



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 23, 2003

Joint Committee on Finance

Paper #646

Adequacy of Agency Credential Fees in Connection with a Required Lapse from Program Revenue Balances (R&L)

[LFB 2003-05 Budget Summary: Page 367, #2]

CURRENT LAW

The Department of Regulation and Licensing (R&L) is required by s. 440.03(9) of the statutes to include with each biennial budget request the results of its analysis of the adequacy initial and renewal credential fees to support the proposed operating budget for the agency. This analysis also reviews the administrative and enforcement costs that are attributable to the regulation of each licensed occupation. Based on this review, R&L must recommend adjustments to the initial and renewal credential fees, when required, to reflect the proper apportionment of the agency's costs to each occupation. Biennially, as part of the Legislature's consideration of the agency's budget, any proposed fee adjustments are incorporated into the statutory schedule of initial and renewal fees.

Initial Credential Fees. For initial credentials, the license fee represents the shared, budgeted administrative costs attributable to new licensees. These administrative cost items include such activities as processing applications and determining eligibility for licensure. These total costs are then divided by the projected number of new licensees over the biennium in order to determine the amount of the fee. For the 2001-03 biennium, the initial license fee is set by statute at \$53.

Credential Renewal Fees. For credential renewals, an occupation's total renewal fee consists of two cost components: a fixed portion and a variable portion. The fixed portion represents the shared, budgeted administrative costs that are charged equally to all regulated occupations. These common shared-cost items are divided by the estimated number of renewing license holders over the biennium in order to determine the fixed cost component of the fee. For the 2001-03 biennium, the fixed cost renewal fee component is \$53. The variable portion of the renewal fee consists of each licensed profession's share of direct enforcement costs attributed to it during the most recent prior fiscal year divided by the total number of licensees in the profession.

For the 2001-03 biennium, the variable cost portion of the renewal fee added from \$0 to \$290 to the cost of a license, depending on the enforcement experience of the occupation. The fixed renewal costs and the apportioned variable costs for each occupation are then added to arrive at the fee amount to be included in a statutory schedule of renewal fees.

R&L is required to deposit 10% of the revenue generated from the assessment of initial and credential renewal fees to the general fund as GPR-Earned. Consequently, the fees must be set at a level sufficient to fund the agency's administrative and enforcement costs, net of the revenue allocations to the general fund.

GOVERNOR

Make no adjustments to R&L's initial and renewal statutory fee schedule.

Require the Secretary of DOA to lapse \$1,969,900 annually to the general fund from the available PR balances in R&L's general program operations appropriation.

DISCUSSION POINTS

1. R&L is funded entirely from program revenues. Nearly 98% of the agency's funding is derived from its initial and renewal credential fee collections. The balance of the agency's funding is derived from examination fees, criminal background check fees and minor, miscellaneous revenues.

2. The agency has used a fixed initial credential fee and some type of variable renewal credential fee methodology since this approach was first authorized under 1985 Wisconsin Act 27. The intent of the variable renewal fee was to allocate the higher costs of enforcement activities to those groups of licensees for whom the agency incurred higher costs.

3. As part of the Governor's 1989-91 biennial budget submission, R&L sought a uniform percentage increase for most of its credential fees, but was unable to provide sufficient evidence to show that the same percentage increase for all fees was equitable or justified. The Legislature deleted the proposed across-the-board percentage increase.

4. Then, as part of a routine compliance audit, the Legislative Audit Bureau reviewed R&L's credential fee-setting methodology. That November, 1990, audit found that the agency had not been gathering or monitoring financial information to determine whether it was appropriately and equitably establishing fees for the various professions, but had recently begun to develop a new system to obtain the necessary revenue and expenditure data.

5. A follow-up audit in August, 1992, found that R&L's newly-implemented revenue and data collection systems were adequate and that the methodology used by the agency to establish renewable fees was reasonable. The audit recommended minor documentation improvements that

were subsequently implemented by the Department.

