

**2011 DRAFTING REQUEST**

**Bill**

Received: **10/11/2010**

Received By: **mgallagh**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget 266-2214**

By/Representing: **Dombrowski**

May Contact:

Drafter: **mgallagh**

Subject: **Occupational Reg. - misc**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

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**Pre Topic:**

DOA:.....Dombrowski, BB0086 -

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**Topic:**

Gifts and Grants Appropriation

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**Instructions:**

See attached

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**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>
/P1	mgallagh 11/10/2010	nmatzke 11/11/2010	phenry 11/12/2010	_____	cduerst 11/12/2010		State
	mgallagh 02/18/2011	nmatzke 02/18/2011		_____			
/P2			phenry 02/18/2011	_____	lparisi 02/18/2011		State

FE Sent For:

<END>

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FE Sent For:

*/PZ nva  
2/18*

*ph*

*[Signature]*  
**<END>**

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/P1	mgallagh	/p1 nwn 11/11	11/11 PH	11/12 PH/Km			

FE Sent For:

<END>

## 2011-13 Budget Bill Statutory Language Drafting Request

- Topic: Gifts and grants appropriation
- Tracking Code: BB0086
- SBO team: HSI
- SBO analyst: Cindy Dombrowski *CD*
  - Phone: 266-2214
  - Email: cynthia.dombrowski@wisconsin.gov
- Agency acronym: DRL
- Agency number: 165
- Priority (Low, Medium, High): Low

Intent:

*Just PIR - (1) - continuing*  
*Per Cindy.*  
*Fiduciaries re constitutional issues?*

Create a PRO gifts, grants, settlements and proceeds appropriation. In its budget request, DRL assigned (1)(j) to this appropriation.

*look at 1447/81*  
*LFB.*

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

11-4-2011 T/C w/ Cindy D. @ DOA.

APL wants to include moneys received from sales of lists of credential-holders in the "proceeds" appropriation.

## Gallagher, Michael

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**From:** Gallagher, Michael  
**Sent:** Monday, October 25, 2010 10:21 AM  
**To:** Dombrowski, Cynthia A - DOA  
**Subject:** Draft request BB00086

Good morning Cindy:

I am looking into the question we discussed whether or not amounts received in settlements otherwise attributable to forfeitures must be deposited in the school fund under Article X, section 2, of the Wisconsin Constitution, and I will relate the results of that research when I send the draft to you.

But I wanted to touch base with you on a couple of other drafting issues that have come up regarding the gifts, grants, settlements, and proceeds appropriation for DRL. Since I believe you and DRL were probably expecting something quite simple, I'd like some direction from you before completing a preliminary draft.

First, the language in s. 20.165 contains incomplete and ambiguous references to DRL's services provided under s. 440.03 (2). Section 440.03(2) authorizes DRL to provide, and charge a fee for, "examination development services, consultation and technical assistance" to (A) counties, cities, villages, towns, national or regional organizations of state credentialing agencies, similar credentialing agencies in other states, national or regional accrediting associations, and nonprofit organizations, (B) other state agencies, and (C) federal agencies. (The (A), (B), and (C) are my lettering for explanatory purposes in this e-mail). If you look at the appropriation statute, section 20.165 (1) (h), (k), and (m) establish appropriations for (A), (B), and (C), above, respectively, but only for fees charged for "technical assistance," not for "examination development services, consultation and technical assistance" as s. 440.03 (2) provides. In order to clarify that proceeds from services rendered under s. 440.03 (2) are excluded from the "proceeds" appropriation that will be created by this draft, and further to remove the existing ambiguity in the statute, I recommend correcting the references that appear in s. 20.165 to include fees for all services provided under s. 440.03 (2).

Second, current s. 20.165 (1) (g) establishes an appropriation of 90% of "all moneys received under chs. 440 to 480" and states several exceptions, but that section states only some, not all, of the exceptions set forth in s. 20.165 (gc) to (s). Section 20.165 (1) (g) also does not explicitly exclude fines and forfeitures from "all moneys received under chs. 440 to 480," although the Wisconsin Constitution requires that funds from those sources be deposited in the common school fund. I suggest amending the language of s. 20.165 (1) (g) to simplify it and remove the potential ambiguity by referencing all of the exceptions to the s. 20.165 (1) (g) appropriation of "all moneys received under chs. 440 to 480." The language could simply state: "Except as provided in pars. (gc) to (s), ninety percent of all moneys received . . . ."

Neither of these fixes would be lengthy or complicated. Let me know if any of this doesn't make sense, or if you have any questions.

Please let me know how you would like to proceed.

Thanks,

Mike

**Michael P. Gallagher**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 267-7511



DOA:.....Dombrowski, BB0389 - Gifts and grants appropriation

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

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*Analysis by the Legislative Reference Bureau*

**OCCUPATIONAL REGULATION**

This bill creates a continuing appropriation for gifts and grants received by DRL.

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

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

2 SECTION 1. 20.165 (1) (j) of the statutes is created to read:

3 20.165 (1) (j) *Gifts and grants*. All moneys received as gifts and grants to carry  
4 out the purposes for which made.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 (END)

which it is introduced, the chairperson of the standing committee may request that the joint review committee prepare a report on the bill. If the bill is not referred to a standing committee, the speaker of the assembly, if the bill is introduced in the assembly, or the presiding officer of the senate, if the bill is introduced in the senate, may request a report. If requested to prepare a report on a bill, the joint review committee must prepare a report on likely costs and savings resulting from the bill, the consistency of the penalty in the bill with existing penalties and any language needed to conform the penalty in the bill to existing penalties, and whether acts prohibited by the bill are already prohibited under existing criminal statutes. The statute states that a standing committee may not vote on whether to recommend a bill that proposes to create a new crime or to revise a penalty for an existing crime for passage, and the house in which the bill was introduced may not pass the bill, before the joint review committee reports on the bill or before 30 days after the report is requested, whichever is earlier. This process was not followed for several sessions, but the committee was asked to, and did, prepare reports on several bills during the 2009 session. A joint review committee report is printed as an appendix to the bill and attached to the bill like an amendment. See s. 13.525 (5), stats., and sec. 4.033 (2af), *Drafting Manual*.

