



Legislative Fiscal Bureau

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

June 8, 2007

Joint Committee on Finance

Paper #680

Initial and Renewal Credential Fee Structure (R&L)

Bill Agency

[LFB 2007-09 Budget Summary: Page 484, #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 of the existing initial and renewal credential fee schedule to support the proposed operating budget for the agency. Under this review, the Department must analyze the administrative and enforcement costs that are attributable to the regulation of each licensed occupation. Based on this review, R&L must then recommend adjustments to initial and renewal credential fee amounts, 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.

2005 Wisconsin Act 25 specifically required the Department to include, as part of its 2007-09 budget request, initial and renewal fees based on timekeeping data that included information on the allocation of staff hours for administration and enforcement activities relating to each regulated profession from the two previous years. The Department was also required to submit recommendations for the 2009-11 budget based on timekeeping data from the previous four years.

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. Currently, the initial license fee is set by statute at \$53. The Department may

not recommend and initial fee that is greater than the renewal fee, unless an examination is required for the initial credential.

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. Currently, 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. Currently, 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 (and certain other program-revenue funded agencies) is required to credit 10% of the revenue generated from initial and credential renewal fees, from examinations fees and background investigations 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

Allow the Department to set initial and renewal credential fees administratively, rather than by statute. Specify that these rules would not be subject to administrative rule procedures. Delete statutorily specified fee levels. Require R&L to determine the fee level of each initial credential for which no examination is required, for reciprocal credentials, and for all credential renewals, based on the administrative costs of the Department that are attributable to the regulation of each occupation or business regulated by the Department. Specify that R&L would recalculate these costs by January 31, of each odd-numbered year, for the succeeding fiscal biennium.

Require the Department to send a report to the Co-chairs of Joint Committee on Finance, within 14 days of completing the proposed fee adjustments. Specify that the Committee would have 14 working days after the submission of the report to notify the Secretary that the Committee has scheduled a meeting for review the proposed adjustments. Specify that if notification is not provided by the Committee within 14 days of receiving the report, the rules would be considered approved. Once the fees are approved, require the Department to post the fee adjustments on the R&L Internet web site and in credential renewal notices sent to affected credential holders.

DISCUSSION POINTS

1. The following discussion includes two sections. The first part will describe the fee setting methodology for initial and renewed credentials. The second section will discuss the revenues derived from these fees. Since 10% of the amounts assessed are deposited into the general fund, the two sections are closely related.

Fee Setting Methodology

2. Under current law, the initial and renewal credential fees are set in the statute. Most professions have the same initial fee (currently, \$53). Since new applicants have never faced a case of enforcement, they are currently responsible only for the shared percentage of the Department's administrative costs for reviewing the application for completeness and making sure that all criteria have been met. Generally, renewal fees for new professions are also set at this rate, since the new profession has no enforcement cost experience.

3. In the subsequent biennia, R&L reviews enforcement costs for each of the professions that are regulated by the agency. Professions that have significant enforcement costs (such as would be the case if a profession had a significant number of its professionals under disciplinary review) would typically experience renewal fee increases, while professions that had fewer disciplinary cases would likely experience renewal fees at or near the initial fee amount.

4. In most cases, professions with a large number of professionals have lower fees because the administrative costs can be spread among more individuals and a few disciplinary proceedings will have relatively low costs spread among the regulated credential holders.

5. As shown in the Attachment 1, there are 103 different renewal fees specified in statutes. The Department is required to make fee recommendations based on the administrative and enforcement costs of each profession as part of the biennial budget process under current law. The Governor and the Legislature review this recommendation as part of budget deliberations, and can make modifications to any of the fees.

6. The Department of Administration indicates that allowing R&L to set fees by rule would permit the Department to set fees biennially that reflect the on-going costs of regulating the professions. The bill would give R&L the flexibility to change fees as needed and still maintain legislative oversight under a 14-day passive review process.

7. The Governor's recommendation in SB 40 would remove review by the Governor and Legislature and instead require R&L to determine initial and renewal fees based on the administrative and enforcement costs for each profession or occupation. The agency would be required to submit that recommendation to the Joint Committee on Finance by January 31 of each odd-numbered year, adjusting for the succeeding biennium's costs of regulation.

