



## Legislative Fiscal Bureau

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

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Joint Committee on Finance

Paper #305

### **Securities Agents and Investment Adviser Representatives Fees (Financial Institutions)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 147, #3]

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#### **CURRENT LAW**

Under current law, a person who represents a broker-dealer or issuer in securities transactions is generally required to be licensed as an agent (referred to as a securities agent). Investment adviser representatives, who are certain persons supervised by investment advisers, are also required to be licensed before transacting business in the state. Securities agents and investment adviser representatives are required to file an initial application with the Department of Financial Institutions (DFI) for a license and to renew the license on an annual basis. For both types of licenses, the fee for both the initial application and the annual renewal is \$30.

Fees collected from licenses for securities agents and investment adviser representatives are deposited to DFI's general program operations appropriation, along with other revenue from various license, filing, and examination fees and assessments applicable to financial institutions and services. Such funds are used to pay for DFI's operating expenses, including staffing and administrative costs. At the end of each fiscal year, most unencumbered program revenue in the appropriation is lapsed to the general fund.

#### **GOVERNOR**

Increase the license fee for securities agents and investment adviser representatives from \$30 to \$60. The fee increase would apply to the initial license and to annual renewals. Estimate additional program revenue from the fee increase of \$3,000,000 annually. Specify that these provisions would take effect on the general effective date of the bill.

Based on the proposed fee increase and the annual lapse of unencumbered program revenues to the general fund, the administration estimates that, as a result of the proposal, an additional \$3.0 million would be transferred to the general fund in each year, compared to current law.

## **DISCUSSION POINTS**

1. DFI's Division of Securities is responsible for regulating the offer and sale of securities, franchise investment offerings, and corporate takeovers. The Division carries out these responsibilities through the following: (a) registration requirements for securities and franchise offerings (or allowing certain exemptions from such requirements); (b) licensing and monitoring of the activities of broker-dealers, securities agents, and investment advisers; and (c) field audits, surveillance, and investigation of complaints.

2. According to DFI, license fees have been imposed on securities agents since the early 1930s. The fee for investment adviser representatives was not imposed until 1973. At that time, fees for investment adviser representatives and for securities agents were set at \$20. Such fees were last increased in 1984, when they were increased from \$20 to the current level of \$30.

3. Under the Wisconsin Uniform Securities Law (Chapter 551 of the State statutes), an "agent" is any individual, other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect transactions in securities. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent if such a person is within this general definition. An agent does not include, however, an individual who represents an issuer in effecting certain transactions that are exempt from the state's registration requirements (such as certain revenue obligations issued or guaranteed by a government agency) or if no commission or other remuneration is paid or given directly or indirectly to the individual for soliciting any person in this state.

4. Agents are required to be licensed in this state before making any transactions or solicitations. However, an exemption from licensing exists if the agent's only customers in Wisconsin are certain financial institutions or institutional investors to whom offers of sales of securities are exempt from the state's securities registration requirements.

5. To be licensed as an agent, an agent must pass an examination. However, if an individual meets certain requirements, the examination requirement may be waived. Licenses must be renewed annually.

6. An investment adviser representative is a person supervised by an investment adviser who provides advice or analysis on securities for individual clients. An investment adviser representative is compensated through fees for such advice or analysis, not on the basis of sales of securities.

7. Approximately 100,000 individuals are registered as securities agents or investment

adviser representatives. Based on the current license fee of \$30, program revenues from such fees are estimated at approximately \$3,000,000 per year. As noted, the administration estimates that increasing the fee from \$30 to \$60 would result in additional program revenue of approximately \$3,000,000 in each year of the 2007-09 biennium.

8. At the end of each fiscal year, DFI lapses most unencumbered program revenue to the general fund. Therefore, the proposed fee increase would indirectly increase general fund revenues by \$3,000,000 annually.

