

2009 DRAFTING REQUEST

Bill

Received: 11/07/2008

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Dombrowski**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - securities**

Extra Copies: **MDK**

Submit via email: **NO**

Pre Topic:

DOA:.....Dombrowski, BB0197 -

Topic:

Securities fees

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	agary 01/16/2009	nnatzke 01/17/2009	jfrantze 01/19/2009	_____	mbarman 01/20/2009		State
/2	agary 01/24/2009	bkraft 01/24/2009	mduchek 01/25/2009	_____	chanaman 01/25/2009		State

FE Sent For:

<END>

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/1	agary 01/16/2009	nmatzke 01/17/2009	jfrantze 01/19/2009	_____	mbarman 01/20/2009		State

FE Sent For:

12 bjk 1/24 

<END>

CH/SM
1/25

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/?	agary	11/1/16 nwn					

FE Sent For:

<END>

Y30?
OK (MFS)
012

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Securities Fees
- Tracking Code: BB0197
- SBO team: GGED
- SBO analyst: Cindy Dombrowski CD.
 - Phone: 266-5878
 - Email: cynthia.dombrowski@wisconsin.gov
- Agency acronym: DFI
- Agency number: 144
- Priority (Low, Medium, High): Medium

Intent:

- Raise the securities fee and the branch fee from \$30 to \$60.
- Modify the mutual fund filing fee to a tiered system. If sales are less than \$1 billion annually, the fee is \$750. If sales are more than \$1 billion annually, the fee is \$1,500.

Gary, Aaron

From: Dombrowski, Cynthia A - DOA [cynthia.dombrowski@wisconsin.gov]
Sent: Thursday, January 15, 2009 3:47 PM
To: Gary, Aaron
Subject: RE: BB0197

Hi Gary -

1. Please do not modify the \$750 notice filing fee.
2. The intent is to have the \$750/\$1,500 fees with no sliding scale (repeal the .05 percent). If assets under management are under \$1b, the fee is \$750, if \$1b or more, the fee is \$1,500.
3. This should apply to federally registered and other investment firms.
4. Securities fees: you are correct.

Let me know if you need anything else!

Cindy

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Monday, December 15, 2008 10:40 AM
To: Dombrowski, Cynthia A - DOA
Subject: RE: BB0197

Hi Cindy,
I'm wondering if you have any further information on this draft.

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Aaron
Sent: Tuesday, November 11, 2008 1:25 PM
To: Dombrowski, Cynthia A - DOA
Subject: RE: BB0197

Hello again,

I'm beginning to draft this request and need some additional clarification, as the instructions are a little sparse.

Most mutual funds are required to be registered with the SEC and are subject to notice filing with DFI. Under current law, there is a \$750 notice filing fee and fee for filing other registration statements. (See s. 551.614 (1) (a).) In addition, SEC-registered mutual funds and other types of investment companies must report to DFI their annual sales and pay an annual fee to DFI based on these sales. The annual fee ranges from \$150 to \$1,500 but

01/15/2009

the reporting company can also choose to pay the max of \$1,500 and omit sales information. (See s. 551.614 (1) (b).)

Is it the intent here to replace the annual sales fee in s. 551.614 (1) (b) with a 2-tiered (\$750/\$1,500) fee instead? And if so, did you want to apply this change to both federally registered mutual funds in s. 551.614 (1) (b) 2. and other investment companies in s. 551.614 (1) (b) 1.?

As far as the securities professional fees go, I have assumed that you want the draft to track 2007 LRB-1519 (attached) except adding broker-dealer/investment adviser/federal adviser branch offices. Is that correct? (When you eventually get the 2009 draft, the stat numbers will be different because 2007 Act 196 repealed and recreated ch. 551.)

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Dombrowski, Cynthia A - DOA [mailto:cynthia.dombrowski@wisconsin.gov]

Sent: Monday, November 10, 2008 8:58 AM

To: Gary, Aaron

Subject: RE: BB0197

Hi Aaron -

If its \$1 billion or higher, the fee should be \$1,500.

Thanks for checking on that!

Cindy

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]

Sent: Friday, November 07, 2008 12:37 PM

To: Dombrowski, Cynthia A - DOA

Subject: BB0197

Hi Cynthia,

I'll be drafting this budget request. It'll be LRB 0671. In the unlikely event mutual fund sales are exactly \$1 billion, do you want the fee to be \$750 or \$1,500?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

01/15/2009

in
1/16

DOA:.....Dombrowski, BB0197 - Securities fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓
X-ref ✓

1 AN ACT ^{don't gen.} relating to: the budget.

Analysis by the Legislative Reference Bureau

COMMERCE AND ECONOMIC DEVELOPMENT

COMMERCE

Securities

Current law generally requires a person who represents a broker-dealer or issuer in securities transactions to be licensed as an agent (securities agent), and generally requires an investment adviser representative to be licensed, before transacting business in this state. Securities agents and investment adviser representatives must pay to DFI initial and renewal license fees of \$30. In addition, broker-dealers and investment advisers, including investment advisers registered with the federal Securities and Exchange Commission (SEC), that maintain a branch office in this state must pay a filing fee of \$30 for each branch office.

