

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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FILED

DEC 27 1 41 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: BOARD OF BARBERS AND COSMETOLOGISTS TITLE NUMBER: 3

CITE AUTHORITY WV CODE 30-27-1 et seq

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: SCHEDULE OF FEES

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: SAME

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Authorized Signature

Rule Title: SCHEDULE OF FEES

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of Citizens.

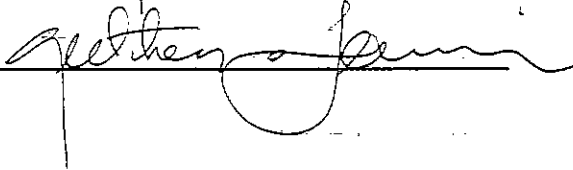
THE INCREASES WILL AFFECT OWNERS OF BARBER, BEAUTY, NAIL AND AESTHETICIAN SALONS. THE ECONOMIC IMPACT WILL BE MINIMAL TO ALL AFFECTED INDIVIDUALS.

C. Economic Impact on Citizens/Public at Large.

NONE

Date: 9/12/20/96

Signature of Agency Head or Authorized Representative



TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 6

SCHEDULE OF FEES

§ 3-6-1. General

1.1. Scope - This legislative rule establishes the various fees that are to be submitted to the Board of Barbers and Cosmetologists by students, instructors and owners and operators of schools of barbering and/or beauty culture and owners of barber, beauty, manicure and aesthetic shops.

1.2. Authority - W. Va. Code § 30-27-1 ~~et seq.~~ ~~Related~~
~~W. Va. Code § 30-27-1 et seq.~~

1.3. Filing Date -

1.4. Effective Date -

§ 3-6-2. Schedule of Fees

2.1.	Application & Examination fee	\$ 25.00
2.2.	Issuance or License fee	\$ 25.00
2.3.	Reciprocity, application without exam fee .	\$ 50.00
2.4.	<u>Annual</u> license renewal fee	\$ 25.00
2.5.	Late renewal fee:	\$ 25.00
	Plus a penalty of \$5.00 for first 30 days late	
	\$5.00 penalty for each subsequent 30 day period	
2.6.	Student permit	\$ 5.00
2.7.	Initial license fee for a school of Barbering or school of Beauty Culture	\$500.00
2.8.	<u>Annual</u> renewal fee for a school	\$250.00
2.9.	<u>Initial</u> licensed instructor fee	\$ 50.00
2.10.	<u>Annual</u> renewal of licensed instructor fee .	\$ 50.00
2.11.	Registration fee for booth or chair rental	\$ 10.00
2.12.	Fee for relocation of rented booth or chair	\$ 2.50
2.13.	Shop or school inspection fee	\$ 25.00

2.14. Duplicate license fee	\$ 10.00
<u>2.15. Initial license fee for beauty, barber, manicure and aesthetician shop</u>	<u>\$ 25.00</u>
<u>2.16. Annual renewal fee for beauty, barber, manicure and aesthetician shops</u>	<u>\$ 25.00</u>
<u>2.17. Fee for certification of licensure</u>	<u>\$ 25.00</u>

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Board of Barbers and Cosmetologists

Subject: Schedule of Fees 3CSR6

PERTINENT DATES

Filed for public comment: July 10, 1996
Public comment period ended: August 9, 1996
Filed following public comment period: August 29, 1996
Filed LRMRC: August 29, 1996
Filed as emergency:

Fiscal Impact: The fiscal note did not contain an estimate of the increase in revenue from the fee increases

ABSTRACT

The proposed rule amends a current legislative rule. It attempts to raise fees that are set by statute and to assess fees which they are not authorized to assess.

AUTHORITY

Statutory authority: W.Va. Code, §30-27-1, which provides, in part, as follows:

...(g) The board shall have the power to promulgate rules generally regarding the practice and conduct of barbering and beauty culture, including, but not limited to, the procedures, criteria and curricula for examination and qualifications of applicants for licensure, and for the licensing of instructional personnel for schools of barbering and beauty culture.

The power of the board to promulgate such rules shall be concurrent with that of the board of health as authorized in article fourteen, chapter sixteen of this code: **Provided**, That in the case of conflicting provisions regarding requirements for health

and sanitation, the rule or regulation of the board of health shall be deemed to apply. The board of health and the board of barbers and cosmetologists shall for a reasonable fee make available upon request to any licensee a copy of such rules.

ANALYSIS

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

Yes. The Board does not have the authority to set fees. In fact, all the fees which the Board is attempting to raise are set by statute. As the Board does not have the authority to set fees, it cannot set fees that are not in the statute.

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?

No. The statute is specific on the amount of the fees and does not give the Board the power to set fees.

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

Yes. The fees which the Board is attempting to increase are found in WVC §§30-27-3, 5, and 10a.

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

No.

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

It may be reasonable, but the Board has no authority to propose the rule.

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.

VIII. OTHER.

Counsel recommends that the Committee request the Board to withdraw the proposed rule.



FILED

DEC 20 3 41 PM '96

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, Adm. Assistant

December 19, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Larry Absten
Board of Barbers & Cosmetologist
1716 Pennsylvania Ave.
Suite 7
Charleston, WV 25302

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Schedule of 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 X
- 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.

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

Senate Bill No. 159

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

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

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 barbers and cosmetologists to
15 promulgate a legislative rule relating to a schedule
16 of fees.

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

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

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

1 §64-9-8. Board of barbers and cosmetologists.

2 The legislative rule filed in the state register on
3 the twenty-ninth day of August, one thousand nine hundred
4 ninety-six, under the authority of section one, article
5 twenty-seven, chapter thirty, of this code, modified by the
6 board of barbers and cosmetologists to meet the objections
7 of the legislative rule-making review committee and refiled
8 in the state register on the twenty-seventh day of
9 December, one thousand nine hundred ninety-six, relating to
10 the board of barbers and cosmetologists (schedule of fees,
11 3 CSR 6), is authorized.

12

13 NOTE: The purpose of this bill is to authorize the
14 Board of Barbers and Cosmetologists to promulgate a
15 legislative rule relating to a Schedule of Fees.

16

17 This section is new; therefore, strike-throughs and
18 underscoring have been omitted.

4732

1 Bill-Barbers, Fees

H. B. 2324

2

(By Delegate(s) Douglas, Hunt, Compton,

3

Faircloth, Linch and Riggs)

4

5

[Introduced March 3, 1997; referred to the

6

Committee on Government Organization then the

7

Judiciary.]

8

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