

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

2007 JUL 27 12:03

OFFICE
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

RULE TYPE: Legislative CITE AUTHORITY: W.Va. Code §21-14-4

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

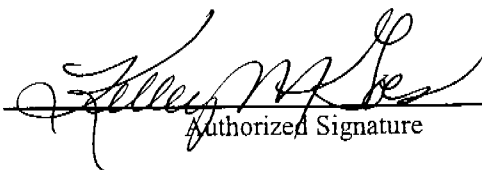
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 32

TITLE OF RULE BEING PROPOSED: Supervision of Plumbing Work

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 27, 2007 AT 4:30 pm ~~10:00 am~~ ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Division of Labor
Attn: Andrew A. Brown
Room B-748, Building #6
State Capitol Complex
Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Supervision of Plumbers

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Division of Labor

Address: Building #6, Room B-749
State Capitol Complex
Charleston, WV 25305

Phone Number: (304) 558-7890 Email: abrown@labor.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This new legislation requires the licensure of plumbers. The total operation will be funded by a license fee of \$75 per year. It is estimated that approximately 2,700 plumbers will seek licensure. This should generate about \$202,500 in special revenue to fund the operation. Additional personnel will be required for this new activity. Initially, the division estimates the need for two office clerical positions and three field compliance officers. As shown below, the anticipated costs are within the revenue estimates. Therefore, the program will be self-supporting.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	199,400.00	192,950.00	197,000.00
Personal Services	170,500.00	170,500.00	172,000.00
Current Expenses	28,900.00	22,450.00	25,000.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	202,500.00	202,500.00	202,500.00

Rule Title: _____

Rule Title: Supervision of Plumbers

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

See summary above. This program will be self-supporting from special revenue collected in the form of license fees.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

NONE

Date: June 27, 2007

Signature of Agency Head or Authorized Representative



SUMMARY

This is a new rule. The rule is mandated by the passage of House Bill 2747, Supervision of Plumbing Work, W.Va Code §21-14. The rule sets the basic licensing criteria for the licensing of plumbers. This original rule is intended to set requirements for the “grandfather” period which shall conclude in 2009. After that period, written examinations will be required for all new licensees.

**TITLE 42
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF LABOR**

**SERIES 32
SUPERVISION OF PLUMBING WORK**

2007 JUN 27 PM 3

OFFICE OF THE
SECRETARY OF LABOR**§42-32-1. General.**

1.1. Scope. -- This legislative rule governs certification, fees, examinations, training, powers and duties of the commissioner and penalties for violations in accordance with W. Va. Code §§21-14, et seq, and 29A-3-1 et seq.

1.2. Authority. -- W. Va. Code §21-14-4.

1.3. Filing Date. --

1.4. Effective Date. --

§42-32-2. Application and Enforcement.

2.1. Application. This legislative rule applies to the West Virginia Division of Labor and all persons, materials and transactions governed or otherwise defined under coverage of the Supervision of Plumbing Work, W. Va. Code §21-14 et seq.

2.2. Enforcement. The enforcement of this legislative rule is vested with the West Virginia Division of Labor.

§42-32-3. Definitions.

3.1. "Commissioner" means the commissioner of labor.

3.2. "Division" means the West Virginia Division of Labor.

3.3. "Immediate family" is limited to one or more of the following: father, mother, spouse, brother, sister, son, and/or daughter.

§42-32-4. Adoption of Standards.

4.1. National standards. For the enforcement of this rule, the International Plumbing Code as adopted by the International Code Council, 2003 is hereby incorporated by reference.

4.2. State standards. [RESERVED]

§42-32-5. Certification Required; Exemptions.

5.1. Effective the first day of January, two thousand-nine, no person may perform plumbing

work in this state without license issued under this rule.

5.2. This licensure requirement does not apply to:

(a) A person who personally performs plumbing work on a single family dwelling owned or leased by that person or by a member of that person's immediate family;

(b) A person who performs plumbing at any manufacturing plant or other industrial establishment as an employee of the person, firm or corporation operating the plant or establishment;

(c) A person who performs plumbing work while employed by an employer who engages in the business of selling appliances at retail, so long as such plumbing work is performed incidental to the installation or repair of appliances sold by the employer;

(d) A person who, while employed by a public utility or its affiliate, performs plumbing in connection with the furnishing of public utility service;

(e) A person who performs plumbing work while engaging in the business of installing, altering or repairing water distribution or drainage lines outside the foundation walls of a building, public or private sewage treatment or water treatment systems including all associated structures or buildings, sewers or underground utility services;

(f) A person who performs plumbing work while engaged in the installation, extension, dismantling, adjustment, repair, servicing or alteration of a heating, ventilation and air condition (HVAC) system, air-veyor system air exhaust system or air handling system;

(g) A person who performs plumbing work at a coal mine that is being actively mined or where coal is being processed; or

(h) A person who performs plumbing work at manufacturing, industrial or natural gas facilities.

§42-32-6. Minimum Qualifications for Licensure.

6.1. The commissioner shall certify any applicant for a license who:

(a) Is at least eighteen years of age;

(b) Submits an application on forms provided by the commissioner;

(c) Submits copy of the required written examination scores reflecting a score of seventy percent (70%) or more: and

(d) Pays the application fee as defined in section ten of this rule.