This bill increases the initial and renewal license fees for securities agents and investment adviser representatives from \$30 to \$60. The bill also increases the broker-dealer and investment adviser branch office filing fee from \$30 to \$60.

Under current law, unless an exception or exemption applies, no security may be offered or sold in this state unless the security is registered with the division of securities in DFI (division). A federal covered security is exempt from state registration requirements but is subject to notice filing with the division. A federal

covered security includes a security issued by an investment company registered with the SEC. With exceptions, an "investment company" includes an issuer that is engaged primarily in the business of investing, reinvesting, or trading in securities. An investment company may take several forms, such as a face-amount certificate company, unit investment trust, or management company, and is most commonly known in the form of a "mutual fund." Current law imposes a \$750 filing fee for registering securities or for notice filing of federal covered securities and, for investment companies, imposes an additional annual sales fee. Each investment company must report annually to the division and pay an annual fee of 0.05 percent of the dollar amount of the securities sold to persons in this state, but not less than \$150 nor more than \$1,500, or may elect not to report the amount of securities sold and pay a fee of \$1,500.

This bill modifies the formulation of the annual sales fee paid by investment companies. Under the bill, each investment company must pay an annual fee of \$750 if the dollar amount of the securities sold to persons in this state is less than \$1 billion or an annual fee of \$1,500 if the dollar amount of the securities sold to persons in this state is \$1 billion or more. The investment company may continue to elect not to report the amount of securities sold and pay a fee of \$1,500.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 551.614 (1) (b) 1. b. of the statutes is amended to read:
2 551.614 (1) (b) 1. b. Report the amount of securities sold to persons in this state
3 during the preceding fiscal year or, if the registration is terminated, during the
4 portion of the preceding fiscal year during which the registration was effective, and
5 pay a fee of 0.05 percent of \$750 if the dollar amount of the securities sold to persons
6 in this state, ~~but not less than \$150 nor more than~~ is less than \$1,000,000,000 or a
7 fee of \$1,500 if the dollar amount of the securities sold to persons in this state is
8 \$1,000,000,000 or more.

History: 2007 a. 196.

9 SECTION 2. 551.614 (1) (b) 2. b. of the statutes is amended to read:
10 551.614 (1) (b) 2. b. Report the amount of securities sold to persons in this state
11 during the preceding fiscal year or, if sales have terminated, during the portion of the

1 preceding fiscal year during which sales were made, and pay a fee of 0.05 percent of
2 \$750 if the dollar amount of the securities sold to persons in this state, but not less
3 than \$150 nor more than is less than \$1,000,000,000 or a fee of \$1,500 if the dollar
4 amount of the securities sold to persons in this state is \$1,000,000,000 or more. ✓

History: 2007 a. 196.

5 **SECTION 3.** 551.614 (2) of the statutes, as created by 2007 Wisconsin Act 196, ✓

6 is amended to read:

7 551.614 (2) FEES RELATED TO BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS,
8 INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED ADVISERS. Every
9 applicant for an initial or renewal license under s. 551.401, 551.402, 551.403, or
10 551.404 shall pay a filing fee of \$200 in the case of a broker-dealer or investment
11 adviser and \$30 \$60 in the case of an agent representing a broker-dealer or issuer
12 or an investment adviser representative. Every federal covered adviser in this state
13 that is required to make a notice filing under s. 551.405 shall pay an initial or renewal
14 notice filing fee of \$200. A broker-dealer, investment adviser, or federal covered
15 adviser maintaining a branch office within this state shall pay an additional filing
16 fee of \$30 \$60 for each branch office. When an application is denied, or an application
17 or a notice filing is withdrawn, the filing fee shall be retained. ✓

History: 2007 a. 196.

18 **SECTION 9350.** Initial applicability; ~~Transportation~~ ¹⁷ *Financial Institutions*

19 (1) SECURITIES FEES. The treatment of sections ~~§~~ 551.614 (1) (b) 1. b. ✓ and 2. b. ✓
20 (2) of the statutes first applies to filings received by the division of securities on the
21 effective date of this subsection. ✓

22 (END)

Gary, Aaron

From: Dombrowski, Cynthia A - DOA [cynthia.dombrowski@wisconsin.gov]
Sent: Saturday, January 24, 2009 2:40 PM
To: Gary, Aaron
Subject: RE: BB0197

The way its drafted under LRB1567/2 is correct. It can stay there, if that's ok with you. We definitely want to keep it in somewhere!

