor Day to midnight, March 31 of the following year: [three] 3 trout per day. Inland regulations apply to warmwater/coolwater species.
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Subpart C. BOATING

CHAPTER 111. SPECIAL REGULATIONS COUNTIES

§ 111.67. York County.

* * * * *

(c) *Lake Redman.*

* * * * *

[(3) Boaters under 9 years of age, and nonswimmers, shall wear United States Coast Guard approved lifesaving devices.]

[(4)] (3) * * *

* * * * *

(d) *Lake Williams.*

* * * * *

[(3) Boaters under 9 years of age, and nonswimmers, shall wear United States Coast Guard approved personal flotation devices.]

(4)] (3) * * *

* * * * *

[(5)] (4) * * *

[Pa.B. Doc. No. 00-789. Filed for public inspection May 12, 2000, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 143]

Application Period for Senior Licenses; Validity of License

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 4, 2000, meeting proposed the following amendments:

Add § 143.9 (relating to application period for senior licenses) to further define the qualification for a senior license, and amend § 143.54 (relating to validity of license) to designate when private land tags are valid for use.

These proposed amendments will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa. C.S. (relating to Game and Wildlife Code) (code).

These proposals were made public at the April 4, 2000, meeting of the Commission, and comments on these proposals can be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until June 16, 2000.

Proposed Addition of § 143.9 (relating to application period for senior licenses)

1. Introduction

To clarify eligibility for senior resident lifetime licenses, the Commission at its April 4, 2000, meeting proposed adding § 143.9. Section 2705 of the code (relating to classes of licenses) currently contains several subsections, (3), (6) and (7) which authorize residents "... who have reached or will reach their 65th birthday in the year of application for the license," to purchase senior resident licenses. It is unclear as to whether the "year of application" is the license year or calendar year. The change, which is proposed under sections 2707 and 2722(g) of the code (relating to license periods; and authorized license-issuing agents), will clarify eligibility.

2. Purpose and Authority

As was outlined in the introduction of this Preamble, the code allows residents who "... will reach their 65th birthday in the year of the application for the license," to obtain senior resident licenses. It is unclear, however, whether the "year of application" is the license year (July 1 to June 30) or the calendar year (January 1 to December 31). The proposed change establishes the year of application as the July 1 to June 30 year.

Section 2707 of the code, authorizes the Commission to fix license periods by regulation. Section 2722(g) of the code authorizes the Commission to adopt regulations for the administration and control of issuing licenses.

3. Regulatory Requirements

The proposed section will not add any regulatory requirements but merely clarifies existing law.

4. Persons Affected

Residents of this Commonwealth who turn age 65 could be affected by the proposed provision.

Proposed Amendment of § 143.54 (relating to validity of license)

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its April 4, 2000,

meeting proposed to amend § 143.54 to limit the use of private land tag antlerless licenses. Limited access to private land has the effect of allowing excessive deer populations that cause damage to agricultural crops and forest regeneration. By restricting the sale of surplus antlerless licenses to use on private land only, the Commission hopes to increase the harvest of deer on these lands. Also, in an attempt to reduce the deer population on certain public lands under an approved deer management plan, the Commission is proposing to include these lands for use of private land tags. The proposal is being made under section 2102 of the code (relating to regulations).

2. Purpose and Authority

As was pointed out in the Introduction of this Preamble, deer populations in areas can go out of control because of large areas of private lands which can either be closed to hunting or only provide limited access to hunters. To try to deal with this problem, the Commission is proposing to designate antlerless licenses as private land tags which can only be used on private land or public land with an approved deer management plan. It is also hoped that this will spur efforts to get more private land open to hunting.

Section 2102 of the code directs the Commission to promulgate regulations it deems necessary and appropriate concerning game or wildlife and hunting. This section provides authority for the proposed change.

3. Regulatory Requirements

The proposed change would limit the use of designated antlerless licenses to private land and specific public land.

4. Persons Affected

Those wishing to harvest antlerless deer could be affected by the proposed change.

5. Cost and Paperwork Requirements

The proposed change should not result in any additional cost or paperwork.

6. Effective Date

The change will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

Contact Person

For further information on the proposed changes contact William L. Hutson, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-121. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTAKER LICENSES

Subchapter A. GENERAL

§ 143.9. Application period for senior licenses.