6. The fee-setting methodology in place after the August, 1992, audit was used in each succeeding biennium through 2001-03 to set initial and renewal credential fees sufficient (with additional minor revenue collections from examinations and other minor fees) to support the agency's operations.

7. As part of the Governor's 2001-03 biennial budget proposal, one-time funding of \$30,000 was recommended to retain a consultant to review the adequacy and appropriateness of R&L's current fee-setting methodologies. The Finance Committee deleted the requested consultant funding and provided instead for a Legislative Audit Bureau evaluation of the methodologies used by R&L to ensure that the agency's initial and renewal fees are documented and straightforward in administration, represent the actual costs associated with the regulation of licensed professions, and provide adequate revenues to support the Department's operations. This audit provision was included in the 2001-03 biennial budget bill, as approved by the Legislature, but was subsequently item vetoed by the Governor.

8. R&L did not request, and the Governor did not recommend, any revisions to the current law renewal fee schedule for the 2003-05 biennium. [The agency did propose reducing the initial fee from the \$53 to \$51; however, that recommendation was not included in Senate Bill 44.] In the absence of additional revenues from increased fees (or from an increased number of individuals being licensed), any additional costs incurred by the agency must be funded from carryover available program revenue balances.

9. The agency's explanation for not revising credential renewal fees was that "due to the inadequacy of the existing fee setting method, it is impossible to determine with any level of assurance that the resultant fees represent a given profession's cost of enforcement. Since overall operational cost of enforcement is virtually identical to FY02-FY03, it can be argued that enforcement costs by profession, within the methodology's margin of error, is also virtually identical. In addition, the administrative cost of implementing such a small change can not be justified."

10. The agency highlighted some additional concerns with respect to the current fee-setting methodology. It noted that the methodology does not consider complexity, severity and resources dedicated to a complaint when cost allocations are made. Further, complaints in the health professions were generally more costly than those in the business or direct licensing areas. Finally, enforcement costs tended to vary depending on the stage at which a complaint investigation was closed. In the agency's view, it was not clear that the current fee methodology captured these differences.

11. In light of this, the Committee could again direct the Legislative Audit Bureau to conduct an evaluation of the methodologies used by R&L to establish initial and renewal fee levels and report its findings by June 30, 2004.

12. Normally, R&L and DOA undertake a supplemental fee-setting study once the Governor's budget recommendations for R&L are known but before the biennial budget bill has actually been introduced. This exercise is undertaken to ensure that the initial and renewal fee levels in the Governor's budget bill are sufficient to fund the modifications proposed by the Governor for the agency. The necessary statutory fee revisions are then included in the budget proposal submitted by the Governor to the Legislature.

13. The Governor's recommendations for the agency contain two significant provisions affecting R&L's credential fee-related funding:

- First, provisions of Senate Bill 44 require the lapse to the general fund of \$1,969,900 annually from the available program revenue in the agency's general program operations appropriation.
- Second, the bill increases the agency's total budgeted expenditure authority funded from credential fees by \$216,100 PR annually, representing a 2.2% increase over the adjusted base year doubled.

14. The absence of any initial or renewal credential fee modifications to accommodate these budget recommendations will have severe budgetary consequences for the agency.

15. As demonstrated in the following table, if the Governor's budget recommendations for the agency are approved, R&L will experience a deficit in its general program operations appropriation account at the end of the 2004-05 fiscal year of \$1,622,400.

**Projected Revenues and Expenditures under
R&L's General Program Operations Appropriation**

| | <u>2003-04</u> | <u>2004-05</u> |
|--------------------------------|------------------|------------------|
| Beginning Balance | \$1,805,500 | \$1,009,400 |
| <u>Revenues</u> | | |
| Initial Credential Fees | \$941,700 | \$941,700 |
| Renewal Credential Fees | 10,205,700 | 8,370,000 |
| Minor Revenues | <u>250,000</u> | <u>250,000</u> |
| Total Revenues | \$11,397,400 | \$9,561,700 |
| Total Available | 13,202,900 | 10,571,100 |
| <u>Expenditures and Lapses</u> | | |
| SB 44 Appropriations | \$10,223,600 | \$10,223,600 |
| Required Lapse | <u>1,969,900</u> | <u>1,969,900</u> |
| Total Expenditures and Lapses | \$12,193,500 | \$12,193,500 |
| Ending Balance | \$1,009,400 | -\$1,622,400 |

16. If an agency has available expenditure authority, any expenditures from a program revenue account where there are insufficient balances would result in an unsupported loan from the general fund.

