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OCT 18 8 45 AM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

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October 16, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ann Hicks
Engineers, State Board of Registration for Professional
608 Union Building
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Rules of the WV State Board of Registration for Professional Engineers, 7CSR1**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

PLANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: State Board of Registration for Professional Engineers

Subject: Regulations Governing the West Virginia Board of
Registration for Professional Engineers, 7CSR

PERTINENT DATES

Filed for public comment: July 21, 2000
Public comment period ended: August 21, 2000
Filed following public comment period: August 30, 2000
Filed LRMRC: August 30, 2000
Filed as emergency:

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Fiscal Impact: The fiscal note does not reflect the revenue from the increased fees.

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 4 relating to professional limited liability companies is new. It requires a professional limited liability partnership or company to apply for a certificate of authorization prior to applying for registration with the Secretary of State. The partnership or company must document, to the Board, that all partners or members are registered professional engineers in this State. This ownership requirement applies only to those partnerships or companies formed and registered with the Secretary of State after June 30, 2001.

Section 6 relates to experience. Subsection 6.11 which prohibited the Board from giving an applicant credit for experience obtained as a contractor in the execution of design by a professional engineer or in employment considered as that of supervising construction of the work has been deleted.

Section 8 relates to examinations. Obsolete language containing grandfather provisions has been deleted. Language has

also been deleted which prohibited an applicant from taking the examination more than two times without providing evidence to the Board that he or she had acquired additional knowledge since he or she failed the examination.

Section 14 relates to continuing professional competency. Obsolete language regarding the initial implementation of the requirements has been deleted.

Section 16 relates to professional responsibility. New subsections 16.7 and 16.8 have been added regarding professional limited liability partnerships and companies.

Section 18 relating to severability has been deleted.

Section 19 relates to fees. The examination application fee for an engineer intern has been raised from \$25 to \$45 and for a professional engineer from \$60 to \$80. The renewal fee for a professional engineer has been increased from \$35 to \$40. The application fee for firms or organizations with three professional engineers or less has been increased from \$10 to \$100 and the renewal fee for those firms or organizations has been increased from \$5 to \$50. The application fee for firms or organizations with more than three professional engineers has been increased from \$60 to \$150 and the renewal fee for those firms or organizations has been increased from \$30 to \$300. The comity application fee has been increased from \$120 to \$150, the roster fee from \$10 to \$12, and the returned check fee from \$15 to \$25.

AUTHORITY

Statutory authority: W.Va. Code, §30-13-9, which provides, in part, as follows:

...The board may promulgate and shall adopt "rules of professional responsibility for professional engineers". These rules are binding to any person registered with the board under the provisions of this article. These rules are also applicable to firms holding a certificate of authorization as provided in section seventeen of this article...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.