**7.135 SURCHARGE PROVISION.** Article X, section 2, of the constitution requires that “all moneys and the clear proceeds of all property that may accrue to the state by forfeiture or escheat; and the clear proceeds of all fines collected in the several counties for any breach of the penal laws” must be deposited in the school fund. Therefore, if a requester wants to finance a program from revenues collected from persons convicted of a particular offense, do not credit the revenues collected from any fines or forfeitures imposed against such persons to an appropriation account to finance the program. Instead, create a surcharge that is in addition to any fine or forfeiture or other action imposed against persons convicted of the particular offense. Credit the proceeds collected from the surcharge to an appropriation account to finance the program.

The surcharge may be a specific dollar amount or an amount equal to a certain percentage of the amount of a fine or forfeiture imposed. When you are asked to create a surcharge, create it in the appropriate chapter (see, for example ss. 29.987, 29.989, 100.261, 165.755, and 349.04, stats.), create the necessary appropriation account, and add the surcharge to the proper lists in subch. III of ch. 814, stats.

**7.14 RECIPROCITY PROVISION.** Here is an example of a reciprocity provision: “The examining board may issue a certificate to an applicant without examination if the applicant presents sufficient evidence of having passed a similar examination before an examining board or officer of another state and if the examining board determines that the standards of the other state are at least as high as those of this state.” See ss. 109.10 (2), 299.11 (5) (b), 348.25 (10), 448.953 (2), 454.13, 470.06, and 618.61, stats.

#### **7.15 RULE-MAKING AUTHORITY.**

**(1) Powers and Requirements.** Section 227.11, stats., grants to each state agency, as defined in s. 227.01 (1), stats., the authority to promulgate rules interpreting the statutes that it administers and enforces and to prescribe forms and procedures in connection with those statutes, if necessary to effectuate their purposes. It also permits agencies to promulgate as rules the policies evolving from individual case decisions. Section 227.10 (1), stats., goes further and requires each agency to “promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute.” An agency need not promulgate individual case decisions as rules unless they are intended as general policies. Section 227.01 (13), stats., contains a number of subject matter exclusions from the rule-making requirement.

**(2) Express Grants; Restrictions. (a)** Because of s. 227.11, stats., you do not need to grant rule-making authority expressly unless you want to mandate rule making or confer on the agency some discretionary authority beyond the mere

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## Chapter RL 2

### PROCEDURES FOR PLEADING AND HEARINGS

RL 2.01	Authority.	RL 2.09	Answer.
RL 2.02	Scope; kinds of proceedings.	RL 2.10	Administrative law judge.
RL 2.03	Definitions.	RL 2.11	Prehearing conference.
RL 2.035	Receiving informal complaints.	RL 2.12	Settlements.
RL 2.036	Procedure for settlement conferences.	RL 2.13	Discovery.
RL 2.037	Parties to a disciplinary proceeding.	RL 2.14	Default.
RL 2.04	Commencement of disciplinary proceedings.	RL 2.15	Conduct of hearing.
RL 2.05	Filing to be captioned.	RL 2.16	Witness fees and costs.
RL 2.06	Complaint.	RL 2.17	Transcription fees.
RL 2.07	Notice of hearing.	RL 2.18	Assessment of costs.
RL 2.08	Service and filing of complaint, notice of hearing and other papers.	RL 2.20	Extension of time limits in disciplinary actions against physicians.

**RL 2.01 Authority.** The rules in ch. RL 2 are adopted pursuant to authority in s. 440.03 (1), Stats., and procedures in ch. 227, Stats.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, May, 1982, No. 317, eff. 6-1-82.

**RL 2.02 Scope; kinds of proceedings.** The rules in this chapter govern procedures in class 2 proceedings, as defined in s. 227.01 (3) (b), Stats., against licensees before the department and all disciplinary authorities attached to the department, except that s. RL 2.17 applies also to class 1 proceedings, as defined in s. 227.01 (3) (a), Stats.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, May, 1982, No. 317, eff. 6-1-82; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1988, No. 389; am. Register, June, 1992, No. 438, eff. 7-1-92; emerg. am. eff. 11-14-95.

**RL 2.03 Definitions.** In this chapter:

- (1) "Complainant" means the person who signs a complaint.
- (2) "Complaint" means a document which meets the requirements of ss. RL 2.05 and 2.06.
- (3) "Department" means the department of regulation and licensing.
- (4) "Disciplinary authority" means the department or the attached examining board or board having authority to revoke the license of the holder whose conduct is under investigation.
- (5) "Disciplinary proceeding" means a proceeding against one or more licensees in which a disciplinary authority may determine to revoke or suspend a license, to reprimand a licensee, to limit a license, to impose a forfeiture, or to refuse to renew a license because of a violation of law.
- (6) "Division" means the division of enforcement in the department.
- (7) "Informal complaint" means any written information submitted to the division or any disciplinary authority by any person which requests that a disciplinary proceeding be commenced against a licensee or which alleges facts, which if true, warrant discipline.
- (8) "Licensee" means a person, partnership, corporation or association holding any license, permit, certificate or registration granted by a disciplinary authority or having any right to renew a license, permit, certificate or registration granted by a disciplinary authority.
- (9) "Respondent" means the person against whom a disciplinary proceeding has been commenced and who is named as respondent in a complaint.
- (10) "Settlement conference" means a proceeding before a disciplinary authority or its designee conducted according to s. RL 2.036, in which a conference with one or more licensee is held to

attempt to reach a fair disposition of an informal complaint prior to the commencement of a disciplinary proceeding.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (1) and (6), renum. (7) and (8) to be (8) and (9), cr. (7), Register, May, 1982, No. 317, eff. 6-1-82; r. (1), renum. (2) to (4) to be (1) to (3), cr. (4) and (10), am. (5), (7) and (8), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.035 Receiving informal complaints.** All informal complaints received shall be referred to the division for filing, screening and, if necessary, investigation. Screening shall be done by the disciplinary authority, or, if the disciplinary authority directs, by a disciplinary authority member or the division. In this section, screening is a preliminary review of complaints to determine whether an investigation is necessary. Considerations in screening include, but are not limited to:

- (1) Whether the person complained against is licensed;
- (2) Whether the violation alleged is a fee dispute;
- (3) Whether the matter alleged, if taken as a whole, is trivial; and
- (4) Whether the matter alleged is a violation of any statute, rule or standard of practice.