For the purpose of issuing a senior license, the year of application shall be the period beginning July 1 and

ending June 30 of the year next following to coincide with the license year.

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.54. Validity of license.

An antlerless deer license is valid for taking antlerless deer only in the county designated on the antlerless deer license. **Private land tags are valid only on private land or on public land with a deer management plan approved by the Commission.**

[Pa.B. Doc. No. 00-790. Filed for public inspection May 12, 2000, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 63]

[L-00990141]

Generic Competitive Safeguards under 66 Pa.C.S. § 3005(b) and (g)(2)

By Order entered November 30, 1999, the Pennsylvania Public Utility Commission (Commission) adopted a proposed rulemaking establishing competitive safeguards in further of the provisions of Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001—3009. The proposed rulemaking order required that comments be filed within 30 days of publication which occurred at 30 Pa.B. 539 (January 29, 2000). Comments were, therefore, originally due February 28, 2000.

On February 24, 2000, the Commission granted a 60-day extension for the filing of comments to April 28, 2000, in the above-captioned matter after receiving requests for a stay from the Pennsylvania Telephone Association (PTA) and ALLTEL Pennsylvania, Inc. (ALLTEL). In making this request, the PTA and ALLTEL argued that the proposed competitive safeguards, which are in the form of a Code of Conduct, are closely modeled after the Code of Conduct adopted for Bell Atlantic-Pennsylvania, Inc. (BA-PA) in the Global proceeding order entered September 30, 1999, at Docket Nos. P-00991648 and 00991649. They further alleged that the Global order, including the proposed Code of Conduct for BA-PA, however, is in a state of uncertainty given several outstanding appeals currently pending in State court. In granting the 60-day extension, the Commission agreed with the parties that it would be premature to ask for comments in the instant proceeding until there is greater finality in the Global appeals.

On April 20, 2000, ALLTEL again filed a letter with the Commission, copied to all parties, asking that we stay, until further notice, the comment period in the above-referenced matter because of the continuing uncertainty in the pending Global appeals and the relevance their resolution may bear on this rulemaking proceeding. Given the continuing uncertainty in the pending Global appeals, we agree with this request and, therefore, will grant a stay, until further notice, of the comment period.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-791. Filed for public inspection May 12, 2000, 9:00 a.m.]

STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

Fees

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

Effective Date

The proposed amendment would become effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

Statutory Authority

Section 3(6) of The C.P.A. Law (act) (63 P. S. § 9.3(6)), authorizes the Board to establish fees for its operations. Section 6 of the act (63 P. S. § 9.6) requires the Board to establish fees by regulation and to ensure that revenues derived from fees are adequate to cover the Board's expenditures over a biennial period.

Background and Purpose

The Board's general operating expenditures are funded through fees for biennial renewal of licensees. Expenditures related to services that the Board provides to licensees and applicants are defrayed through user fees based on the actual costs of providing the services.

In a recent systems audit of the Board's operations conducted by the Revenue Office of the Bureau of Professional and Occupational Affairs, the fees for services provided to individual licensees and applicants were analyzed to determine if they accurately reflected the actual costs of providing the services. Actual cost calculations were based upon the following formula:

$$\begin{array}{r} \text{number of minutes to perform the service} \\ \times \\ \text{pay rate for the classification of personnel} \\ \text{performing the service} \\ + \\ \text{a proportionate share of administrative overhead} \end{array}$$

The audit revealed that the existing fees for certification and initial licensure of a certified public accountant, temporary practice permit, verification of certification, registration or licensure and certification of examination scores were less than the actual costs of providing the services. The Revenue Office recommended that the fees for those services be raised to reflect the Board's actual costs.

The Revenue Office also recommended that the Board establish a new fee to defray the actual costs associated with reinstating an inactive or expired license. Section 9.2(d)(2) of the act (63 P. S. § 9.9b(d)(2)), was amended in 1996 to require a fee.

The Board's proposal would implement the Revenue Office's recommendations regarding user fees for Board services. The Board would continue to apportion its general operating costs to the general population of licensees when the Board makes its statutorily required biennial reconciliation of revenue and expenditures.

Description of Proposed Amendment

The proposed amendment would revise the Board's schedule of users fees as set forth in Annex A.

