



Economic Affairs Interim Committee

61st Montana Legislature

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Memo on Licensing Board Budget Issues

To: Economic Affairs Committee Members
From: Pat Murdo, research staff

Background: The Economic Affairs Committee's duties include oversight of the Department of Labor and Industry and all its divisions, including the Business Standards Division, which handles almost all of the professional and occupational licensing boards in Montana. A second duty, listed on p. 6 of the Revised Work Plan, says that the Economic Affairs Committee is required to notify the Department of Labor and Industry if there is a particular board or program that the Committee feels is no longer needed or needs to be reevaluated because of financial difficulties. This statute (2-8-404, MCA, passed by the 2005 Legislature after the Economic Affairs Committee study of licensing boards) basically allows the Economic Affairs Committee to initiate a sunset process for a board, with appropriate public comment, if the Committee is concerned about a board's purpose or its costs not being met (because the board may choose to set lower fees than the department determines are needed for operations). The department itself can initiate a sunset process, ending up in a required report to the Economic Affairs Committee for boards not meeting their fiscal responsibilities and, presumably, a legislative bill drafting request to terminate a board.

Costs & Fees: One of the issues discussed during the 2005 study of licensing boards was whether boards should charge fees commensurate with costs (the current statutory language) or determine costs that are commensurate with fees. A board's fees pay not only for board activities but for division and department administration. Bart Campbell's response to Sen. Brown's question regarding fees commensurate with costs pointed out that under 37-1-134, MCA, boards are required to "set board fees...that are commensurate with costs for licensing...". Further, in 37-1-131, MCA, the duties of a board include paying "to the department the board's pro rata share of the assessed costs of the department under 37-1-101(6)". Subsection (6) of 37-1-101, MCA, says the department shall "assess the costs of the department to the boards and programs on an equitable basis as determined by the department".

Critics' views: Critics of the current language say they have no control over what the

department determines to be its administrative costs. For example, the number of administrators can be expanded without a board's input but the cost of the administrators is pro-rated among the boards. A board that is in financial trouble ends up typically having many administrative officers attending board meetings, and the cost of attending that meeting increases the amount the board must pay for administrative oversight. Critics also contend that boards are attached only for administrative purposes to the department, although the statutory language spells out how that administrative attachment is funded.

Status quo view: The department (division) uses a software program to determine how much time personnel spend on each board. Some department (division) personnel work for only one board but most personnel have more than one board. The Legislature through the budgeting process approves the "indirect cost rate" that the department (division) can charge the boards and the Legislature approves the overall spending authority for the division and thus, indirectly, for the boards. In the past legislative session, the department requested that 33 full-time equivalent positions be moved from the proprietary fund to the state special revenue fund. What this means, in essence, is that these positions now will be seen as a line item in the budget in a more straightforward way than in the past because typically the budgeting process does not look at proprietary funds (which are supposed to operate like a business). See FY2008 budget appropriations below for the two licensing bureaus.

Action item? The committee may decide:

- whether to exercise more or less involvement and oversight of the boards;
- whether to request assistance from the Legislative Fiscal Division to review budgetary issues related to the boards and department; or
- whether to examine statutes related to the fiscal responsibility of boards and the department.

Budgets from FY 2008 Regarding Operations

Health Care Licensing Bureau			Business and Occupational Licensing Bureau		
	FY 2008 Appropriation	FY 2008 Adjusted Base		FY 2008 Appropriation	FY 2008 Adjusted Base
Overtime	\$25,593	\$2,138	Overtime	\$7,500	\$7,470
Per Diem	\$85,450	\$66,401	Per Diem	\$52,150	\$36,600
Consult & Prof. Services	\$390,321	\$340,196	Consult & Prof. Services	\$248,198	\$191,998
Other Legal Costs	\$35,225	\$13,545			
IT Consult/Prof Services	\$21,734	\$23,084	IT Consult/Prof Services	\$28,131	\$27,161
Misc Network Serv/DofA	\$991	\$71	Gasoline	\$3,418	\$9,418
Printing/Pub & Graphics	\$42,625	\$24,116	Minor Software	\$40	\$1,673
Minor Equip - Com Hrdwr	\$36,065	\$5,311			

Postage & Mailing	\$85,329	\$58,328			
In-State Other	\$168,190	\$124,747	In-State Other	\$127,184	\$137,811
Out-of-State Other	\$64,009	\$82,554	Out-of-State Other	\$61,770	\$61,131
			Motor Pool Leased Vehic	\$45,765	\$51,973
Rent/NonState Bldgs	\$0	\$76,396	Rent/NonState Bldgs	\$0	\$108,669
			Tires & Tubes	\$3,690	\$1,688
Education/Training Costs	\$15,022	\$28,342	Education/Training Costs	\$45,716	\$18,760
Recharges/Operating Exp. (includes in-house atty charges)	\$1,619,615	\$543,541	Recharges/Operating Exp. (includes in-house atty charges)	\$1,507,029	\$476,534
Agency Indirect Costs	\$84,617	\$157,991	Agency Indirect Costs	\$109,980	\$143,391
Equipment & Intangible Assets	\$3,366	\$0	Equipment & Intangible Assets	\$7,495	\$0
Total	\$1,546,761		Total	\$1,274,277	