**History:** Cr. Register, May, 1982, No. 317, eff. 6-1-82; am. (intro.) and (3), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.036 Procedure for settlement conferences.** At the discretion of the disciplinary authority, a settlement conference may be held prior to the commencement of a disciplinary proceeding, pursuant to the following procedures:

(1) **SELECTION OF INFORMAL COMPLAINTS.** The disciplinary authority or its designee may determine that a settlement conference is appropriate during an investigation of an informal complaint if the information gathered during the investigation presents reasonable grounds to believe that a violation of the laws enforced by the disciplinary authority has occurred. Considerations in making the determination may include, but are not limited to:

(a) Whether the issues arising out of the investigation of the informal complaint are clear, discrete and sufficiently limited to allow for resolution in the informal setting of a settlement conference; and

(b) Whether the facts of the informal complaint are undisputed or clearly ascertainable from the documents received during investigation by the division.

(2) **PROCEDURES.** When the disciplinary authority or its designee has selected an informal complaint for a possible settlement conference, the licensee shall be contacted by the division to determine whether the licensee desires to participate in a settlement conference. A notice of settlement conference and a description of settlement conference procedures, prepared on forms prescribed by the department, shall be sent to all participants in advance of any settlement conference. A settlement conference

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shall not be held without the consent of the licensee. No agreement reached between the licensee and the disciplinary authority or its designee at a settlement conference which imposes discipline upon the licensee shall be binding until the agreement is reduced to writing, signed by the licensee, and accepted by the disciplinary authority.

(3) **ORAL STATEMENTS AT SETTLEMENT CONFERENCE.** Oral statements made during a settlement conference shall not be introduced into or made part of the record in a disciplinary proceeding.

History: Ct. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.037 Parties to a disciplinary proceeding.** Parties to a disciplinary proceeding are the respondent, the division and the disciplinary authority before which the disciplinary proceeding is heard.

History: Ct. Register, May, 1982, No. 317, eff. 6-1-82; recam. from RL 2.036 and am., Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.04 Commencement of disciplinary proceedings.** Disciplinary proceedings are commenced when a notice of hearing is filed in the disciplinary authority office or with a designated administrative law judge.

History: Ct. Register, February, 1979, No. 278, eff. 3-1-79; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.05 Pleadings to be captioned.** All pleadings, notices, orders, and other papers filed in disciplinary proceedings shall be captioned: "BEFORE THE \_\_\_\_\_" and shall be entitled: "IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST \_\_\_\_\_, RESPONDENT."

History: Ct. Register, October, 1978, No. 274, eff. 11-1-78.

**RL 2.06 Complaint.** A complaint may be made on information and belief and shall contain:

(1) The name and address of the licensee complained against and the name and address of the complainant;

(2) A short statement in plain language of the cause for disciplinary action identifying with reasonable particularity the transaction, occurrence or event out of which the cause arises and specifying the statute, rule or other standard alleged to have been violated;

(3) A request in essentially the following form: "Wherefore, the complainant demands that the disciplinary authority hear evidence relevant to matters alleged in this complaint, determine and impose the discipline warranted, and assess the costs of the proceeding against the respondent;" and,

(4) The signature of the complainant.

History: Ct. Register, October, 1978, No. 274, eff. 11-1-78; am. (intro.), (3) and (4), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.07 Notice of hearing.** (1) A notice of hearing shall be sent to the respondent at least 10 days prior to the hearing, unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 48 hours in advance of the hearing.

(2) A notice of hearing to the respondent shall be substantially in the form shown in Appendix I and signed by a disciplinary authority member or an attorney in the division.

History: Ct. Register, October, 1978, No. 274, eff. 11-1-78; am. (2) (intro.), Register, February, 1979, No. 278, eff. 3-1-79; r. and rec. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.08 Service and filing of complaint, notice of hearing and other papers.** (1) The complaint, notice of hearing, all orders and other papers required to be served on a respondent may be served by mailing a copy of the paper to the respondent at the last known address of the respondent or by any procedure described in s. 801.14 (2), Stats. Service by mail is complete upon mailing.

(2) Any paper required to be filed with a disciplinary authority may be mailed to the disciplinary authority office or, if an admin-

istrative law judge has been designated to preside in the matter, to the administrative law judge and shall be deemed filed on receipt at the disciplinary authority office or by the administrative law judge. An answer under s. RL 2.09, and motions under s. RL 2.15 may be filed and served by facsimile transmission. A document filed by facsimile transmission under this section shall also be mailed to the disciplinary authority. An answer or motion filed by facsimile transmission shall be deemed filed on the first business day after receipt by the disciplinary authority.

History: Ct. Register, October, 1978, No. 274, eff. 11-1-78; am. (2), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.09 Answer.** (1) An answer to a complaint shall state in short and plain terms the defenses to each cause asserted and shall admit or deny the allegations upon which the complainant relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of the allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. The respondent shall make denials as specific denials of designated allegations or paragraphs but if the respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify so much of it as true and material and shall deny only the remainder.

