



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #647

### **Transfer Sanitarian Registration from DHFS (R&L)**

[LFB 2005-07 Budget Summary: Page 423, #7]

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#### **CURRENT LAW**

A person wishing to be called a registered sanitarian must meet minimum standards and qualifications established by the Department of Health and Family Services (DHFS) and pay an initial registration fee of \$15 and an examination fee of \$90 to DHFS. Registrations may be renewed biennially on January 1 of each even-numbered year upon the payment of a \$25 renewal fee.

A sanitarian is an individual, who through training, experience or knowledge of the prevention and control of preventable diseases, is capable of applying environmental control measures to protect human health, safety and welfare. Typically, sanitarians are engaged in the inspection of such facilities as food service operations, lodging establishments, public pools, campgrounds, tattoo and body piercing establishments, and Grade A dairy operations.

The Department of Regulation and Licensing (R&L) regulates 97 different professions and types of businesses. R&L is required to establish initial and biennial renewal fees in amounts sufficient to recover the costs related to the regulation of each profession or occupation. Initial fees are set at a level to recoup the shared administrative costs attributable to new credential holders, such as the costs of processing applications and determining eligibility. The initial fee is \$53 for virtually all of the regulated professions. Renewal fees include the basic shared costs of administration of renewal process (\$53 is the basic renewal fee for most professions), plus a variable portion related to the costs of enforcement, if any, for each profession's credential. This variable portion currently adds from \$0 to \$290 to the biennial cost of a credential for a profession.

Currently, there are three distinct levels of regulation of a profession by R&L. Generally, licenses are the most restrictive form of credential and typically include a specialized education

requirement, an examination, and work experience before an individual may be licensed. Certificates are less restrictive and typically require an examination to show that the individual has met predetermined qualifications for the profession before a license may be issued. Registration is the least restrictive form of credentialing. Generally, individuals may register by filing their name and address with R&L, meeting certain threshold qualification requirements, and paying the appropriate fee. A person may use a title related to being a "registered" professional only if the individual is officially registered with R&L.

## **GOVERNOR**

*Transfer of DHFS Regulatory Duties.* Recodify the current regulation of sanitarians from Chapter 250 of the statutes (relating to the administration and supervision of the public health function by DHFS) to a new subchapter VI in Chapter 440 of the statutes administered by R&L. Professions credentialed under Chapter 440 of the statutes are generally subject to direct regulation by the Secretary of R&L, rather than by a credentialing board.

Provide R&L with \$11,400 PR in 2005-06 and \$7,000 PR in 2006-07 for administrative and enforcement costs in connection with the transfer of sanitarian regulation. Delete a similar amount under DHFS. Transfer to R&L the current law treatments of: (a) the definition of a sanitarians; (b) the qualifications for registration; (c) the authority of agencies of the state to employ registered sanitarians; (d) the standards governing the reciprocal licensure of sanitarians from other states; (e) the ability of the agency to revoke registration; and (f) the ability of the agency to extend the registration of a sanitarian on active military duty.

*Investigations.* Include sanitarians under R&L's current authority to investigate whether an applicant for a credential has been charged or convicted of a crime.

*Forfeitures.* Delete a provision prohibiting a person without a sanitarian registration from appending "R.S." [implying the individual is a registered sanitarian] to his or her name, subject to a penalty of up to \$100 or six months of imprisonment. Specify instead that R&L may assess a forfeiture of not less than \$100 nor more than \$1,000 for fraudulently or deceitfully obtaining a registration or for unprofessional conduct, incompetence, or professional negligence.

*Initial and Renewal Fees.* Increase the initial registration fee for a sanitarian from \$15 for up to two years to \$53. Create a biennial renewal fee for currently registered sanitarians of \$25 and specify that a registered sanitarian would have to renew his or her credential by December 16 of each even-numbered year. Include a separate provision stating that a sanitarian's certificate of registration would expire on December 31 of each odd-numbered year. Enumerate sanitarians under R&L's current law authority to cancel a credential if a payment made by check, debit, or credit is not paid by the financial institution backing the form of payment.