17. In light of this, the agency has recently indicated that it is contracting for a study of its fee structure in order to address the 2003-05 deficit. The agency is hopeful that the results of the study will soon be completed and that any recommendations can be addressed by the Legislature as a part of its 2003-05 budget deliberations.

18. There would appear to be four options available to the Committee to address this situation. First, the Committee could reduce the amount of the required lapse from the agency's general program operations appropriation. Second, the Committee could further reduce the agency's authorized expenditure authority through additional base level reductions. Third, the Committee could adopt a uniform fee increase amount for all initial and renewal credential fees first applicable to fees collected on and after September 1, 2003. (A combination of expenditure authority reductions and fee increases would also be feasible.) Finally, the Committee could temporarily set this matter aside and wait for completion of the agency's pending fee study.

19. Under the first option, the Committee could choose to reduce the amount of the agency's required program revenue lapse to the general fund in 2004-05 by \$1,622,400. Under this alternative the amount of the required lapse in that fiscal year would be reduced from \$1,969,900 to \$347,500, thereby eliminating the projected deficit.

20. To the extent that the Committee adopts any expenditure reductions, in addition to those in SB 44 for R&L, the proposed reduction applied to the 2004-05 lapse requirement would be adjusted by a corresponding amount.

21. Under the second and third options, the Committee could choose to adopt any of the following fee increase and/or expenditure reduction combinations in the following table. These sets of options would generate sufficient revenues or impose sufficient cost reductions (or both) to address the projected deficit. Any credential fee increase would first apply to fees collected on and after September 1, 2003, and would affect more than 300,000 credential holders.

Fee Increase and Cost Reduction Options to Address the Projected Deficit

| <u>Fee Increase/Cost Reduction Combinations</u> | | <u>Additional Revenues</u> | |
|---|-------------------------------|----------------------------|---------------|
| <u>Required</u> | <u>Required Appropriation</u> | <u>Fee</u> | <u>GPR-</u> |
| <u>Fee Increase</u> | <u>Reduction</u> | <u>Revenue</u> | <u>Earned</u> |
| \$0 | -\$1,622,400 | \$0 | \$0 |
| \$1 | -1,345,600 | 276,800 | 30,700 |
| \$2 | -1,068,900 | 553,500 | 61,500 |
| \$3 | -792,100 | 830,300 | 92,200 |
| \$4 | -515,300 | 1,107,100 | 123,000 |
| \$5 | -238,600 | 1,383,800 | 153,800 |
| \$6 | 0 | 1,660,600 | 184,500 |

22. To the extent that the Committee adopts expenditure reductions, in addition to those in SB 44 for R&L, the total amount of the reductions from those decisions may be used in conjunction with the amount of fee revenue generated at the different fee levels to determine the maximum fee increase needed to eliminate the projected deficit.

ALTERNATIVES

A. Initial and Renewal Credential Fee Audit

1. Include a nonstatutory provision directing the Legislative Audit Bureau to conduct an evaluation of the methodologies used by R&L to establish initial and renewal fee levels and report its findings by June 30, 2004.

2. Take no action.

B. Required Lapse Modifications to Address the Projected Appropriation Deficit

The Committee could choose to address the projected appropriation deficit by modifying the proposed PR lapse requirement:

1. Approve the Governor's recommendation requiring the Secretary of DOA to lapse \$1,969,900 annually to the general fund from the available PR balances in R&L's general program operations appropriation.