(2) The respondent shall set forth affirmatively in the answer any matter constituting an affirmative defense.

(3) Allegations in a complaint are admitted when not denied in the answer.

(4) An answer to a complaint shall be filed within 20 days from the date of service of the complaint.

History: Ct. Register, October, 1978, No. 274, eff. 11-1-78; am. (4), Register, February, 1979, No. 278, eff. 3-1-79; am. (1), (3) and (4), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.10 Administrative law judge.** (1) **DESIGNATION.** Disciplinary hearings shall be presided over by an administrative law judge employed by the department unless the disciplinary authority designates otherwise. The administrative law judge shall be an attorney in the department designated by the department general counsel, an employee borrowed from another agency pursuant to s. 20.901, Stats., or a person employed as a special project or limited term employee by the department, except that the administrative law judge may not be an employee in the division.

(2) **AUTHORITY.** An administrative law judge designated under this section to preside over any disciplinary proceeding has the authority described in s. 227.46 (1), Stats. Unless otherwise directed by a disciplinary authority pursuant to s. 227.46 (3), Stats., an administrative law judge presiding over a disciplinary proceeding shall prepare a proposed decision, including findings of fact, conclusions of law, order and opinion, in a form that may be adopted as the final decision in the case.

(3) **SERVICE OF PROPOSED DECISION.** Unless otherwise directed by a disciplinary authority, the proposed decision shall be served by the administrative law judge on all parties with a notice providing each party adversely affected by the proposed decision with an opportunity to file with the disciplinary authority objections and written argument with respect to the objections. A party adversely affected by a proposed decision shall have at least 10 days from the date of service of the proposed decision to file objections and argument.

History: Ct. Register, October, 1978, No. 274, eff. 11-1-78; r. and rec. (1), Register, November, 1986, No. 371, eff. 12-1-86; correction in (2) made under s. 13.93 (2m) (b) 7, Stats., Register, May, 1988, No. 389; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.11 Prehearing conference.** In any matter pending before the disciplinary authority the complainant and the respondent, or their attorneys, may be directed by the disciplinary authority or administrative law judge to appear at a conference or to participate in a telephone conference to consider the simplification of issues, the necessity or desirability of amendments to the

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pleadings, the admission of facts or documents which will avoid unnecessary proof and such other matters as may aid in the disposition of the matter.

History: *Ct. Register*, October, 1978, No. 274, eff. 11-1-78; *am. Register*, June, 1992, No. 438, eff. 1992.

**RL 2.12 Settlements.** No stipulation or settlement agreement disposing of a complaint or informal complaint shall be effective or binding in any respect until reduced to writing, signed by the respondent and approved by the disciplinary authority.

History: *Ct. Register*, October, 1978, No. 274, eff. 11-1-78; *am. Register*, June, 1992, No. 438, eff. 7-1-92.

**RL 2.13 Discovery.** The person prosecuting the complaint and the respondent may, prior to the date set for hearing, obtain discovery by use of the methods described in ch. 804, Stats., for the purposes set forth therein. Protective orders, including orders to terminate or limit examinations, orders compelling discovery, sanctions provided in s. 804.12, Stats., or other remedies as are appropriate for failure to comply with such orders may be made by the presiding officer.

History: *Ct. Register*, October, 1978, No. 274, eff. 11-1-78.

**RL 2.14 Default.** If the respondent fails to answer as required by s. RL 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence. The disciplinary authority may, for good cause, relieve the respondent from the effect of such findings and permit the respondent to answer and defend at any time before the disciplinary authority enters an order or within a reasonable time thereafter.

History: *Ct. Register*, October, 1978, No. 274, eff. 11-1-78; *am. Register*, June, 1992, No. 438, eff. 7-1-92.

**RL 2.15 Conduct of hearing.** (1) **PRESIDING OFFICER.** The hearing shall be presided over by a member of the disciplinary authority or an administrative law judge designated pursuant to s. RL 2.10.

(2) **RECORD.** A stenographic, electronic or other record shall be made of all hearings in which the testimony of witnesses is offered as evidence.

(3) **EVIDENCE.** The complainant and the respondent shall have the right to appear in person or by counsel, to call, examine, and cross-examine witnesses and to introduce evidence into the record.

(4) **BRIEFS.** The presiding officer may require the filing of briefs.

(5) **MOTIONS.** All motions, except those made at hearing, shall be in writing, filed with the presiding officer and a copy served upon the opposing party not later than 5 days before the time specified for hearing the motion.

(6) **ADJOURNMENTS.** The presiding officer may, for good cause, grant continuances, adjournments and extensions of time.

(7) **SUBPOENAS.** (a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be issued in accordance with s. 885.01, Stats. Service shall be made in the manner provided in s. 805.07 (5), Stats. A subpoena may command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein.

(b) A presiding officer may issue protective orders according to the provision the provisions of s. 805.07, Stats.

(8) **LOCATION OF HEARING.** All hearings shall be held at the offices of the department of regulation and licensing in Madison unless the presiding officer determines that the health or safety of a witness or of a party or an emergency requires that a hearing be held elsewhere.

History: *Ct. Register*, October, 1978, No. 274, eff. 11-1-78; *am. (1), (5) and (6), ct. (8), Register*, June, 1992, No. 438, eff. 7-1-92.

**RL 2.16 Witness fees and costs.** Witnesses subpoenaed at the request of the division or the disciplinary authority shall be entitled to compensation from the state for attendance and travel as provided in ch. 885, Stats.

History: *Ct. Register*, October, 1978, No. 274, eff. 11-1-78; *am. Register*, June, 1992, No. 438, eff. 7-1-92.

**RL 2.17 Transcription fees.** (1) The fee charged for a transcript of a proceeding under this chapter shall be computed by the person or reporting service preparing the transcript on the following basis:

(a) If the transcript is prepared by a reporting service, the fee charged for an original transcription and for copies shall be the amount identified in the state operational purchasing bulletin which identifies the reporting service and its fees.