8. If the Committee believes that R&L's credential fees should be set by rule, but wishes to maintain legislative review through standing legislative committees, it may wish to

eliminate the exemption from Chapter 227 administrative rule requirements to ensure that there is a thorough review of the proposed fee increases. Such administrative rules would not only require legislative oversight but also public hearings on the proposed rules.

9. Alternatively, it could be argued that full legislative review during the biennial budget process is appropriate. A majority of the Department's operations are funded from the initial and renewal credential fees. If the Department was required to make a recommendation for fees in January of each odd-numbered year, as proposed by the Governor, then the fees would be considered before it is known which program changes are included in the biennial budget deliberations.

10. Currently, the Department is required to submit a recommendation for fees as part of the agency's biennial budget request. The Governor and the Legislature may revise the requested fee changes based on the amount of revenues needed to support the programs that are approved as part of the biennial budget. The provisions in the Governor's budget would create two separate processes: (a) review of revenue generation - which would be done in late January through February of odd-numbered years; and (b) review of expenditure authority - biennial budget approval of new programs or discontinuation of existing programs.

11. Under the fee structure in the bill, if the Legislature wanted to significantly increase the programs operated by the R&L, as part of the biennial budget, they would have to add specific language requiring the Department to revise their fee structure, or reestablish fees within the statutes at amounts to collect sufficient revenues. In cases where there were significant decreases in departmental programs, the Legislature may also have to act to reduce the fees submitted. In either case, the fee setting process would not reflect the Legislature's wishes in regards to expenditure authority.

12. Since R&L is required (both under the bill and under current law) to deposit 10% of the revenues collected from credential fees into the general fund, the fee setting process proposed in SB 40 would determine a portion of the general fund's status outside of the biennial budget process.

13. Finally, submitting fee recommendations in late January of odd-numbered years would also make the review process difficult. The Joint Committee on Finance would have only 14-days to review the fee changes for over a hundred professions and businesses. During this same period, the Governor's biennial budget is released, and meetings with agencies and the public are scheduled as part of the Committee's consideration of the budget.

Technical Issue Related to Setting Fees by Rule

14. Under the Governor's budget the statutorily set fees would be deleted on the effective date of the bill. The bill specifically authorizes the Department to recalculate the agency's administrative and enforcement costs by January 31, of each odd-numbered year, for the succeeding fiscal biennium. If the Committee wishes to allow the fees to be set by rule, then it should provide nonstatutory language requiring the agency to set the first fee levels by rule.

15. In order to bridge the period between the adoption of these rules, the Committee should also extend the period in which the current fees are effective until the initial rules are approved. Otherwise, R&L would lack authority to assess fees from the date of bill passage until rules are approved. This would only apply if the Committee chose to allow the fees to be set by rule.

Previous Legislative Action

16. In determining whether to approve the Governor's recommendation, the Committee may wish to review the development of the current fee structure and the current statutory requirements relating to how fees recommendations are to be submitted. A history of the fee structure is provided in Attachment 2.

17. The Department did not formally submit a revised schedule for the current 2007-09 biennium. Further, the Department has not submitted a revised fee schedule as part of their biennial budget, as required in statute, since the 2001-03 biennium.

18. Because of legislative concerns about the failure to submit fee recommendations as part of the 2003-05 and 2005-07 biennial budget, and based on recommendations of the Legislative Audit Bureau (LAB), specific language was added to the 2005 Wisconsin Act 25, requiring the Department to recalculate the fees and specifying the means in which the Department was to reestimate the fees. Under Act 25, the Legislature chose to maintain the 2003-05 fee levels for the 2005-07 biennium, but specified that the Department would prepare 2007-09 budget recommendations based on the timekeeping data from the two most recent years. The Legislature further specified that R&L's 2009-11 recommendations would include time keeping date for the previous four years of data.

19. The Legislature's stated directive as to how the budget recommendation should be submitted for the 2007-09 budget has not been followed. The provision was intended for allow the Committee to assess this mechanism and determine whether to adopt the timekeeping model, maintain the system that was used for determining fees prior to the 2003-05 biennium, or whether another mechanism should be explored.

