



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #544

### **Authority to Set Fees by Rule (Insurance)**

[LFB 2001-03 Budget Summary: Page 428, #15]

#### **CURRENT LAW**

The Office of the Commissioner of Insurance (OCI) collects fees for various services it provides to regulate the insurance industry. These fees, which are defined by statute, include licensing fees, filing fees, listing fees, certification fees, fees assessed for the preparation and furnishing of specified documents and fees assessed for certified copies of OCI documents. Many of the fee levels are specified by statute. Some of the fee levels are set by the Commissioner by rule, subject to statutory maximum levels. Other fee levels are determined by rule without statutory maximum levels. Revenues from insurance fees support OCI's general operations, except for costs relating to examinations of insurance companies and management of segregated funds. The Commissioner has the authority to increase any or all fees if OCI determines that the revenues collected from these fees are inadequate to support OCI's supervision of the insurance industry.

#### **GOVERNOR**

Authorize the Commissioner to establish, by rule, the amount of specified fees paid to OCI that are currently established by statute. Specify that a rule could provide for a maximum fee amount, and that the Commissioner could charge a lesser amount than the maximum fee amount specified in rule. Specify that the current statutory fees would apply unless the Commissioner specified, by rule, different fees. Eliminate statutory maximum amounts for certain fees that OCI may, under current law, establish by rule.

#### **DISCUSSION POINTS**

1. The attachment to this paper provides a list of OCI fees and the current level set by

statute. In 1999-00, OCI generated \$14,477,500 in revenues from fees. Ninety percent of the revenue generated from these fees is retained by OCI to support the agency's general operations. The remaining 10% is deposited to the general fund.

2. Under current law, the Commissioner has the authority to increase fees if the fees set by statute or rule generate inadequate revenues to support OCI's supervision of the insurance industry. The Commissioner also has the authority to levy a special assessment on all domestic insurers if revenue generated by the fees is inadequate to support OCI activities. However, OCI has not needed to use this authority to generate additional revenues in recent history.

3. In its 2001-03 budget request, OCI requested statutory language to allow insurance fees to be set by rule. OCI indicated that this change would provide the agency additional flexibility by permitting OCI to adjust fees more quickly downward or upward, depending on market conditions, than if OCI were required to seek statutory changes to these fees.

4. As noted above, the Commissioner has the authority under current law to set several fees by rule. For fees that have statutory maximum levels, most are currently set at rates below the statutory maximum. In addition, in May of 2000, the Commissioner promulgated a rule to reduce the listing fees for resident agents from the statutory maximum of \$8 to \$7, because revenues were sufficient to support OCI activities.

5. Under the bill, the statutory fees would continue to apply, unless the Commissioner specifies a different amount by rule. In addition, the Commissioner would continue to have the authority to increase fees if the fees set by statute or rule generate inadequate revenues to support OCI's supervision of the insurance industry. The Commissioner would also continue to have the authority to levy a special assessment on all domestic insurers if revenue generated by the fees is inadequate to support OCI operations.

6. OCI attorneys indicate that the average amount of time that the rule making process takes to implement fee change is one year. Therefore, if the provision is adopted, OCI would likely initiate the rule making process so that most fees would be governed by rule, instead of the statutes, within a year.

7. OCI staff indicate that the agency does not anticipate increasing any fees at this time. However, for rates that are connected to outside contracts and other costs that may rise in the near future, OCI would provide maximum fees by rule. This would allow OCI to be more responsive in setting fees, which are subject to fluctuations, without using the rulemaking process. The maximum levels set for fees may be higher than the current statutory level, but OCI does not anticipate increasing fees unless additional revenue would be needed to accommodate increased costs.

8. Given that OCI does not anticipate changing the level of fees charged under the provision, the Governor's recommendation is not expected to affect insurance fee levels or revenue in the 2001-03 biennium.

9. Under the bill, the Legislature would no longer be directly involved in setting the

levels of insurance fees by legislation, but instead would have review and oversight authority under the procedures established in Chapter 227. However, to the extent that the rules would provide for a maximum fee level, OCI would have the authority to modify a fee without review, as long as the new fee was established at a level below the maximum provided in the rule.