(b) If a transcript is prepared by the department, the department shall charge a transcription fee of \$1.75 per page and a copying charge of \$.25 per page. If 2 or more persons request a transcript, the department shall charge each requester a copying fee of \$.25 per page, but may divide the transcript fee equitably among the requesters. If the department has prepared a written transcript for its own use prior to the time a request is made, the department shall assume the transcription fee, but shall charge a copying fee of \$.25 per page.

(2) A person who is without means and who requires a transcript for appeal or other reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition of indigency signed under oath.

History: *Ct. Register*, October, 1978, No. 274, eff. 11-1-78; *am. (1) Register*, May, 1982, No. 317, eff. 6-1-82; *r. and rec. Register*, June, 1992, No. 438, eff. 7-1-92; *am. (1) (b), Register*, August, 1993, No. 432, eff. 9-1-93.

**RL 2.18 Assessment of costs.** (1) The proposed decision of an administrative law judge following hearing shall include a recommendation whether all or part of the costs of the proceeding shall be assessed against the respondent.

(2) If a respondent objects to the recommendation of an administrative law judge that costs be assessed, objections to the assessment of costs shall be filed, along with any other objections to the proposed decision, within the time established for filing of objections.

(3) The disciplinary authority's final decision and order imposing discipline in a disciplinary proceeding shall include a determination whether all or part of the costs of the proceeding shall be assessed against the respondent.

(4) When costs are imposed, the division and the administrative law judge shall file supporting affidavits showing costs incurred within 15 days of the date of the final decision and order. The respondent shall file any objection to the affidavits within 30 days of the date of the final decision and order. The disciplinary authority shall review any objections, along with the affidavits, and affirm or modify its order without a hearing.

History: *Ct. Register*, June, 1992, No. 438, eff. 7-1-92.

**RL 2.20 Extension of time limits in disciplinary actions against physicians.** (1) **AUTHORITY AND PURPOSE.** The rules in this section are adopted under the authority of ss. 15.08 (5) (b), 227.11 (2) and 448.02 (3) (cm), Stats., to govern the extension of time limits in disciplinary actions against physicians.

(2) **COMPUTING TIME LIMITS.** In computing time limits under s. 448.02 (3) (cm), Stats., the date of initiating an investigation shall be the date of the decision to commence an investigation of an informal complaint following the screening of the informal complaint under s. RL 2.035, except that if the decision to commence an investigation of an informal complaint is made more than 45 days after the date of receipt of the informal complaint in the division, or if no screening of the informal complaint is conducted, the time for initiating an investigation shall commence 45 days after the date of receipt of the informal complaint in the division. The date that the medical examining board initiates a disci-

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

plinary action shall be the date that a disciplinary proceeding is commenced under s. RL 2.04.

(3) **PROCEDURE FOR REQUESTING AN EXTENSION OF TIME.** The medical examining board or the division on behalf of the medical examining board shall make a written request for an extension of time under s. 448.02 (3) (cm), Stats., to the secretary of the department of regulation and licensing and shall state all of the following:

(a) The nature of the investigation and the date of initiating the investigation.

(b) The number of days the medical examining board requires as an extension in order to determine whether a physician is guilty of unprofessional conduct or negligence in treatment and to initiate disciplinary action.

(c) The reasons why the medical examining board has not made a decision within the time specified under s. 448.02 (3) (cm), Stats.

(4) **FACTORS TO BE CONSIDERED.** In deciding whether to grant or deny a specified extension of time for the medical examining board to determine whether a physician is guilty of unprofessional conduct or negligence in treatment, the secretary of the department of regulation and licensing shall consider the information set forth in the request and at least the following factors:

(a) The nature and complexity of the investigation including the cause of any delays encountered during the investigation.

(b) Whether delays encountered during the screening of the complaint or the complaint handling process were caused in whole or part by the fact that record custodians, witnesses, or persons investigated did not make a timely response to requests for records or other evidence.

(c) Whether civil or criminal litigation relating to the matter investigated caused any delay in the investigation.

(d) The quality and complexity of evidence available to the medical examining board.

(e) The extent to which the physician will be prejudiced by an extension of time.

(f) The potential harm to the public if the investigation is terminated without a determination of whether the physician complained about is guilty of unprofessional conduct or negligence in treatment.

(5) **APPROVE OR DENY AN EXTENSION.** The secretary of the department of regulation and licensing shall approve or deny a request for an extension within 20 days of receipt. A request not approved within 20 days shall be deemed denied.

History: CR 02-103; cr. Register March 2004 No. 579, eff. 4-1-04.

20.143 (4) (kb) *Sale of materials and services — individuals and organizations.* All moneys received from the department or other state agencies for providing materials and services to individuals and organizations.

SECTION 204. 20.143 (4) (pz) of the statutes is created to read:

20.143 (4) (pz) *Indirect cost reimbursements.* All moneys received from the federal government as reimbursement of indirect costs of grants and contracts for the purposes authorized in s. 16.54 (9) (b).

SECTION 205. 20.145 (7) (a) of the statutes is created to read:

20.145 (7) (a) *Premium reduction subsidy.* Biennially, the amounts in the schedule for the purpose of subsidizing premium reductions under s. 619.165.

SECTION 206. 20.165 (1) (h) of the statutes is created to read:

20.165 (1) (h) *Technical assistance; nonstate agencies and organizations.* All moneys received from counties, cities, villages, towns, national or regional organizations of state licensing agencies, similar licensing agencies in other states, national or regional accrediting associations, and nonprofit organizations for technical assistance provided under s. 440.03 (2).

SECTION 207. 20.165 (1) (k) of the statutes is created to read:

20.165 (1) (k) *Technical assistance; state agencies.* All moneys received from other state agencies for technical assistance provided under s. 440.03 (2).