20. It could be noted that whether the fees are set by rule or by statute, that the model for determining how fees are distributed among the credential holders will ultimately determine individual occupational fee levels. The Committee's decision to allow fees to be set by rule or by statute will simply determine which parties will have oversight of the process. However, it could be argued that review during biennial budget deliberations allows the Legislature to modify the process, if it appears that a more accurate or better distribution system becomes available, as was the case in legislation following LAB Audits in 1992 and 2004.

21. Ultimately, the question of appropriate fee levels is centered on whether fees should be based solely on the administrative and enforcement costs of a specific credential type, or whether some cost-sharing should occur to avoid large swings in enforcement costs for credential types that have fewer members. At issue is whether it is desirable to assess members of a specific profession

or business an amount in excess of the costs of regulating them versus whether it is impractical to assess fees that would be very costly for certain professions (potentially, several thousands of dollars per credential) and not so costly for others.

22. With regards to the current budget, the Committee could choose to maintain the system outlined under 2005 Wisconsin Act 25 and again require R&L to develop a fee recommendation as part of the biennial budget, based on actual timekeeping data. It would appear that the Department would have sufficient data to include four years of data in developing the 2009-11 biennial budget and all subsequent budgets could similarly include the most recent four full years of data to ensure that short-term spikes in enforcement costs would not have dramatic impacts on fee levels.

23. Maintaining the current requirement would, however, again delay the Department's submission of recommendations for revised fee schedules for another two years. Further, since the Department has chosen to disregard statutory requirements for each of the last three biennia in regards to its fee setting requirements, it can not be determined that the Department would comply.

24. Alternatively, it could be argued that the current fees, which are shown in Attachment 1, are sufficient to cover the proposed costs of the Department under the bill (this issue is discussed in the following section) and that these fees could continue to be assessed until the 2009-11 biennial budget. The Legislature could then review the appropriateness of the current fee structure versus the time-keeping model in conjunction with the 2009-11 budget.

General Purpose Earned Revenues

25. The Department is funded entirely from program revenues, collected primarily from initial and renewal credential fees. Additional amounts are also provided under examination charges and background investigation fees appropriations. From the fee amounts collected in each of these appropriations, 10% is credited to the state's general fund (GPR-earned), and the remaining 90% is credited to the associated agency appropriation account for general operations (initial and renewal credential fees), examination program operations (examination fees), or applicant investigation reimbursement (background investigation fees).

26. Under the Governor's budget, the GPR-earned collections are estimated at \$9,288,300 for the biennium. However, under the current fee structure it is unlikely that the Department would generate sufficient revenues so that 10% of the amounts collected would equal these amounts. It appears that a majority of the GPR-earned estimates are based on lapse requirements that were part of the 2005-07 biennial budget requirements that are not continued in the 2007-09 biennium.

27. The total general program operations budget for R&L, under the Governor's proposal is \$10,975,800 PR annually. The minimum amount of revenue that would have to be generated to provide this amount is \$12,195,300 annually, so that 90% would be deposited into appropriation and 10% into the general fund. Under this minimum funding scenario, \$2,806,200

GPR-earned would be deposited in the biennium. This minimum funding requirement would understate the Governor's GPR-earned estimate by \$6,482,100 over the biennium.

28. A similar overstatement of revenues was included in 2005 AB 100, the 2005-07 biennial budget proposal. Under 2005 AB 100, the projected shortfall was \$4,274,600 GPR-earned in 2005-07. The Committee chose to require the Department to lapse a portion of the agency's general program operations balances to the general fund to make up for the overstated amount.

29. The Committee again could choose to lapse balances from the Department's program revenue balances to address a portion of the projected shortfall. The Department estimates that there will be a balance of \$3,325,700 PR in the Department's general program operations appropriation and \$507,800 PR in the examinations operations appropriation at the end of 2006-07. The Committee could require a one-time lapse of \$2,228,100 PR in 2007-08 from the agencies general program operations appropriation and \$355,900 PR in 2007-08 from the examinations operations appropriation, which would provide an additional \$2,584,000 of GPR-earned in 2007-08 and maintain an estimated balance equal to 10% of the annual amount appropriated under the bill for each of the respective appropriations.