In the interests of improving the organization of Board regulations, the proposed amendment also would relocate to § 11.4 the temporary practice fee, which currently appears in § 11.5 (relating to temporary practice in this Commonwealth), and the examination fees, which currently appear in § 11.17 (relating to submission of examination application and examination fees). The Board intends to amend §§ 11.5 and 11.17 in a separate rule-making initiative relating to general revisions (16A-559).

The proposed amendment also would make editorial changes to the descriptions of the fees. The \$45 fee currently labeled as "application for certification" applies to both the initial certification and licensure of a certified public accountant and the initial licensure of a public accounting firm. Because the actual costs associated with

the certification and initial licensure of a certified public accountant have increased by \$20 (thus necessitating an increase in the fee) but not those associated with the initial licensure of a public accounting firm, the proposed amendment would separate the current fee into two fees: a \$65 fee for certification and initial licensure of a certified public accountant and a \$45 fee for initial licensure of a public accounting firm.

Fiscal Impact

The Board projects that the revised schedule of fees would generate additional revenues totaling approximately \$36,875 during each fiscal biennium. The additional biennial revenues are broken down as follows:

<i>Service</i>	<i>Estimated Fee-Payers</i>		<i>Fee Increase</i>		<i>Additional Revenues</i>
Certification and Initial Licensure of Certified Public Accountant	1,000	x	\$20	=	\$20,000
Temporary Practice Permit	75	x	\$5	=	\$375
Reinstatement of Inactive or Expired License	200	x	\$35	=	\$7,000
Certification of Examination Scores	900	x	\$10	=	\$9,000
Verification of Certification, Registration or Licensure Status	100	x	\$5	=	\$500
					Total
					\$36,875

Paperwork Requirements

The proposed amendment would require the Board to change certain forms to reflect the revised schedule of fees. The proposed amendment would not create additional paperwork requirements for the regulated community.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in drafting and promulgating the proposed amendment, considered the least restricted alternative to regulatory costs for services requested by individual licensees and applicants.

Regulatory Review

On May 3, 2000, as required by section 5(a) of the Regulatory Review Act (71 P. S. § 745.4(a)), the Board submitted copies of this notice of proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. The Board also provided IRRC and the Committees with copies of regulatory analysis and fee report forms prepared in compliance with Executive Order 1996-1. Copies of these forms are available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to the proposed amendment, it will notify the Board within 10 days after the close of the Committees' review period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit IRRC, the General Assembly and the Governor to review objections prior to final adoption of the amendment.

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed amendment to Steven Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA

17105-2649 within 30 days following publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

THOMAS J. BAUMGARTNER, CPA,
Chairperson

Fiscal Note: 16A-558. 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.

[(a)] Following is the schedule of fees charged by the Board:

Complete CPA examination. (Four parts)	\$135
Three parts	\$112.50
Two parts	\$90
One part	\$67.50
AICPA examination administration to candidates of other state boards	\$100
[Application for certification] Certification and initial licensure of certified public accountant	\$ [45] 65
Initial licensure of public accounting firm	\$45

Temporary practice permit \$25

Biennial renewal [for] of license of certified public [accountants] accountant, public [accountant, partnerships, professional corporations and professional associations] accountant or public accounting firm \$45

Reinstatement of inactive or expired license \$35

Certification of examination scores \$[15] 25

Verification of certification, registration or licensure \$[10] 15

[(b) Upon implementation, these fees will have retroactive effect to February 1, 1990.]

[Pa.B. Doc. No. 00-792. Filed for public inspection May 12, 2000, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31] Biennial Renewal Fees

The State Board of Veterinary Medicine (Board) proposes to amend § 31.41 (relating to schedule of fees) to read as set forth in Annex A. The proposed amendment would increase the biennial license renewal fee for veterinarians from \$105 to \$225 and for animal health technicians from \$30 to \$60.

Effective Date

The new fees would be effective on final publication in the *Pennsylvania Bulletin* and will apply to the biennial renewal period commencing December 1, 2000.

Statutory Authority

Section 13(a) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.13(a)), requires the Board to fix the fees required for renewal of licenses and certificates by regulation. In addition, section 13(b) of the 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.