SECTION 208. 20.165 (1) (m) of the statutes is amended to read:

20.165 (1) (m) *Federal funds.* All moneys received from the federal government as authorized by the governor under s. 16.54 for technical assistance provided under s. 440.03 (2) or to carry out the other purposes for which made and received.

SECTION 209. 20.185 (1) (m) of the statutes is repealed.

SECTION 209m. 20.215 (1) (d) of the statutes is created to read:

20.215 (1) (d) *Challenge grant program.* The amounts in the schedule for challenge grants under s. 44.53 (1) (i).

SECTION 210. 20.215 (1) (k) of the statutes is created to read:

20.215 (1) (k) *Funds received from other state agencies.* All moneys received from other state agencies for the fine arts in state buildings program under s. 44.57.

SECTION 210m. 20.225 (1) (d) of the statutes is created to read:

20.225 (1) (d) *Milwaukee area technical college.* The amounts in the schedule for aid to Milwaukee area technical college to support public television in the Milwaukee area under s. 38.125 (2).

**Vetoed in Part** SECTION 211m. 20.225 (1) (j) of the statutes is amended to read:

~~20.225 (1) (j) *Programming.* The amounts in the schedule for programming under s. 39.11. Of the amounts in the schedule, \$45,388 annually shall be distributed to cooperative educational service agency regional service units.~~ **Vetoed in Part**

SECTION 212. 20.225 (1) (g) of the statutes is amended to read:

20.225 (1) (g) (title) *Gifts, grants and leases.* All moneys received from gifts and grants and the lease of excess capacity to carry out the purposes for which made received.

SECTION 214. 20.235 (1) (d) of the statutes is amended to read:

20.235 (1) (d) *Dental education contract.* The amounts in the schedule for support of those Wisconsin residents enrolled as full-time students in the pursuit of a doctor of dental surgery (D.D.S.) degree. An amount of \$4,866 in 1983-84 and \$5,012 in 1984-85 1985-86 and annually thereafter shall be disbursed under s. 39.46 for each Wisconsin resident enrolled as a full-time student. The maximum number of Wisconsin residents to be funded under this appropriation is 350 265 in each the 1985-86 fiscal year, 221 in the 1986-87 fiscal year, 217 in the 1987-88 fiscal year, 213 in the 1988-89 fiscal year and 209 in the 1989-90 fiscal year.

SECTION 214m. 20.235 (1) (fg) of the statutes is created to read:

20.235 (1) (fg) *Minority undergraduate grants program.* The amounts in the schedule for the minority undergraduate grant program under s. 39.44.

SECTION 215. 20.235 (2) (ia) of the statutes is repealed and recreated to read:

20.235 (2) (ia) *Student loans; collection and administration.* All moneys received from the nonstock corporation under s. 39.33 for or related to the collection or administration of student loans.

SECTION 216. 20.245 (1) (title) of the statutes is amended to read:

20.245 (1) (title) RESEARCH SERVICES.

SECTION 217. 20.245 (1) (a) of the statutes is amended to read:

20.245 (1) (a) *General program operations.* The amounts in the schedule for general program operations and for the historic preservation program under s. 44.22. Of the amounts in the schedule under this appropriation, the society may use an amount not to exceed \$6,000 per year to maintain a contingent fund to be administered as provided in s. 20.920 (2) (a) related to research services.

SECTION 218. 20.245 (1) (c) of the statutes is renumbered 20.245 (2) (c) and amended to read:

20.245 (2) (c) *Utilities and heat.* The amounts in the schedule to pay for utilities and heat supplied the historical society at the historical society building located at 816 State Street, Madison, Wisconsin; the Old World Wisconsin museum located at Eagle, Wisconsin.

~~§3 if the request for the certificate is in the standard form prescribed by the secretary of state and otherwise shall be \$4~~ §5, plus \$1 for each statement reported therein. Upon request the filing officer shall furnish a certified copy of any filed statement for a uniform fee of \$1 for each page of the copied statement plus 50 cents for the certificate.

SECTION 2233. 409.410 of the statutes is created to read:

**409.410 Statewide lien system.** (1) The office of the secretary of state and the office of each register of deeds in this state shall establish and maintain at least one computer terminal allowing the direct entry into permanent computer storage and the direct retrieval from permanent computer storage of information under sub. (2).

(2) Beginning 30 days after notification by the secretary of state, each filing officer shall enter all information contained in all financing statements, amendments, termination statements, continuation statements, statements of assignment and statements of release submitted for filing, indexing or marking under ss. 409.401 to 409.408, including the date and time of filing these statements or amendments, into permanent computer storage by means of a computer terminal established and maintained under sub. (1).

SECTION 2233d. 422.201 (10m) (a), (b) 1 and (h) of the statutes are amended to read:

422.201 (10m) (a) With respect to consumer credit transactions under an open-end credit plan entered into on or after November 1, 1981 ~~and before August 1, 1985, or after October 31, 1987~~, the parties may agree to the payment by the customer of a finance charge determined by application of a rate not in excess of 18% per year calculated according to the actuarial method, except as provided in pars. (b) and (h).

(b) 1. Notwithstanding par. (a), with respect to consumer credit transactions under an open-end credit plan entered into on or after November 1, 1981 ~~and before August 1, 1985, or after October 31, 1987~~, the parties may agree to the payment by the customer of a finance charge of which the customer is notified under subd. 3 if the yield on the most recently auctioned 2-year U.S. treasury notes on each of 5 successive Thursdays exceeds 15% per year, as determined by the administrator based on the report of the federal reserve bank of New York.