*Transitional Provisions.* Specify that all individuals that have registered as sanitarians with DHFS would be registered with R&L on the effective date of the provision. Specify that all

administrative rules or orders adopted by DHFS regarding sanitarian registration would remain in effect until the rules are scheduled to expire or until amended by R&L. Specify that all assets and liabilities, tangible personal property, contractual obligations, and pending matters of DHFS related to registration of sanitarians, as determined by the Secretary of DOA, would be transferred to R&L on the general effective date of the biennial budget act.

## **DISCUSSION POINTS**

1. Sanitarians have been subject to registration since August 17, 1957, following the enactment of Chapter 530, Laws of 1957. Sanitarians were initially registered by the State Board of Health. This function was then transferred to the Department of Health and Social Services, the predecessor of DHFS, in 1970. The qualifications for registration as a sanitarian are established by DHFS by rule [HFS 160] and consist of submitting evidence of completion of any one of four different combinations of training and experience, and successfully passing a nationally recognized professional examination.

2. Currently, DHFS budgets only minimal resources to the sanitarian registration function and has no staff dedicated to this activity. A *Public Health Restructuring Report*, prepared by DHFS in early 2004 recommended shifting sanitarian registration to R&L as part of a larger effort to streamline DHFS' Division of Public Health central office operations. About the same time, a survey of registered sanitarians in the state found general satisfaction with the DHFS-administered registration program for sanitarians but also identified an interest in the concept of continuing education to ensure growth and development of registrants.

3. DHFS subsequently proposed the transfer of sanitarian registration in its 2005-07 biennial budget request, and the Governor has included this recommendation in AB 100. The agency's rationale for the transfer of sanitarian regulation included the following: (a) the goals of professional sanitarians (such as developing continuing education requirements) could be met more efficiently and effectively by R&L; (b) R&L's mission is focused on ensuring the safe and competent practice of licensed professionals, regulating education, experience, and examination requirements, setting professional practice standards, and ensuring compliance with occupational licensing laws; (c) R&L has the necessary infrastructure in place to accomplish its regulatory mission, while DHFS has only minimal resources supporting sanitarian registration; and (d) R&L has on-line registration capabilities in place.

4. Given R&L's regulatory mission, the proposed transfer of sanitarian registration to the agency from DHFS would appear to be a good fit. R&L already regulates comparable types of professions such as engineers, home inspectors, hydrologists, and soil scientists. Nonetheless, it may be noted that a survey of the professional registered sanitarian organization found the group evenly split between supporting the transfer of sanitarian registration to R&L and retaining the function in DHFS.

5. If the Committee determines that the transfer of sanitarian registration to R&L

would be appropriate, two issues require resolution. These issues relate to: (a) establishing the term of the two-year sanitarian credential; and (b) setting the appropriate initial and renewal fee for registered sanitarians.

6. *Term of Licensure.* R&L initial credentials are valid from the date of issuance of the credential until the next statutory biennial renewal date for the profession. Renewed credentials are then uniformly valid for two years until the next following statutory renewal date. A comparable arrangement applies at DHFS for sanitarian registrations. Sanitarian registrations must be uniformly renewed January 1 of each even-numbered year.

7. As drafted, the bill has conflicting provisions with respect to the duration of a sanitarian's credential. In one reference, the certificates of registration would expire on December 31 of odd-numbered years. Under the bill's credential renewal provision, certificates of registration would have to be renewed on December 16 of even-numbered years.

8. The administration has advised that the language of the bill does not properly reflect the Governor's intent. The Governor's intent is that sanitarian registrations expire as provided under current law on December 31 of odd-numbered years (meaning that the standard biennial renewal date for sanitarians would be January 1 of each even-numbered year). The Committee could modify the bill to reflect this intent.

9. *Initial and Renewal Fees.* R&L's initial fees are established at \$53 for most of the regulated professions. The initial registration fee for sanitarians is currently \$15. This initial fee for sanitarian registration is established by rule and is subject to a maximum of \$30. Under the bill, the Governor proposes creating an exception to R&L's standard fees (presumably to enumerate the sanitarian \$15 initial fee as an exception to R&L's standard \$53 initial fee); however, the bill does not provide this enumeration. Since the bill would not actually create an exception to the current law \$53 initial fee, that fee would apply to those sanitarians first applying for initial registration.

