



Economic Affairs Interim Committee

64th Montana Legislature

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LAURA SHERLEY, Secretary

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

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MEMO ON: Enterprise Funds for Professional / Occupational Licensing Boards

TO: Economic Affairs Interim Committee Members
FROM: Pat Murdo, Committee Staff

The idea of using a different accounting method for professional and occupational licensing boards arose during the 2013-2014 interim when the Department of Labor and Industry (Department) suggested that enterprise funds might be beneficial for boards' financing.

Currently, each self-funded licensing board charges fees that are deposited in a state special revenue account. Expenditures from these accounts are subject to appropriation spending limits, even if there is a cash balance in the account. An enterprise fund may or may not be subject to appropriation spending limits and is supposed to be limited in the ways it is used.

In the 2013-2014 interim, the Department provided [two financial options](#) for licensing boards at a March 2014 Economic Affairs Interim Committee meeting.¹ Both options suggested revising statutory language for the term "fees commensurate with costs." One option included a change to using an enterprise fund accounting system rather than the current system. Under the other option, the Department would seek a restricted appropriation for unexpected expenses. The Department proposed the latter option to the 2015 Legislature.

At the April 14, 2016, Economic Affairs

What is a state special revenue account?

17-2-102(1)(b)(i) The state special revenue fund consists of money and other proceeds from state and other nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government and money and other proceeds from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

What is an enterprise fund?

17-2-102(2)(a) the enterprise fund type, which accounts for operations:

- (i) that are financed and operated in a manner similar to private business enterprises whenever the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges; or
- (ii) whenever the legislature has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes

¹Also at the March 2014 meeting, a Department of Administration employee reviewed fund types and summarized that there was no compelling reason under Generally Accepted Accounting Principles for boards to reclassify from a state special revenue account to an enterprise fund and that consistency with prior-year reporting would be retained under the current system. See "[Enterprise vs. State Special Revenue Funds](#)."

Interim Committee meeting, the Department was asked to suggest licensing boards that would benefit from having an enterprise fund rather than a state special revenue account. The Department demurred for the following reasons:

- the pilot project in which the Board of Public Accountants now uses an enterprise fund (as directed in House Bill 560) has not had sufficient time to indicate whether the approach is beneficial;
- the Department prefers either to have all boards use the same accounting approach or to let the Board of Public Accountants retain its enterprise fund, as perhaps befitting accountants, but keep other boards under the current structure; and
- a [memo](#) issued by the Legislative Services Division about statutory appropriations and enterprise funds raised issues for the Department to consider further.

Also on the examination table pending analysis of corrective measures are concerns about licensing boards with cash balances higher than allowed by law. The revised statute's language continues the limit on cash balances of "two times the board's annual appropriation level." A few boards routinely have had cash balances that surpass the "two times appropriation level," which has resulted in audit dings. See, for example, the [2013 Financial Compliance Audit](#), in which the summary noted:

When fees are not commensurate with costs and boards have excess cash balances, this indicates licensed professionals may be overcharged for their professional licenses and should be refunded.

One main legislative change for licensing boards in 2015 was intended to address an inadvertent mismatch between audit periods and various boards' license renewal cycles, which in turn caused a misleading snapshot of board cash balances. The [2015 Financial Compliance Audit](#) made note of legislative changes in 2015 to the "fees commensurate with costs" definition and said the recommendation from the previous audit on the licensing boards would not be examined in the current audit to allow the department time to implement the 2015 changes.

Summary

From the Department's perspective, the 2017 legislative session is still too soon to know what impact the 2015 changes are having on licensing board accounting and budgeting. The Department is hoping that the new, broader definition of costs under 37-1-134, MCA, will allay some of the Legislative Auditor's concerns about the intended uses of fees. The Department also is hoping that the contingency amount in the FY 2017-2018 biennium (\$500,000 for each year in the biennium) will avert concerns associated with the transfer of appropriation authority from board to board that was occurring due to unforeseen complaints, investigations, or other budget-impairing events. And, finally, the pilot project with the Board of Public Accountants may yield insights into whether an enterprise fund has benefits for a licensing board and whether statutory changes are needed to further streamline or improve the accounting and budgeting process for licensing boards.