(h) A purchase, cash advance or other debit transaction entered into by a customer under an open-end credit plan in existence on November 1, 1981, is subject to the limit on finance charges under sub. (2) (a), except a purchase, cash advance or other debit transaction entered into on or after November 1, 1981 ~~and before August 1, 1985, or after October 31, 1987~~, is subject to the limits on finance charges provided in pars. (a) and (b) if the creditor mails or delivers to the customer a written notice of a finance charge to be applied which is greater than permitted under sub. (2)

(a) at least 15 days prior to the beginning date of a billing cycle and the customer makes the purchase, obtains the cash advance or enters into the debit transaction on or after that date. This paragraph does not prohibit changes in open-end credit terms under s. 422.415.

SECTION 2233f. 422.201 (10m) of the statutes is repealed.

SECTION 2233h. 422.202 (2m) (a), (b) and (c) (intro.) of the statutes are amended to read:

422.202 (2m) (a) A charge not to exceed \$2 in any billing cycle in which the creditor receives less than a minimum payment due as agreed by the parties. Any charge imposed under this paragraph may not be included in any outstanding balance for purposes of calculating any finance charge or minimum payment. ~~A charge may not be made under this paragraph after July 31, 1985, and before November 1, 1987.~~

(b) A charge not to exceed 50 cents in any billing cycle in which there are at least 28 calendar days and where the balance as calculated in s. 422.201 (10m) is less than \$33.34. If the charge permitted in this subsection is imposed, no finance charge may be imposed under s. 422.201 (10m) nor may the charge permitted in par. (a) be imposed or collected. A charge may be imposed under this paragraph notwithstanding s. 422.415, ~~except that no charge may be imposed under this paragraph after July 31, 1985, and before November 1, 1987.~~

(c) (intro.) A charge not to exceed \$2 for each cash advance under an open-end credit plan other than by a seller credit card or an overdraft checking loan. ~~A charge may not be made under this paragraph after July 31, 1985, and before November 1, 1987.~~ In this paragraph:

SECTION 2233m. 422.421 (6) (b) of the statutes is amended to read:

422.421 (6) (b) For any variable rate transaction pursuant to an open-end credit plan ~~entered into before August 1, 1985, or after October 31, 1987~~, the maximum rate of finance charge for any payment period may not exceed the limit established under s. 422.201 (10m) (a), except that the limit does not apply to the periods specified in s. 422.201 (10m) (b) 2 if the yield on the most recently auctioned 2-year U.S. treasury notes on each of 5 successive Thursdays exceeds 15% per year, as determined by the administrator based on the report of the federal reserve bank of New York.

SECTION 2234m. 440.03 (2) and (4) to (6) of the statutes are created to read:

440.03 (2) The department may provide examination development services, consultation and technical assistance to other state agencies, federal agencies, counties, cities, villages, towns, national or regional organizations of state licensing agencies, similar licensing agencies in other states, national or regional accrediting associations, and nonprofit organizations. The department may charge a fee sufficient to reim-

burse the department for the costs of providing such services. In this subsection, "nonprofit organization" means a nonprofit corporation as defined in s. 181.02 (4) and an organization exempt from tax under 26 USC 501.

(4) The department may issue subpoenas for the attendance of witnesses and the production of documents or other materials prior to the commencement of disciplinary proceedings.

(5) The department may investigate allegations of negligence by physicians licensed to practice medicine and surgery under ch. 448.

(6) The department shall have access to any information contained in the reports filed with the medical examining board and the board of nursing under ss. 655.045 and 655.26.

SECTION 2236. 440.04 (6) of the statutes is amended to read:

440.04 (6) Appoint outside the classified service an administrator for any division established in the department and a director for any bureau, ~~including a bureau of nursing or a bureau of design professions, established in the department. Directors of bureaus shall be appointed from a list of candidates recommended to the secretary by a committee composed of the persons designated by the chairperson of each examining board for the occupations or professions which are regulated by that bureau. Every chairperson of an affected examining board shall designate persons to serve on the committee, and the number designated by each chairperson shall not exceed the number appointed by any other chairperson of an affected examining board. The secretary and the committee shall jointly establish qualifications for each bureau director as authorized in s. 230.08 (2).~~ The secretary may assign any bureau director appointed in accordance with this subsection to serve concurrently as a bureau director and a division administrator.

SECTION 2237. 440.05 (1) of the statutes is repealed and recreated to read:

440.05 (1) Examination: The fee for examination for the initial license, permit, certificate or registration shall be an amount equal to the actual cost of the examination, as determined by the department, but not less than \$40. The initial license, permit, certificate or registration shall be granted to applicants upon successful completion of the examination and upon completion of other applicable requirements. If an examination is not required, the initial license shall be granted upon payment of a \$40 fee if the applicant is otherwise qualified.

SECTION 2238. 440.05 (3) of the statutes is repealed and recreated to read:

440.05 (3) (a) Renewals: The fee for renewal of a license, permit, certificate or registration for each of the following occupations shall be:

1. Certified public accountants, \$43.
2. Public accountants, \$43.
3. Accounting firms, \$50.

4. Barber instructor, \$57.
5. Master barber, \$57.
6. Barber shop manager, \$57.
7. Shop manager location, \$57.
8. Chiropractors, \$71.
9. Beauty salons, \$50.
10. Managing cosmetologists, \$38.
11. Cosmetology operators, \$38.
12. Cosmetology instructors, \$38.
13. Electrologists, \$38.
14. Manicurists, \$38.
15. Electrolysis salons, \$50.
16. Cosmetology schools, \$50.
17. Itinerant cosmetologist, \$38.
18. Dentists, \$35.
19. Dental hygienists, \$35.
20. Designers, \$33.
21. Land surveyors, \$33.
22. Architect/engineer corporations, \$50.
23. Architect corporations, \$50.
24. Engineering corporations, \$50.
25. Architects, \$33.
26. Professional engineers, \$33.
27. Funeral directors, \$58.
28. Funeral establishments, \$50.
29. Funeral director certified in good standing, \$58.
30. Embalmers, \$58.
31. Hearing aid dealers/fitters, \$119.
32. Licensed practical nurses, \$32.
33. Registered nurses, \$32.
34. Nursing home administrators, \$53.
35. Optometrists, \$63.
36. Registered pharmacists, \$57.
37. Assistant pharmacists, \$57.
38. Pharmacies, \$50.
39. Drug manufacturers permit, \$50.
40. Distributor of dangerous drugs, \$50.
41. Medicine/surgery (MD), \$82.
42. Medicine/surgery (DO), \$82.
43. Doctor of osteopathy/surgery, \$82.
44. Physicians assistants, \$82.
45. Physical therapists, \$82.
46. Podiatrists, \$82.
47. Private detective agencies, \$50.
48. Private detectives, \$124.
49. Psychologists, \$74.
50. Private practice school psychologist, \$74.
51. Real estate broker, \$45.
52. Real estate salesperson, \$45.
53. Cemetery associations, \$50.
54. Cemetery salespersons, \$45.
55. Veterinarians, \$50.
56. Animal technicians, \$50.