Cindy

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Saturday, January 24, 2009 2:35 PM
To: Dombrowski, Cynthia A - DOA
Subject: RE: BB0197

Cindy, I think I've got it except for the \$750 securities registration and notice filing fee (increased to \$1,000 in one of the drafts). Does this drop out entirely? Or if not, does it apply to all filings or just mutual fund filings? and finally, if it doesn't drop out entirely, which draft does it go into?

Thanks.

From: Dombrowski, Cynthia A - DOA [mailto:cynthia.dombrowski@wisconsin.gov]
Sent: Sat 1/24/2009 1:58 PM
To: Gary, Aaron
Subject: RE: BB0197

Hi Aaron --

The answer to your question - yes, we want 2 drafts. As I was looking at the different versions, I think if we take LRB-0671 and have it change only securities agents/investment advisors/broker dealer and investment advisor from \$30 to \$60 and LRB-1567 only for mutual fund filings, it will cover the Governor's intent.

Clear as mud? Let me know if there is a better approach or if I've made things even more confusing!

Cindy

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Saturday, January 24, 2009 1:34 PM
To: Dombrowski, Cynthia A - DOA
Subject: RE: BB0197

Hi Cindy,

I'm just checking in from home and will be coming in this evening/night. Everything so far has been drafted. If my recollection is right, the securities professionals provision is in s. 551.614 (2) and general securities and notice filing fees are in s. 551.614 (1) (a). The mutual fund sales fees are in s. 551.614 (1) (b). So do you want 2 drafts - one with treatments of s. 551.614 (2) and (1) (a), and the other with treatments of s. 551.614 (1) (b)?

If it is easier, I can call you from home.

01/24/2009

Aaron

From: Dombrowski, Cynthia A - DOA [mailto:cynthia.dombrowski@wisconsin.gov]
Sent: Sat 1/24/2009 12:51 PM
To: Gary, Aaron
Subject: RE: BB0197

First, sorry I called you Gary below!! When you have a minute, can you give me a call to talk about the various securities/mutual fund fee drafts? At the end of the day, we need 1 draft for securities fees and one draft for mutual funds ... I just want to confirm with you where we are before I ask you do modify any of them further ☺

Thanks
Cindy
6-5878

From: Dombrowski, Cynthia A - DOA
Sent: Thursday, January 15, 2009 3:47 PM
To: Gary, Aaron - LEGIS
Subject: RE: BB0197

Hi Gary -

1. Please do not modify the \$750 notice filing fee.
2. The intent is to have the \$750/\$1,500 fees with no sliding scale (repeal the .05 percent). If assets under management are under \$1b, the fee is \$750, if \$1b or more, the fee is \$1,500.
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Thanks. Aaron

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01/24/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0671/82
ARG:nwn:jf
in 1/24
RMR
Ebjk

DOA:.....Dombrowski, BB0197 - Securities fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-Note

SA -

do not gen.

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT

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SECTION 1. 551.614 (1) (b) 1. b. of the statutes is amended to read:

551.614 (1) (b) 1. b. Report the amount of securities sold to persons in this state during the preceding fiscal year or, if the registration is terminated, during the portion of the preceding fiscal year during which the registration was effective, and pay a fee of 0.05 percent of \$750 if the dollar amount of the securities sold to persons in this state, ~~but not less than \$150 nor more than~~ is less than \$1,000,000,000 or a fee of \$1,500 if the dollar amount of the securities sold to persons in this state is \$1,000,000,000 or more.

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SECTION 3. 551.614 (2) of the statutes is amended to read:

551.614 (2) FEES RELATED TO BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED ADVISERS. Every applicant for an initial or renewal license under s. 551.401, 551.402, 551.403, or 551.404 shall pay a filing fee of \$200 in the case of a broker-dealer or investment adviser and \$30 \$60 in the case of an agent representing a broker-dealer or issuer or an investment adviser representative. Every federal covered adviser in this state that is required to make a notice filing under s. 551.405 shall pay an initial or renewal notice filing fee of \$200. A broker-dealer, investment adviser, or federal covered adviser maintaining a branch office within this state shall pay an additional filing fee of \$30 \$60 for each branch office. When an application is denied, or an application or a notice filing is withdrawn, the filing fee shall be retained.

SECTION 9317. Initial applicability; Financial Institutions.

(1) SECURITIES FEES. The treatment of section 551.614 (1) (b) 1. b. and 2. b. and (2) of the statutes first applies to filings received by the division of securities on the effective date of this subsection.

(END)

Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0671/2dn

ARG:.....

Lbjk

Date

ATTN: Cynthia Dombrowski

The attached redraft removes the treatment of s. 551.614 (1) (b), but the treatment of this provision (in a different manner) continues to appear in LRB-1567. I have not redrafted LRB-1567/2, as I understand no changes are needed in that draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0671/2dn
ARG:bjk:md

January 25, 2009

ATTN: Cynthia Dombrowski

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Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0671/2
ARG:nwn&bjk:md

DOA:.....Dombrowski, BB0197 - Securities fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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