30. The Committee's decision on how fees are set and the amount that is assessed for credential fees will further impact the total amount of GPR-earned. Since 10% of the fees paid are deposited into the general fund, higher fees would lead to more GPR-earned. However, if the Committee adopts the SB 40 provision allowing the fees to be set by rule, the Committee could also specify that the Department lapse \$6,482,100 PR (the amount above the minimum revenue necessary to achieve the Governor's GPR-earned estimates) during the biennium from the general program operations and examinations operations appropriations. This would require the fees to be set at a level sufficient to fund the Department's operations and generate enough excess revenues to lapse additional amounts.

31. Alternatively, if current law was maintained, fees would generate total revenues estimated at \$12,964,800 in 2007-08 and \$13,286,500 in 2008-09. The statutorily required lapse of 10% from all three R&L appropriations (\$2,625,200 GPR-earned in 2007-09) would be deposited in the general fund and the remaining funds would be available for agency general program operations.

32. If the credential fees were continued at current rates, it is estimated that there would be additional balances in the general operations appropriation of an additional \$1,674,600 PR in 2007-09. If the Committee required these additional amounts to be lapsed as well as the \$2,584,000 PR identified above, then a total of \$4,258,600 could be lapsed to the general fund. Including the amounts of GPR-earned that would be generated from the deposit of 10% of fees (\$2,992,600 GPR-earned in 2007-09), a total of \$7,251,200 GPR-earned would be generated from R&L.

33. Additional fees would have to be assessed in order to generate the fees necessary to generate the remaining difference (\$2,037,100 GPR-earned over the biennium). It is estimated that there will be approximately 369,500 initial and renewal credentials issued in 2007-09. If all

credential holders were assessed a one-time surcharge of \$6, it is estimated that revenue of \$2,217,000 PR would be earned over the biennium. Nonstatutory language could be created requiring that revenues from the one-time assessment be deposited directly in the general fund.

ALTERNATIVES TO BILL

A. Fees Established by Rule

1. Approve the Governor's recommendation. [This would allow the Department of Regulation and Licensing to set fees by rule. The fees would be submitted by January 31, of each odd-numbered year for the Joint Committee on Finance to review under a 14-day passive review process.] Reestimate GPR-earned for the Department of Regulation and Licensing by -\$4,276,200 in 2007-08 and -\$2,205,900 in 2008-09.

ALT A1	Change to Bill Revenue	Change to Base Revenue
GPR	- \$6,482,100	- \$186,400

2. Modify the Governor's recommendation by specifying that the fees would be approved through administrative rules established under Chapter 227 of the statutes. Reestimate GPR-earned for the Department of Regulation and Licensing by -\$4,276,200 in 2007-08 and -\$2,205,900 in 2008-09.

ALT A2	Change to Bill Revenue	Change to Base Revenue
GPR	- \$6,482,100	- \$186,400

3. In addition to Alternative A1 or A2, specify that the current initial and renewal fees would remain in effect until the rules are approved. Specify that the Department may immediately seek to revise the fees by rule after the effective date of the bill, in order to set the first round of initial and renewal fees.

4. In addition to Alternative A1 or A2, require the Department to lapse \$3,920,300 PR in 2007-08 and \$2,205,900 PR in 2008-09 from the general program operations appropriation [s. 20.165(1)(g)] and \$355,900 PR in 2007-08 from the examination appropriation [s. 20.165(1)(i)]. [This alternative may only be selected with Alternatives A1 or A2. Selection of this alternative would require R&L to establish fees at a level sufficient to recover the required lapse amount.]

ALT A4	Change to Bill Revenue	Change to Base Revenue
GPR	\$0	\$6,295,700

B. Fees Established by Statute

1. Delete the Governor's recommendation to set fees by rule. Require the Department to lapse \$4,015,500 PR in 2007-08 and \$2,104,200 PR in 2008-09 from the agency's general program operations appropriation and \$355,900 PR in 2007-08 from the examinations operations appropriation. Specify that all of the Department's initial and renewal credentials be assessed an additional \$6 between July 1, 2007, through June 30, 2009. Specify that the assessment would be one-time and deposited into the general fund.

