



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2015 Biennium

<b>Bill #</b>	HB0363
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<b>Title:</b>	Generally revising laws related to the board of realty regulation
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<b>Primary Sponsor:</b>	Berry, Tom
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<b>Status:</b>	As Amended in House Committee
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- Significant Local Gov Impact     
 Needs to be included in HB 2     
 Technical Concerns  
 Included in the Executive Budget     
 Significant Long-Term Impacts     
 Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
<b>Expenditures:</b>				
State Special Revenue	\$161,546	\$132,669	\$134,812	\$136,989
<b>Revenue:</b>				
State Special Revenue	\$161,546	\$132,669	\$134,812	\$136,989
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** This bill transfers the functions of the Department of Labor & Industry in regard to the Board of Realty Regulation including hiring and oversight of personnel, rents, utilities, and overhead outside of the Business Standards Division. It expands the board's rule making authority, exempts board employees from the state classification and pay plan, and allows the board to collect criminal justice information on applicants and licensees.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Labor and Industry (DLI)**

1. It is assumed the Board of Realty Regulations base expenditures to operate will remain the same with the exceptions of those areas outlined in the following assumptions. The fiscal note outlines what appropriation authority the Board of Realty Regulation would need to operate on its own in addition to the appropriation already set aside for the Business Standards Division. The board's appropriation will need to be increased in order to cover the anticipated changes in expenditures. The appropriation for the division will need to remain the same in order to redistribute overhead for the division and bureaus currently included in the Board of Realty Regulation's pro rata share to other boards. Assumptions three, four, five and six detail

expenses that the board will no longer pay that will need to be shifted to other boards. The net change to appropriation for the Business Standards Division is zero. The net change required for the board's appropriation increase is detailed in the tables.

2. Board fees are set to be commensurate with costs per 37-1-134, MCA. Thus, it is anticipated that revenue will increase to match the increase in expenditures detailed above.
3. The board pays approximately \$26,484 in rent annually. Rent is apportioned by time distribution based on quarterly averages of how much time has been billed to a particular board. The expense for rent covers the pro rata share for board office space, the division, bureaus, IT, and compliance units housed under the Business Standards Division. Rent covers office and storage space, conference rooms, common areas, utilities, parking, and maintenance. If the board relocates to another non-state owned building, it is estimated they will require 2,000 square feet of space at approximately \$15 per square foot to include utilities for an annual total of \$30,000 (commercial rents in the Helena area run \$15 in downtown to \$20 in the Great Northern complex).
4. The board's share of personal services for the division and bureaus will be reapportioned to the other boards and programs attached to the Business Standards Division. The estimated amount of personal services, based on a three year average is \$81,772 (\$29,238 division and operations, + \$21,025 compliance + \$14,145 IT + \$17,364 bureau). Net change to appropriation is zero.
5. The board's share of operating expenses will be reapportioned to the other boards attached to the Business Standards Division. The estimated amount of operating expenses (based on a three year average) is \$73,482 (\$8,170 division + \$2,967 IT + \$9,295 compliance + \$53,050 bureau). Net change to appropriation is zero.
6. The board's legal expense based on a three year average is \$151,783. This legislation allows the board to hire its own staff, including legal counsel. Due to a trend of increasing caseload within the department, it is anticipated that this legal time will be needed by other boards within the department. Because of this, net change to appropriation is zero.
7. It is assumed that the board will need an executive officer, an auditor, an education director, a licensing technician and an investigator. The analysis indicates that the existing personal services appropriation in this board (which is currently established by a variety of department staff who directly charge time to the board) would be sufficient to cover these positions.
8. The board will hire its own board counsel. This will be an increase of 1.00 FTE. Total estimated cost for the attorney will be \$102,143 plus \$3,275 for office furniture and supplies and a computer.
9. The board has covered computer costs for its executive officer, auditor, education director, licensing technician, and investigator. Office set ups presently are cubicles with attached desks. It is assumed new office furniture would be required. An estimated \$8,000 would be needed to set up the new office space.
10. It is estimated the board will need to hold four additional meetings in the first year to promulgate rules to implement this legislation. Meetings are expected to last two days; one preparation and travel day and one meeting day. Per Diem costs would be \$2,800.
11. Estimated mileage costs for board members would be \$7,910.
12. Estimated lodging costs for board members would be \$2,487.
13. Estimated meal costs for board members would be \$1,288.
14. The board will need to revise their rules. It is estimated they will have a ten page rule notice and five page adoption notice. Publication and notice fees to the Secretary of State will total \$750.
15. The board will hold a hearing for public comment on the rules. It is estimated the hearing will be two hours in length. A hearings officer or attorney will officiate and a court reporter or transcriptionist will record the comments and provide a transcript. Total cost is estimated to be \$440.
16. Licensees and interested parties will be notified of the rule notice via post card which will direct them to the board's web site to review the entire rule proposal and notification of hearing. Total cost for printing, labeling, and mailing will be \$5,727.
17. The legislation states that the board may request services from the department and the department may charge the board an amount commensurate with reasonable cost of the services provided. At this time it is

