



SB 79

CLARIFY FEES CHARGED IN RELATION TO LICENSING BOARDS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

SPONSOR - SEN. TOM FACEY SD 50

EXHIBIT 3
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SB 79

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This bill clarifies statute for operation of professional and occupational licensing boards to address a 2013 audit finding.

- Protects licensees from inflated or excessive fees
- Provides auditors with a clear and consistent guideline to monitor Department effectiveness

SUMMARY OF CHANGES

Section 1: Removed unclear language, clarified that boards operate on a licensing cycle as opposed to a fiscal year, and clarified limitations on allowable cash balance.

OVERVIEW OF DEPARTMENT'S POSITION

Department audit findings indicate that fees for many of the boards are not commensurate with costs, as currently defined in MCA 37-1-134, which is a violation of statute. However, the current interpretation of fees commensurate with costs is not auditable.

First, in order to maximize staff resources and provide the best possible customer service to licensees, renewal cycles for the boards are staggered throughout the fiscal year. Therefore, each board has a very different operating cycle, which, in most cases, does not align with the state fiscal year. For example:

The Board of Private Security Investigators experienced fee fluctuations from 2010 to 2012. In 2011, the Board had a negative fund balance of approximately \$41,000. The number of licensees for the Board of Private Security had dropped dramatically due to the economy in 2010, which dropped the fund balance to negative in both 2010 and 2011. In 2012, additional revenue was collected in an attempt to make up for this negative fund balance. Fees increased at the same time that the number of licensees bounced back. As a result, revenues exceeded expenses for the Board by more than 10% in 2012, causing it to be out of compliance per the audit report in 2012. Again the board would not be able to return fees until the next renewal cycle in March to come into compliance. The only way for the board to have been compliant per audit criteria would have been to increase expenditures. The Board was attempting to rectify a two year pattern of negative fund balance and was not able to predict an increase in licensees.

The term "fees commensurate with costs" as defined currently in MCA 37-1-134 is ambiguous; it has been interpreted differently throughout the last 12 years. The Department believes that SB 79 will provide clarification and stability to board financial management.