ALT B1	Change to Bill Revenue	Change to Base Revenue
GPR	\$179,900	\$6,475,600

2. Delete the Governor's recommendation to set fees by rule. Require the Department to lapse \$2,920,600 PR in 2007-08 and \$982,100 PR in 2008-09 from the general program operations appropriation and \$355,900 PR in 2007-08 from the examinations operations appropriation.

ALT B2	Change to Bill Revenue	Change to Base Revenue
GPR	-\$2,037,100	\$4,258,600

3. Maintain current law.

ALT B3	Change to Bill Revenue	Change to Base Revenue
GPR	-\$6,295,700	\$0

C. Time-Keeping Data

1. Direct the Department to utilize the four most recent complete years of time-keeping data to develop initial and renewal credential fees for the 2009-11 biennium and all subsequent biennia.

Prepared by: Darin Renner
Attachments

ATTACHMENT 1

Current License Renewal Fees

<u>Credential Type</u>	<u>Current Renewal Fee</u>	<u>Credential Type</u>	<u>Current Renewal Fee</u>
Accountant, Certified Public	\$59	Hearing Instrument Specialist	\$106
Accounting Corporation or Partnership	56	Home Inspector	53
Acupuncturist	70	Hydrologist, Professional	53
Aesthetician	87	Hydrology Firm/Corporation	53
Aesthetics Establishment	70	Interior Designer	56
Aesthetics Instructor	70	Landscape Architect	56
Aesthetics School	115	Land Surveyor	77
Aesthetics Specialty School	53	Manicuring Establishment	53
Appraiser, Certified General Real Estate	162	Manicuring Instructor	53
Appraiser, Certified Residential Real Estate	167	Manicuring School	118
Appraiser, Licensed Real Estate	185	Manicuring Specialty School	53
Architect	60	Manicurist	133
Architectural/Engineering Corporation	70	Marriage and Family Therapist	84
Art Therapist, Registered	53	Massage Therapist or Body Worker	53
Athlete Agent	53	Midwife, Licensed	56
Athletic Trainer	53	Music Therapist	53
Auction Company	56	Nurse, Advanced Practice Prescriber	73
Auctioneer	174	Nurse, Licensed Practical	69
Audiologist	106	Nurse, Registered	66
Barber or Cosmetologist	63	Nurse-Midwife	70
Barbering or Cosmetology Establishment	56	Nursing Home Administrator	120
Barbering or Cosmetology Instructor	91	Occupational Therapist	59
Barbering or Cosmetology Manager	71	Occupational Therapy Assistant	62
Barbering or Cosmetology School	138	Optometrist	65
Cemetery Authority	343	Perfusionist	56
Cemetery Preneed Seller	61	Pharmacist	97
Cemetery Salesperson	90	Pharmacy	56
Charitable Organization	15	Physical Therapist	62
Chiropractor	168	Physical Therapist Assistant	44
Counselor, Professional	76	Physician	106
Crematory Authority	53	Physician Assistant	72
Dance Therapist, Registered	53	Podiatrist	150
Dental Hygienist	57	Private Detective	101
Dentist	131	Private Detective Agency	53
Designer of Engineering Systems	58	Private Security Person	53
Dietitian	56	Psychologist	157
Drug Distributor	70	Psychologist, Private Practice School	103
Drug Manufacturer	70	Real Estate Broker	128
Electrologist	76	Real Estate Business	56
Electrology Establishment	56	Real Estate Salesperson	83
Electrology Instructor	86	Respiratory Care Practitioner	65
Electrology School	71	Sanitarian	53
Electrology Specialty School	53	Social Worker	63
Engineer, Professional	58	Social Worker, Advanced Practice	70
Fund-Raiser, Professional	93	Social Worker, Independent	58
Fund-Raising Counsel	53	Social Worker, Independent Clinical	73
Funeral Director	135	Soil Scientist	53
Funeral Establishment	56	Soil Science Firm	53
Geologist, Professional	59	Speech-Language Pathologist	63
Geology Firm/Corporation	53	Substance Abuse Counselor	70
		Time-Share Salesperson	119
		Veterinarian	105
		Veterinary Technician	58