## **ALTERNATIVES**

1. Approve all of the Governor's recommendations relating to the Commissioner's authority to establish insurance fees by rule.

2. Maintain current law.

Prepared by: Carri Jakel  
Attachment

**ATTACHMENT**

**Insurance Fees Under Chapter 601**

Filing documents for examination preliminary to initial licensing or for any other initial filing of documents required by law as a prerequisite for operating or providing services:	
Domestic and nondomestic insurers	\$400
Rate service organizations	400
Motor clubs	400
Licensees under Chapter 615 (Insurance – Gift Annuities)	100
Providers of services under Chapter 647 (Continuing Care Contracts)	100
Issuing a permit or certificate of authority:	
Domestic and nondomestic insurers	400
Rate service organizations	400
Motor clubs	400
Licensees under Chapter 615 (Insurance – Gift Annuities)	100
Providers of services under Chapter 647 (Continuing Care Contracts)	100
Annually for continuation of a permit or certificate of authority:	
Domestic and nondomestic insurers	100
Rate service organizations	100
Motor clubs	100
Licensees under Chapter 615 (Insurance – Gift Annuities)	25
Providers of services under Chapter 647 (Continuing Care Contracts)	25
Filing articles of amendment; domestic companies	25
Filing a copy of amendments to the articles of a nondomestic insurer	25
Filing articles for merger	100
Filing a copy of articles of a merger of a nondomestic insurer, other than with a domestic corporation	25
Filing an application by a nondomestic insurer for amended certificate of authority to transact business in Wisconsin	25
Filing an application to reserve a corporate name	25
Filing a notice of transfer of a reserved corporate name	25

Filing an annual statement:	
Domestic and nondomestic insurers	100
Rate service organizations	100
Motor clubs	100
Licensees under Chapter 615 (Insurance – Gift Annuities)	25
Providers of services under Chapter 647 (Continuing Care Contracts)	25
Domestic mutual insurance holding companies	100
Issuing or enlarging scope of a license, amounts to be set by the Commissioner, by rule, but not to exceed:	
Corporation, limited liability company or partnership intermediary	maximum 100
Licensees authorized to place business under s. 618.41 (surplus lines)	maximum 100
Issuing a duplicate license	5
Certifying as and independent review organization under s. 632.835 (review of adverse and experimental treatment)	400
Biennially for recertification as an independent review organization under s. 632.835	100
Annually after the year in which the initial license was issued, for regulating resident intermediaries and nonresident intermediaries, amounts to be set by rule	by rule
Annually after the year in which the initial license was issued, for regulating a holder of a license to place business under s. 618.41 (surplus lines), to be set by rule, but not to exceed	maximum 100
Initial issuance of a license as a viatical settlement provider	750
Annual renewal of a license as a viatical settlement provider	250
Initial issuance of a license as a viatical settlement broker	750
Annual renewal of a license as a viatical settlement broker	250
Annually, listing, or renewing listings for insurance agents to be set by rule, but not to exceed:	
Resident agents	maximum 8
Non-resident agents	maximum 24

Examination of an applicant for a license as an insurance intermediary an amount set by rule	by rule
Substituted service of process on the Commissioner	10
Copy of a paper filed in the Commissioner's office	actual cost
Preparation and furnishing of lists of insurer or intermediaries	actual cost
Filing documents for examination preliminary to listing for surplus lines insurance	100
Preparation and furnishing agents letter of certification	10
Preparation and furnishing agents letter of clearance	10
Initial issuance and annual renewal of a license of an administrator under chapter 633 (Employee Benefit Plan Administrators and Principals)	100
Approval of an organization to offer prelicensing or continuing education courses or programs for intermediaries to be set by rule, not to exceed	maximum 500
Annual renewal of an organization to offer prelicensing or continuing education courses or programs to be set by rule, not to exceed	maximum 100
Approval of modifications to prelicensing or continuing education courses to be set by rule, not to exceed	maximum 25 per credit hour
Certifying an annual statement, examination report, certificate of authority or articles and bylaws, or any amendments thereof	10
Duplicate certificate of above requested at the same time	5