unknown what services the board may request of the department. Services could be charged by a rate developed to cover personal service time and overhead.

- 18. It is difficult to judge the impact of the board being able to divert monies from the board’s fund by a majority vote of members (pg. 11, changes to 37-51-201 (1) (h) (j)). Other boards under the division are not allowed to divert funds. It is unclear what the intent of this language is.
- 19. A 1.5% inflation factor has been added to personal services and operating expenses with the exception of rent, a 2% inflation factor has been added; present rent contract for BSD includes an annual 2% increase.

**Department of Justice (DOJ)**

- 20. According to federal law and regulations regarding criminal background checks for licensing purposes, there must be fingerprint-based and a state check is required before the federal check is conducted.
- 21. The current fee for the state check is \$10.00 and for the federal check is \$17.25. The total cost is \$27.50. This is recovered from the applicant on a cost basis.
- 22. It is not known how many criminal background checks would be done.

	<u>FY 2014</u> <u>Difference</u>	<u>FY 2015</u> <u>Difference</u>	<u>FY 2016</u> <u>Difference</u>	<u>FY 2017</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE - DLI	1.00	1.00	1.00	1.00
<b><u>Expenditures:</u></b>				
Personal Services	\$96,379	\$96,379	\$97,825	\$99,292
Operating Expenses	\$65,167	\$36,290	\$36,987	\$37,698
<b>TOTAL Expenditures</b>	<u>\$161,546</u>	<u>\$132,669</u>	<u>\$134,812</u>	<u>\$136,990</u>
<b><u>Funding of Expenditures:</u></b>				
State Special Revenue (02)	\$161,546	\$132,669	\$134,812	\$105,154
<b>TOTAL Funding of Exp.</b>	<u>\$161,546</u>	<u>\$132,669</u>	<u>\$134,812</u>	<u>\$105,154</u>
<b><u>Revenues:</u></b>				
State Special Revenue (02)	\$161,546	\$132,669	\$134,812	\$105,154
<b>TOTAL Revenues</b>	<u>\$161,546</u>	<u>\$132,669</u>	<u>\$134,812</u>	<u>\$105,154</u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
State Special Revenue (02)	\$0	\$0	\$0	\$0

**Use of a Statutory Appropriation:**

17-1-508, MCA requires analysis of the statutory appropriation relative to the guidance in 17-1-508(2), MCA, to be published in the fiscal note. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. Answer yes or no to each of the following guidelines regarding the statutory appropriation:

	<u>YES</u>	<u>NO</u>
a. The fund or use requires an appropriation.	X	
b. The money is not from a continuing, reliable, and estimable source.		X
c. The use of the appropriation or the expenditure occurrence is not predictable and reliable.		X
d. The authority does not exist elsewhere.		X
e. An alternative appropriation method is not available, practical, or effective.		X
f. Other than for emergency purposes, it does not appropriate money from the state general fund.	X	
g. The money is dedicated for a specific use.	X	
h. The legislature wishes the activity to be funded on a continual basis.	X	
i. When feasible, an expenditure cap and sunset date are included.		X

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*