ATTACHMENT 2

Department of Regulation and Licensing Current Fee Structure History

Development of the Current Fee-Setting Methodology. The Department of Regulation and Licensing's current fee-setting methodology dates from the early 1990's. In 1990, as part of a routine compliance audit, the Legislative Audit Bureau (LAB) reviewed R&L's credential fee-setting methodology. That 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. At the time, R&L indicated that it would begin to use the new data to better apportion the costs of regulation to specific occupations.

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 renewal fees was reasonable. The audit recommended minor documentation improvements that were subsequently implemented by the Department. The fee-setting methodology in place after the follow-up audit was then used in each succeeding biennium through 2001-03 to set initial and renewal credential fees sufficient (with additional modest revenue collections from examinations and other minor fees) to support the agency's operations.

Fee-Setting Issues During 2001-03 Budget Deliberations. In the Governor's 2001-03 biennial budget recommendations for the agency, funding was proposed for a consultant to review the adequacy and appropriateness of the agency's fee-setting methodology. The Finance Committee deleted the proposed funding for the consultant and instead requested that the LAB undertake such an evaluation. The intended purpose of the audit was to ensure that the agency's fee-setting procedures were documented, represented the actual costs associated with the regulation of licensed professions, and provided adequate revenues to support the agency's costs of operation. 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.

Fee-Setting Issues During 2003-05 Budget Deliberations. As part of the 2003-05 biennial budget, the Department did not request nor did the Governor recommend any changes to initial and renewal credentials. The agency's explanation for not revising credential renewal fees at that time was that the inadequacy of the existing fee-setting methodology made it impossible to determine with any level of assurance whether any proposed fee represented a given profession's cost of regulation. In addition, since the agency's operational costs for enforcement activities were virtually identical to those incurred in the prior biennium, there seemed to be little reason to change the fees. In addition, the Department indicated that the administrative costs of implementing any fee changes could not be justified.

At that time, the agency highlighted some additional concerns with respect to the existing fee-setting methodology. It noted that the current procedure did not consider complexity, severity, and resources dedicated to a complaint when cost allocations were 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 types of cost differences.

Since the agency had not submitted a revised fee schedule, concerns were raised during the Finance Committee's deliberations on the Department's 2003-05 budget as to the adequacy of R&L's existing fee structure to support the agency's budgeted operating costs.

During this period, the Department contracted with Grant Thornton Consultants to review on an expedited basis the agency's fee structure and make recommendations for possible statutory adjustments to the schedule of credential renewal fees for the 2003-05 biennium. Using the available cost data at hand, the consultant prepared a series of initial and renewal fee modifications that were presented to the Finance Committee during the final stages of its deliberations on the agency's budget.

Based on the consultant's recommendations, the Department indicated that the initial and renewal fee schedules could be revised accordingly. The agency proposed a new variable initial credential fee rather than the current uniform \$53 fee. Under the proposal, initial fees would have varied from a low of \$34 to a high of \$641 per credential holder. The proposal also recommended renewal fees that would have varied between \$35 and \$985. In several cases, the proposed initial fees for a profession would have exceeded the amounts charged for a subsequent license renewal.

According to the information provided by the consultant, it had been difficult to allocate the variable costs of enforcement to the regulatory costs for each profession. This situation was attributable to the way that the agency tracked enforcement actions. The agency's time tracking procedures did not allow for consideration of the amount of time spent on each case or the complexity of the proceeding. In the absence of this actual data, the consultant attempted to calculate these costs by using: (a) detailed records where they are available; (b) interviewing supervisors to obtain best estimates of staff support time; and (c) extrapolating overall time spent per profession using partial time records.

The consultant further recommended that the Department keep more detailed records that would enable R&L to accurately calculate the actual amount of time spent on the enforcement and administration of each profession. The consultant also suggested revising the fee schedule every four years (though the fees would still be paid every two years), so that any short-term increases in enforcement-related costs for the profession could be averaged out over a longer period of time.

