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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**West Virginia Legislature**  
**Legislative Rule-Making Review Committee**

Room MB47-State Capitol  
Charleston, West Virginia 25305  
(304) 347-4840

Senator Mike Ross, Co-Chair  
Delegate Vicki Douglas, Co-Chair

Debra A. Graham, Counsel  
Joe Altizer, Associate Counsel  
Marie Nickerson, Admr. Assistant

December 19, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Theodore Glance  
WV Board of Examiners of Psychologists  
P. O. Box 910  
Barrackville, WV 26559

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Fees

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

- 1. Authorize the agency to promulgate part of 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 Recommends that the rule be withdrawn; a statement of reason for such recommendation is attached.   X

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

The Committee recommended that the rule proposed by the West Virginia Board of Examiners of Psychologists be withdrawn. The Committee made the recommendation, because in their opinion, the increase in fees is excessive and they were concerned as to whether or not funds in the Board's current budget have been expended in a judicious manner. The Board hired an Executive Director and expended funds, when there was clearly no money in their budget for those expenditures. After spending the money in their budget, they came to the Legislature via the rule-making process to ask for fee increases, rather trying to address the issue prior to making the expenditures.

Senate Bill No. 205

(By Senator(s) Ross, Anderson, Macnaughtan,  
Boley and Buckalew)

[Introduced March 3, 1997; referred to the  
Committee on Health and Human Resources; then  
to the Committee on Finance; and then to the  
Committee on the Judiciary.]

10 A BILL to amend article nine, chapter sixty-four of the  
11 code of West Virginia, one thousand nine hundred  
12 thirty-one, as amended, by adding thereto a new  
13 section designated section eight, relating to  
14 authorizing the board of examiners of psychologists to  
15 promulgate a legislative rule relating to fees.

16 *Be it enacted by the Legislature of West Virginia:*

17 That article nine, chapter sixty-four of the code of  
18 West Virginia, one thousand nine hundred thirty-one, as  
19 amended, be amended by adding thereto a new section,  
20 designated section eight, to read as follows:

21 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND  
22 BOARDS TO PROMULGATE LEGISLATIVE RULES.

23 §64-9-8. Board of examiners of psychologists.

1       The legislative rule filed in the state register on  
2 the thirtieth day of August, one thousand nine hundred  
3 ninety-six, authorized under the authority of section six,  
4 article twenty-one, chapter thirty, of this code, relating  
5 to the board of examiners of psychologists (fees, 17 CSR  
6 1), is authorized.

7  
8       NOTE: The purpose of this bill is to authorize the  
9 Board of Examiners of Psychologists to promulgate a  
10 legislative rule relating to Fees.

11  
12       This section is new; therefore, strike-throughs and  
13 underscoring have been omitted.

2380

H. B. 2380

1 Bill-Psychs, Fees

2 (By Delegate(s) Douglas, Hunt, Compton,  
3 Faircloth, Linch and Riggs)

4  
5 [Introduced March 3, 1997; referred to the  
6 Committee on Finance then the Judiciary.]  
7  
8  
9

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13 underscoring have been omitted.

## ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Board of examiners of Psychologists

**Subject:** Fees, 17CSR1

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### PERTINENT DATES

Filed for public comment: June 26, 1996

Public comment period ended: August 1, 1996

Filed following public comment period: August 30, 1996

Filed LRMRC: August 30, 1996

Filed as emergency: September 13, 1996; Withdrawn October 22, 1996

Fiscal Impact: ?

### ABSTRACT

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

Subsection 2.1 has been amended to increase the application fee for licensure through the standard method, reciprocity or verification from \$75 to \$150.

Subsection 2.2 has been amended to decrease the fee for temporary permits from \$75 to \$50.

Subsection 2.3 has been amended to increase the biennial license renewal fee from \$100 to \$250 and from \$50 to \$125 for school psychologists. Licensees practicing less than 20 hours per month are exempted from paying a renewal fee.

Subsection 2.4 has been amended to increase the fee for registers from \$10 to \$20.

Subsection 2.5 has been amended to increase the fees for copies of the law or rules from \$10 to \$20.

Subsection 2.6 has been amended to increase the examination fee from \$40 to \$75.

Subsection 2.7 has been amended to replace the \$125 oral examination fee with a license activation fee of \$250 for the first two years of practice. The fee is payable after successful completion of the oral examination.

Subsection 2.8 has been amended to increase the annual supervision fee from \$50 to \$75.

Subsection 2.9 is new and sets a fee of \$110 for mailing labels.

Subsection 2.10 is new and sets a late fee of 25% of the fee that is late.

Subsection 2.11 is new. It provides for a special assessment fee of \$100 to be assessed when the available balance of the Board drops below the quarterly allotment as defined in the yearly budget and as approved by the State Financial Office.

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### **AUTHORITY**

Statutory authority: W.Va. Code, §30-21-6, which provides, in part, as follows:

(a) The board shall:

...(4) Promulgate reasonable rules and regulations implementing the provisions of this article and the powers and duties conferred upon the board hereby, including, but not limited to, reasonable rules and regulations establishing standards to insure the proper supervision of all persons working under the direct and regular supervision of a licensee under the provisions of this article, all of which reasonable rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code, set reasonable fees and record them in legislative rules, Title 17, Series 1...

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### **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?**

The Committee will need to determine the reasonableness of the fees, particularly the special assessment fee.

**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 PROVISION OF THE CODE?**

Yes. however the fiscal note should indicate the change in revenues to the Board based on the amended fees.

**VIII. OTHER.**

Counsel has technical modifications to suggest.