10. R&L's basic renewal fee for most of the regulated professions is \$53 for a two-year period, subject to a variable add-on component depending on the costs of enforcement attributable to the specific profession. Currently, sanitarians pay a biennial renewal fee to DHFS of \$25. This \$25 biennial renewal fee for sanitarians would be continued at R&L.

11. The administration has advised that the language of the bill does not properly reflect the Governor's intent. An exception to the current standard R&L fees should be included in the bill to provide for a \$15 initial credential fee for sanitarians. Further, R&L should be authorized to modify the amount of the initial fee by rule.

12. R&L is required to review, on a biennial basis, the administrative and enforcement costs attributable to each of the regulated professions and to set initial and renewal fees such that they will generate sufficient revenues to support the agency's operations. For the 2001-03 biennium, the last time that the agency's licensing fees were recalibrated, the basic regulatory costs incurred by the agency required the establishment of a \$53 initial fee and a basic \$53 renewal fee for

virtually all regulated professionals' credentials. [Minor exceptions apply in the cases of charitable organizations, professional fund-raisers and fund-raising counsels, athletic agents, and certain professional boxing-related events.]

13. The Committee could conclude that if sanitarian registration is to be transferred to R&L, the initial fee and renewal fee for sanitarians should be established at \$53, respectively, rather than at \$15 and \$25, respectively, in order for R&L to recover its costs of regulation. While retention of the \$15 initial fee and \$25 renewal fee for sanitarians would make the fiscal impact of the proposed transfer transparent to sanitarians, these lower fees would likely result in the subsidization of the costs of sanitarian regulation at R&L by other licensed professions. If the Committee views such a subsidization as undesirable from a policy standpoint, it could adopt the \$53 initial and renewal fee amounts for sanitarian registration.

14. If the Committee adopts the Governor's recommendation to transfer sanitarian registration to R&L, fee revenues under the Department should be revised to reflect the transfer. Under current law, 90% of initial, renewal and examination fee revenues are credited to the appropriate program revenue account, and 10% of the fee revenue is credited to the general fund. Under a \$15 initial fee and \$25 renewal fee structure (with the current \$90 examination fee for new registrants assumed), additional revenues of \$13,700 (\$1,400 GPR-REV and \$12,300 PR-REV) in 2005-06 and \$3,200 (\$300 GPR-REV and \$2,900 PR-REV) in 2006-07 are indicated. Under a \$53 initial and renewal fee structure (with the current \$90 examination fee for new registrants assumed), additional revenues of \$26,600 (\$2,700 GPR-REV and \$23,900 PR-REV) in 2005-06 and \$4,400 (\$400 GPR-REV and \$4,000 PR-REV) in 2006-07 are indicated.

**ALTERNATIVES**

1. Approve the Governor's recommendation, as modified to reflect the Governor's intent to: (a) transfer the regulation of sanitarians from DHFS to R&L; (b) establish a credential renewal date of January 1 of each even-numbered year; (c) establish a \$15 initial registration fee, which could be modified by R&L by rule, and a \$25 renewal registration fee; and (d) reestimate agency revenues by \$13,700 (\$1,400 GPR-REV and \$12,300 PR-REV) in 2005-06 and \$3,200 (\$300 GPR-REV and \$2,900 PR-REV) in 2006-07.

<u>Alternative 1</u>	<u>GPR-REV</u>	<u>PR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	\$1,700	\$15,200

2. Approve the transfer of the regulation of sanitarians from DHFS to R&L and establish a credential renewal date of January 1 of each even-numbered year, but: (a) make sanitarians subject to R&L's standard \$53 initial registration fee and its \$53 basic renewal registration fee; and (b) reestimate agency revenues by \$26,600 (\$2,700 GPR-REV and \$23,900 PR-REV) in 2005-06 and \$4,400 (\$400 GPR-REV and \$4,000 PR-REV) in 2006-07.

<u>Alternative 2</u>	<u>GPR-REV</u>	<u>PR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	\$3,100	\$27,900

3. Delete the Governor's recommendation. [Sanitarian registration would remain at DHFS and administrative and enforcement costs of \$11,400 PR in 2005-06 and \$7,000 PR in 2006-07 would be deleted under R&L and restored to DHFS.]

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