Because of concerns relating to: (a) the adequacy of the agency's available cost data that could be employed in the development of any new fee schedule; and (b) the magnitude of some of the proposed fee change recommendations, the Finance Committee chose not to incorporate any of the consultant's recommendations into a revised fee schedule for the 2003-05 biennium. Instead, the Committee again included language directing the LAB to conduct an evaluation of the methodologies used by R&L to establish initial and renewal fee levels and to report its findings by mid-2004. Language directing the audit was ultimately enacted.

Beginning in November, 2003, the Department put in place a new spreadsheet-based timekeeping system to track the allocation of staff hours to administrative and enforcement activities relating to each regulated profession.

Fee-Setting Issues During 2005-07 Budget Deliberations. On July 13, 2004, LAB released the results of its review of the Department's fee-setting methodology that had been used in recent years to determine credential fees. Among the findings of the audit were the following:

- Even though almost all of the regulated professions have the same \$53 initial fee, some credentials require relatively more services than others to issue. For example, the Department has to review several documents, including an examination, before providing an initial credential to certified public accountants while real estate salespersons only have an application to review.
- The current methodology allocates enforcement costs (used for setting renewal credential fees) based on the number of cases handled per credential type rather than accounting for the hours required to resolve each enforcement matter. As a result, comparable cost allocations would be applied both to a simple case and to a complicated, drawn-out case.
- Under the current methodology, 72.6% of all costs are categorized as administrative overhead and are allocated equally to all credential holders. The audit found that the agency believes that many of these overhead costs should instead be allocated to the credential holders that are receiving the specific administrative services.
- In reviewing the Grant Thornton Consultants proposal prepared during the 2003-05 biennial budget deliberations, the LAB noted that the proposal appropriately allocated more of the costs related to activities of the Divisions of Credentialing, Board Services, and Legal Counsel rather than just the costs of the Division of Enforcement. As a result, 58.2% of the agency's costs were being allocated to specific credential types rather than the 27.4% of such costs that were being allocated under the current methodology.
- LAB recommended that the Department could do even more in allocating costs to specific credentials by allocating some of the administrative activities of the Division of Management Services and the Office of the Secretary to specific credentials.

The LAB found that the new timekeeping model put in place by the Department in November, 2003, was an improvement over the existing methodology. The current methodology that had been in use since the early 1990's allowed for too many costs of regulation to be spread equally across all credential types rather than being apportioned by services provided. The LAB recommended additional modifications to the new timekeeping model to improve its accuracy and precision.

While the LAB found that the new timekeeping methodology, when fully implemented over the course of a biennial license renewal cycle, would more accurately capture the costs of regulation of the specific professions (in accordance with the requirements of current law), the audit did cite some possible drawbacks to the new cost allocation procedure. These included:

- The timekeeping system is more complex (making it more difficult to explain to credential holders) and required better data keeping by the Department.
- There could be considerable fluctuations in fees for some credential types.
- Questions could be raised about the equitability of some of the possible credential fee levels. For example, under the Grant Thornton initial recommendations developed during the 2003-05 budget process, dance therapists, who earn fairly modest wages, were projected to pay a credential fee of \$161, while physicians were projected to pay \$151.

The audit offered the Legislature three possible types of options for the setting of credential fees during the 2005-07 budget process: (a) allow the credentialing fees currently enumerated in the statutes to remain unchanged until additional data has been collected under the agency's timekeeping system; (b) allow R&L to assess surcharges during the 2005-07 biennium for specific professions that agree to pay higher fees in exchange for expanded services; and (c) implement the consultant's recommendations developed during the 2003-05 biennial budget deliberations using the most complete timekeeping data available.

Under Act 25, the Legislature chose to maintain the 2003-05 fee levels for the 2005-07 biennium. However, the Legislature adopted a nonstatutory provision specifying that the Department would prepare 2007-09 budget recommendations based on the timekeeping data from the two most recent years. The Legislature further specified that R&L's 2009-11 recommendations would include time keeping data for the previous four years of data.