9. All states and the District of Columbia impose license fees on securities agents; all but five states also impose license fees on investment adviser representatives. In most states, including Wisconsin, there is both an initial application fee and a renewal fee. In the majority of states, the fee is the same for the two types of licenses and for both initial applications and license renewals. However, some states impose different fees on the two types of licenses and some have different fees for an initial application and a license renewal. The highest of such fees, imposed by the state of Texas, is \$250, which is imposed on renewals of both types of licenses (the initial application fee for both types of licenses is \$235). Colorado's fee of \$13 is the lowest fee among states that impose such fees on both types of licenses and for both initial and renewal licenses. However, with the exception of the initial fee for securities agents, there is at least one state in each of the other categories that does not impose a fee.

10. The following table shows the highest and lowest license fees, as described above, as well as the average and median license fees imposed by the 50 states and the District of Columbia. In addition, the table indicates, for each type of fee, the number of states (including the District of Columbia) that impose fees that are higher than Wisconsin's current fee of \$30. For each type of fee, multiple states have fees that are equal to Wisconsin's.

	<u>Securities Agent Fees</u>		<u>Investment Adviser Representative Fees</u>	
	<u>Initial</u>	<u>Renewal</u>	<u>Initial</u>	<u>Renewal</u>
Highest Fee	\$235	\$250	\$235	\$250
Lowest Fee*	13	13	13	13
Average Fee	60	57	52	49
Median Fee	50	50	50	50
Number with higher fees	43	40	37	41

\*The "lowest" fee shown is for states that impose a fee. For each type of fee other than the initial fee for securities agents, there is at least one state that does not impose a fee. If such states were included in the table, the lowest fee for a renewal of a securities agent license and both the initial and renewal license fees for an investment adviser representative would be \$0.

11. The license fees imposed by the state on securities agents and investment advisor representatives have not been raised in over 20 years. If the fee had been automatically indexed by the general rate of inflation (the Consumer Price Index for All Urban Consumers, published by the U.S. Bureau of Labor Statistics), the fee would have reached \$58 by 2006. Therefore, it could be

argued that the proposed increase in the license fees is reasonable.

12. Others might suggest that a fee increase should only be imposed if the resultant program revenues were to be used for the purposes for which the fee exists. According to the administration, the additional revenue that would be generated under the proposal would be used to increase support for the Department of Commerce's Development Fund and the establishment of the Wisconsin Venture Center. However, there are no provisions under the bill that would designate the revenue from the increased fees for such purposes.

13. Other options would include increasing the license fees by an amount other than the proposed increase of \$30. Each \$10 increase in the fee would be expected to generate approximately \$1.0 million per year in additional PR-Revenue and GPR-Revenue. For example, the following increases in the current fee would be expected to increase PR-Revenue and GPR-Revenue as follows: (a) for a \$10 increase -- \$1.0 million per year; (b) for a \$20 increase -- \$2.0 million per year; (c) for a \$40 increase -- \$4.0 million per year; (d) for a \$50 increase -- \$5.0 million per year.

## ALTERNATIVES TO BILL

1. Approve the Governor's proposal.

ALT 1	Change to Bill Revenue	Change to Base Revenue
GPR	\$0	\$6,000,000
PR	0	6,000,000

2. Adopt one of the fee increases specified below.

	Increase Fees By	Increase Fees To	FUND	2007-09	
				Change to Bill	Change to Base
2a	\$10	\$40	PR-REV	-\$4,000,000	\$2,000,000
			GPR-REV	-4,000,000	2,000,000
2b	\$20	\$50	PR-REV	\$2,000,000	\$4,000,000
			GPR-REV	-2,000,000	4,000,000
2c	\$40	\$70	PR-REV	\$2,000,000	\$8,000,000
			GPR-REV	2,000,000	8,000,000
2d	\$50	\$80	PR-REV	\$4,000,000	\$10,000,000
			GPR-REV	4,000,000	10,000,000

3. Delete provision. Under this alternative, there would be no change in anticipated program revenue or associated transfers of such revenue to the general fund. Compared to the bill, this alternative would reduce DFI's PR-Revenue by \$3.0 million in each year. In addition, the Department's transfers to the general fund would also be reduced by the same amounts.

<b>ALT 3</b>	<b>Change to Bill Revenue</b>	<b>Change to Base Revenue</b>
GPR	- \$6,000,000	\$0
PR	- 6,000,000	0

Prepared by: Faith Russell