

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF CRANE OPERATORS [49 PA. CODE CH. 6]

Fees

The State Board of Crane Operators (Board) amends § 6.4 (relating to fees) to read as set forth in Annex A. The final-form rulemaking increases the biennial license renewal fees for licensed crane operators from \$100 to \$130. Although the final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*, it is expected that the increased fees will be implemented for the November 1, 2014, renewal.

Statutory Authority

Section 701(a) of the Crane Operator Licensure Act (act) (63 P. S. § 2400.701(a)) 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 Final-Form Rulemaking

Under section 701 of the act, the Board is required 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 majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees and civil penalties. At the May 23, 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 Year (FY) 2010-2011 and FY 2011-2012, and projected revenue and expenses through FY 2014-2015.

At the time, the Board had already incurred significant deficits and the BFO projected that, without an increase to the biennial renewal fees, the Board would continue to incur additional deficits throughout the foreseeable future. Therefore, the Board determined that it was neces-

sary to raise fees to meet or exceed projected expenditures in compliance with section 701(a) of the act. As a result, the Board voted at its October 1, 2012, meeting to increase the biennial renewal fees to \$160.

Summary of Comments

The Board published the proposed rulemaking at 43 Pa.B. 2041 (April 13, 2013) with a 30-day public comment period. The Board did not receive public comments on the proposed rulemaking. On May 24, 2013, the Board received comments from the House Professional Licensure Committee (HPLC). The Independent Regulatory Review Commission (IRRC) submitted comments to the Board on June 12, 2013.

The HPLC requested additional information pertaining to the major cost centers of the Board and explaining any significant increases in its expenditures. IRRC indicated that they would review the Board's response to the HPLC's comments as part of their determination of whether the final-form rulemaking is in the public interest.

Response

In response, the Board notes that it has been well over a year since the BFO first met with the Board suggesting that a fee increase was necessary. Therefore, after considering the comments, the Board asked the BFO to provide an updated analysis of the Board's fiscal situation based on current data. The BFO provided updated information to the Board which was discussed at the Board's regularly scheduled meeting on February 26, 2014. Two changes in the Board's current financial condition were noted at that meeting. First, the number of active licensees has increased from 2,780 to 3,535 since the increase was proposed in 2013. Second, the Board has been able to reduce expenditures below the projections of a year ago so that the projected deficits have been reduced, although not eliminated. For example, when the Board approved the increase in 2012, the BFO projected a negative fund balance at the end of FY 2011-2012 of approximately \$182,660.46. However, the actual balance at the end of that year came in at \$175,050.67. The combined effect of an increase in renewable licenses and the modest decrease in expenditures has reduced, but not eliminated, the need for a fee increase.

The HPLC requested additional information regarding the major cost centers of the Board and any significant increases in its expenditures. Presently, the major cost centers of the Board are as follows:

Cost Center	Actual Expenses FY 2011-2012	Actual Expenses FY 2012-2013
Board administration	\$60,370.16	\$61,970.08
Legal office	\$32,263.45	\$15,577.31
Enforcement and investigation	\$32,573.06	\$35,280.49

The Board began incurring expenses in FY 2008-2009, at which time the major cost category was the legal office (with expenses of \$11,400.40), because the major activity of the Board was drafting the initial rulemaking implementing the act. Legal office expenses remained the biggest cost for the Board until FY 2010-2011, when Board administration became the largest cost category as the Board began issuing licenses. Legal office costs increased from \$11,000.40 in FY 2008-2009 to a high of \$44,635.54 in FY 2009-2010, and have since moderated to \$15,577.31 in FY 2012-2013. Board administration costs

were minimal in FY 2008-2009 and FY 2009-2010 (\$2,553.55 and \$17,927.02, respectively), but jumped dramatically to \$76,027.40 in FY 2010-2011 when the Board began issuing licenses. Board administration has settled at an average of \$61,000 over the past 2 fiscal years. Costs relating to enforcement and investigation began to be incurred in FY 2009-2010, but did not get to be significant until the past 2 fiscal years (averaging about \$34,000 a year). Because the Board has little history to inform its projections, it is difficult to estimate future expenditures with accuracy. In addition, legal

office, enforcement and investigation, and hearing costs depend largely on how many complaints are filed. To date, the vast majority of complaints filed have related to unlicensed practice. Total expenditures since the Board's inception have increased from \$16,656.54 in FY 2008-2009, to a high of \$146,997.01 in FY 2010-2011 and have since moderated to \$134,139.33 in FY 2012-2013. The BFO currently projects a negative balance in the Board's account of (\$136,475.67) at the end of FY 2013-2014. Although the deficit is decreasing, it is not eliminated, and without a fee increase, the BFO projects a negative balance at the end of each biennial renewal period for the foreseeable future.

As a result of the updated financial information, the Board determined that, although an increase is still necessary to eliminate the existing deficit and cover current expenditures, a more modest \$30 increase is in order at this time. Therefore, the final-form rulemaking has been amended to increase the fee from \$100 to \$130. This fee is capable of producing sufficient biennial revenue to cover projected biennial expenses, eliminate the deficit and place the Board back on firm financial ground.

Description of Final-Form Rulemaking

The final-form rulemaking amends § 6.4 to increase the biennial renewal fee for licensed crane operators from \$100 to \$130.

Fiscal Impact

The final-form rulemaking increases the biennial renewal fees for licensees of the Board. There are currently approximately 3,535 licensees that will be required to pay more to renew their licenses when they expire in 2014, and thereafter. Small businesses that employ licensees of the Board may be impacted if they choose to pay the biennial renewal fees on behalf of employees. The final-form rulemaking should not have other fiscal impact on the private sector, the general public or political subdivisions of this Commonwealth.

Paperwork Requirements

The final-form rulemaking requires the Board to alter some of its forms to reflect the new fees. The final-form rulemaking 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, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 2, 2013, the Board submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 2041, to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 9, 2014, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 10, 2014, and approved the final-form rulemaking.

Contact Person

Further information may be obtained by contacting Christopher K. McNally, Counsel, State Board of Crane Operators, P. O. Box 2649, Harrisburg, PA 17105-2649.

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 no comments were received.

(3) The amendments to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 43 Pa.B. 2041.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified this preamble.

Order

The Board, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 6, are amended by amending § 6.4 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General 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) This order shall take effect on publication in the *Pennsylvania Bulletin*.

RAYMOND FEIDT,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 5156 (July 26, 2014).)

Fiscal Note: Fiscal Note 16A-7102 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 6. STATE BOARD OF CRANE OPERATORS

GENERAL PROVISIONS

§ 6.4. Fees.

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

Initial licensing application fee	\$100
Biennial renewal fee	\$130
Verification of Licensure.....	\$15
Addition of crane specialty	\$70
Application for certifying organization.....	\$1,000
Trainee registration fee	\$100

(b) Fees must accompany applications and be made payable to "Commonwealth of Pennsylvania."

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