2. Modify the Governor's recommendation by reducing the amount of the required lapse to the general fund from program revenue balances in R&L's credential fee-supported general program operations appropriation account from \$1,969,900 to \$347,500 in 2004-05 to address a projected deficit in this appropriation account. [To the extent that the Committee adopts expenditure reductions under other budget items for R&L, the amount of the reduction applied to the 2004-05 lapse requirement would be adjusted by a corresponding amount.]

| | |
|----------------------------------|---------------|
| Alternative B2 | GPR |
| 2003-05 REVENUE (Change to Bill) | - \$1,622,400 |

3. Maintain current law.

| | |
|----------------------------------|---------------|
| Alternative B3 | GPR |
| 2003-05 REVENUE (Change to Bill) | - \$3,939,800 |

C. Fee Increase and Expenditure Reductions to Address the Projected Deficit

The Committee could choose to address the projected appropriation deficit by adopting any of the following credential fee increase and base level expenditure reduction alternatives:

1. *[No fee increase.]* Delete \$811,200 PR annually from the agency's general program operations appropriation.

| <u>Alternative C1</u> | <u>PR</u> |
|---|---------------|
| 2003-05 FUNDING (Change to Bill) | - \$1,622,400 |

2. *[\$1 fee increase.]* Delete \$672,800 PR annually from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$1 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$16,400 in 2003-04 and \$14,300 in 2004-05.

| <u>Alternative C2</u> | <u>GPR</u> | <u>PR</u> |
|---|------------|---------------|
| 2003-05 REVENUE (Change to Bill) | \$30,700 | \$276,800 |
| 2003-05 FUNDING (Change to Bill) | \$0 | - \$1,345,600 |

3. *[\$2 fee increase.]* Delete \$534,400 PR in 2003-04 and \$534,500 PR in 2004-05 from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$2 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$32,800 in 2003-04 and \$28,700 in 2004-05.

| <u>Alternative C3</u> | <u>GPR</u> | <u>PR</u> |
|---|------------|---------------|
| 2003-05 REVENUE (Change to Bill) | \$61,500 | \$553,500 |
| 2003-05 FUNDING (Change to Bill) | \$0 | - \$1,068,900 |

4. *[\$3 fee increase.]* Delete \$396,000 PR in 2003-04 and \$396,100 PR in 2004-05 from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$3 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$49,100 in 2003-04 and \$43,100 in 2004-05.

| <u>Alternative C4</u> | <u>GPR</u> | <u>PR</u> |
|---|------------|-------------|
| 2003-05 REVENUE (Change to Bill) | \$92,200 | \$830,300 |
| 2003-05 FUNDING (Change to Bill) | \$0 | - \$792,100 |

5. *[\$4 fee increase.]* Delete \$257,600 PR in 2003-04 and \$257,700 PR in 2004-05

from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$4 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$65,600 in 2003-04 and \$57,400 in 2004-05.

| <u>Alternative C5</u> | <u>GPR</u> | <u>PR</u> |
|---|------------|-------------|
| 2003-05 REVENUE (Change to Bill) | \$123,000 | \$1,107,100 |
| 2003-05 FUNDING (Change to Bill) | \$0 | -\$515,300 |

6. [*\$5 fee increase.*] Delete \$119,300 PR annually from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$5 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$82,000 in 2003-04 and \$71,800 in 2004-05.

| <u>Alternative C6</u> | <u>GPR</u> | <u>PR</u> |
|---|------------|-------------|
| 2003-05 REVENUE (Change to Bill) | \$153,800 | \$1,383,800 |
| 2003-05 FUNDING (Change to Bill) | \$0 | -\$238,600 |

7. [*\$6 fee increase.*] Increase all initial and renewal credential fees by \$6 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$98,300 in 2003-04 and \$86,200 in 2004-05.

| <u>Alternative C7</u> | <u>GPR</u> | <u>PR</u> |
|---|------------|-------------|
| 2003-05 REVENUE (Change to Bill) | \$184,500 | \$1,660,600 |

D. Defer Action Temporarily

1. Take no action at this time and temporarily delay a decision on this item until the agency has had the opportunity to advance the results of its fee study. (The Committee could again consider this matter prior to the conclusion of its executive sessions on the budget.)

Prepared by: Darin Renner