6.2. On or before the first day of July, two thousand nine, the commissioner may certify an applicant for a license without written examination if the applicant:

- (a) Is at least eighteen years of age;
- (b) Submits an application on forms provided by the Commissioner;
- (c) Provides a acceptable documentation or sworn affidavit which demonstrates that they meet the minimum experience requirements for the plumber license classification requested; and
- (d) Pays the application fee as defined in section ten of this rule.

6.3. A license issued under this rule is valid throughout the state, is not assignable or transferable, and is valid for one year from the date on which it was issued.

- 6.4. The commissioner shall provide each licensee a renewal application forty-five (45) days in advance of the license expiration. Upon return of the renewal form and payment of the applicable fee, the commissioner shall renew the license for a period of twelve (12) months. Provided, however, a license which is expired by ninety (90) days or more may not be renewed.

§42-32-7. Examinations Required.

7.1. Any person desiring a license under the provisions of this article shall submit to the commissioner an application for examination on forms provided by the commissioner.

7.2. All persons desiring license under the provisions of this article shall pass a written examination. The contents of the examination shall be based on the standards adopted under section four of this rule. All applicants are required to pass the examination for the license classification desired. The classifications of license are as follows:

- (a) Master plumber;
- (b) Journeyman plumber; or
- (c) Plumber in training.

7.3. The commissioner shall provide for the written examination of all license applicants. The examination shall test the applicant's knowledge of the standards as adopted in section four of this rule.

- (a) The commissioner may:

1. Contract with a private testing agent to conduct the written examinations.

The private testing agent shall charge examination fees according to a rate schedule developed by the commissioner and the applicant shall pay all examination fees directly to the testing agent; or

2. Develop a written examination process within the division to include a fees schedule not to exceed the actual cost of administering the examinations. The license applicant shall pay all fees directly to the division in advance of the examination

(b) The minimum passing score is a score of seventy (70%) percent for each examination.

(c) An applicant who fails the examination may request the division or private testing agent shall provide the applicant with an analysis of his or her performance on the failed examination. An applicant who fails the examination shall be afforded the opportunity to be re-examined after thirty (30) days and upon the submission of a new application and the payment of the fees required.

§42-32-8. Denial, Suspension, Revocation, or Reinstatement of License.

8.1. The commissioner may deny, suspend, revoke or reinstate a license.

8.2. A violation of W. Va. Code §21-14, et seq, or this rule is grounds for the denial, suspension, revocation or refusal to reinstate a license and permits the imposition of disciplinary action: Provided, That no disciplinary action against a licensee may be imposed without a proper prior notice as served under W. Va. Code §56-2-1, and an opportunity for hearing held before the commissioner or his designee under the provisions of W. Va. Code §29A-5-1, et seq, the Administrative Procedures Act, wherein the licensee shall be provided the opportunity to present evidence in person, by counsel or both and after which, if the commissioner finds a violation of this article has occurred, the commissioner may impose any disciplinary action permitted in the article or rule.

8.3. The performance of plumbing work in violation of W. Va. Code §21-14, et seq, or this rule may result in the suspension of a license for not less than twenty-four hours nor more than one year, or revocation of the license until reinstated.

8.4. Each licensed plumber shall carry proof of valid licensure on his or her person during the performance of plumbing work.

8.5. A person whose license has been revoked may apply for a new license one year after the date of the revocation.

§42-32-9. Penalties.

9.1. A person required to obtain a license under this article or rule, who is found performing plumbing work without a valid license on their person, shall be issued a cease and desist order. The order shall remain in effect until such time as the person comes into compliance with subsection 8.4 of this rule.

9.2. Any person continuing to engage in plumbing work after the issuance of a cease and desist order is guilty of a misdemeanor and, upon conviction thereof, is subject to the following penalties:

(a) For the first offense, a fine of not less than two hundred dollars no more than one thousand dollars;

(b) For the second offense, a fine of not less than five hundred dollars nor more than two thousand dollars, or confinement in jail for not more than six months, or both;

(c) For the third and subsequent offenses, a fine of not less than one thousand dollars nor more than five thousand dollars and confinement in jail for not less than thirty days nor more than one year.

9.3. A separate offense means each day, after the issuance of a cease and desist order, that the person performs plumbing work that is in violation of the article or this rule.

9.4. The Commissioner may pursue injunctive relief to enjoin any violation of any provision of this article or this rule.

§42-32-10. Plumber License Fund; Fees; Disposition of Funds.

10.1. A plumber license fund is established in the state treasurer's office in accordance with W. Va. Code §21-14-9. Payments are authorized from this fund for the enforcement of W. Va. Code §21-14 and this rule.

10.2. The annual license fee shall be seventy-five dollars (\$75) which shall cover the costs incurred for the issuance or renewal of a license.

§42-32-11. Local License Ordinances void.

On and after the first day of January, two thousand-nine, no city, county or other political subdivision of this state may require the licensure and supervision of plumbers as a condition to perform plumbing work within that jurisdiction. Any such requirement in effect prior to the effective date of this article shall become void as of the first day of January, two thousand-nine.

§42-32-12. Reciprocity.

To the extent that other states which provide for the licensing and supervision of plumbers have requirements the equivalent to this article, the commissioner, in his or her discretion, may grant licenses of the same classification without examination to plumbers licensed by other states.