Background and Need for Amendment

The Board's current biennial license renewal fees were established by regulation in 1995. The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. The act mandates that the Board protect the public by adopting rules and regulations that govern the practice of veterinary medicine and administer and enforce the laws, rules and regulations that relate to the practice of veterinary medicine. In addition, the Board is generally mandated to promote public health, safety and welfare, which is accomplished through Board initiatives and coordination with other agencies and departments in this Commonwealth. The proposed fees are comparable to the renewal fees charged in surrounding states and should cause no competitive disadvantage to this Commonwealth.

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

At its July 15, 1999, Board meeting, the Offices of Revenue and Budget presented a summary of the Board's revenues and expenses for Fiscal Years 1997-1998 and 1998-1999. The summary, presented in the following table format, demonstrated that the Board must raise fees to meet or exceed projected expenditures to comply with section 13(b) of the act.

1997 beginning balance	(245.09)
FY97-98 revenue	22,392.00
FY97-98 expenses	179,789.44
1998 beginning balance	(157,642.53)
FY98-99 revenue	363,112.00
FY98-99 expenses	287,011.29
1999 beginning balance	(81,541.82)

As the foregoing indicates, at the close of FY 1998-1999, the Board's expenses exceeded its revenues by \$81,541.82. The Budget Office estimates that in FY 1999-2000, the deficit will increase to \$341,681.10 if fees are not increased. The Budget Office anticipates that the proposed new fees will enable the Board to recapture the current deficit and meet its estimated expenditures for the 2000-2002 biennial cycle.

The increases in the Board's biennial expenses occurred primarily in law enforcement costs and legal office costs. Law enforcement (the Bureau of Enforcement and Investigation) saw an increase from 898.75 hours expended in FY 1994-1995 to 1,184.8 hours expended in FY 1998-1999. Corresponding to this increase, law enforcement expenditures increased from approximately \$70,000 in FY 1994-1995 to just over \$95,000 in FY 1997-1998.

The legal office (division of the Bureau of Professional and Occupational Affairs) spent 1,485.9 hours in FY 1997-1998 on matters related to the Veterinary Board. No figure was available for FY 1994-1995. Legal office expenditures increased from approximately \$37,000 in FY 1994-1995 to just under \$61,000 in FY 1997-1998.

The legal office saw an increase in both number and complexity of cases closed in calendar years 1996 through 1998. In 1996, the Board issued four adjudications relating to continuing education violations and one in a reciprocal disciplinary action.

In 1997, the Board issued one adjudication in a reciprocal disciplinary action and issued two orders in a complicated malpractice case. In 1998, the Board issued one adjudication involving a civil prosecution and two involving unlicensed practice. In 1998, the Board issued six adjudications: one for performing surgery without a license, two for dispensing medication without a license, one for practicing on a lapsed license, one reciprocal disciplinary action and one for gross negligence/malpractice.

Description of Proposed Amendment

Based upon the expense and revenue estimates provided to the Board, the Board proposes to amend its fee schedule in § 31.41 to increase the fee for biennial renewal of licenses for veterinarians from \$105 to \$225 and increase the fee for animal health technicians from \$30 to \$60. By this increase, the Board will recoup the 1999 deficit and offset the projected deficit of \$341,681.10 in FY 1999-2000.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposal the Board considered the proposal as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

Fiscal Impact

The proposed amendment will increase the biennial renewal fee for veterinarians and animal health technicians. A veterinarian will pay an additional \$120 for biennial renewal. An animal health technician will pay an additional \$30 for biennial renewal. The proposed amendment should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

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

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 2, 2000, the Board submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and Senate Consumer Protection and Professional Licensure Committee for review and comment. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendment, it will notify the Board within 10 days after the expiration of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory

Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Board, the General Assembly and the Governor of objections raised.

Public Comment

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

BRIAN V. HARPSTER, V.M.D.,
Chairperson

Fiscal Note: 16A-579. 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 31. STATE BOARD OF VETERINARY MEDICINE

FEES

§ 31.41. Schedule of fees.

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

Veterinarians:

	*	*	*	*	*
Biennial renewal.....					§ [105]225
	*	*	*	*	*

Animal health technicians:

	*	*	*	*	*
Biennial renewal.....					§ [30]60
	*	*	*	*	*

[Pa.B. Doc. No. 00-793. Filed for public inspection May 12, 2000, 9:00 a.m.]