SECTION 2238d. 440.20 of the statutes is renumbered 440.20 (1).



DOA:.....Dombrowski, BB0086 - Gifts and Grants Appropriation

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

SA ✓  
x-ref ✓

don't gen.

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

*Analysis by the Legislative Reference Bureau*

**OCCUPATIONAL REGULATION** ✓

moneys  
all moneys ✓  
received from  
by DRL

This bill creates a continuing appropriation for gifts, grants, settlements, and proceeds received by DRL, for the purposes for which the moneys are received. ✓

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:*

2 SECTION 1. 20.165 (1) (g) of the statutes is amended to read:

3 20.165 (1) (g) *General program operations.* The amounts in the schedule for  
4 the licensing, rule making, and regulatory functions of the department, other than  
5 the licensing, rule-making, and credentialing functions of the medical examining  
6 board and the affiliated credentialing boards attached to the medical examining  
7 board and except for preparing, administering, and grading examinations. ~~Ninety~~

(score space)

1 Except as otherwise provided in this section, <sup>✓</sup> ~~ninety~~ percent of all moneys received  
 2 under chs. 440 to 480, ~~except ch. 448, ss. 440.03 (13), 440.05 (1) (b), and 446.02 (3)~~  
 3 ~~(a) other than fines and forfeitures,~~ <sup>✓</sup> less \$10 of each renewal fee received under s.  
 4 452.12 (5), ~~and;~~ all moneys transferred from the appropriation under par. (i); and all  
 5 moneys received under s. 440.055 (2), shall be credited to this appropriation. <sup>✓</sup>

History: 1971 c. 125; 1973 c. 90, 156, 333; 1975 c. 39; 1977 c. 29, 400, 418; 1979 c. 34; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20; 1983 a. 27; 1985 a. 29; 1989 a. 31, 307; 1991 a. 167, 269, 315; 1993 a. 102, 490; 1995 a. 27, 461; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2009 a. 28, 111.

6 **SECTION 2.** 20.165 (1) (j) of the statutes is created to read:

7 20.165 (1) (j) <sup>✓</sup> ~~Gifts, grants, settlements, and proceeds.~~ All moneys received from  
 8 gifts, grants, and bequests, for the purposes for which received; <sup>✓</sup> all moneys, other  
 9 than fines and forfeitures, <sup>✓</sup> received in settlement of actions or proposed actions for  
 10 violations of chs. 440 to 480, <sup>✓</sup> for the purposes for which received; <sup>✓</sup> and all proceeds  
 11 from photocopying <sup>ies</sup> generation of copies of documents from electronic storage or  
 12 other storage media, conferences, sales of publications, lists of credential holders,  
 13 and promotional or other materials, <sup>✓</sup> and other services provided in carrying out the  
 14 functions of the department, for the purposes for which received.

15 \*\*\*\*NOTE: This Section involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

(END)

licensing, rulemaking, and regulatory <sup>regulatory</sup>

D-note

moneys received from fees or other charges for charges

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

LRB-0252/P1dn

MPG: j:....

nwn

Date

Cindy Dombrowski:

Please review this draft carefully to ensure that it is consistent with your intent. ✓

The appropriation is for *all moneys* received from gifts, grants, settlements, and proceeds, rather than 90 percent of the moneys from those sources. Is that consistent with your intent? ✓

Please note that while this new appropriation includes amounts received from "settlements," Article X, section 2, of the Wisconsin Constitution requires that any amounts received in settlements that are attributable to fines or forfeitures must be deposited in the common school fund. Also, despite the broad language of s. 20.165 (1) (g) "all moneys received under chs. 440 to 480" ~~any fines or forfeitures collected under chs. 440 to 480~~ must be deposited in the common school fund. Accordingly, this draft includes language for the exclusion of fines and forfeitures in both the new gifts, grants, settlements, and proceeds appropriation and the existing general program operations appropriation under s. 20.165 (1) (g). Is that acceptable? ✓

This draft also contains other edits to the existing language under s. 20.165 (1) (g). ✓ As we discussed on the telephone, while current s. 20.165 (1) (g) establishes an appropriation of 90 percent of "all moneys received under chs. 440 to 480" and states several exceptions, that section states only some, not all, of the exceptions set forth in s. 20.165 (gc) to (s). This draft simplifies and amends the language of s. 20.165 (1) (g) to reference all of the exceptions. Are these changes acceptable? ✓

Finally, do you want to delete the reference, in s. 20.165 (1) (g), to s. 440.055 (2) regarding a DRL charge for the service of accepting fee payment with a credit card? ✓ Under s. 440.055 (2), moneys collected as charges for this service must be sufficient to cover the costs to DRL of providing the service. It probably makes more sense to treat the s. 440.055 (2) service charge as being included in the appropriation for proceeds received for "services" for the purposes for which received under the new gifts, grants, settlements, and proceeds appropriation, rather than designating those proceeds for general program operations under s. 20.165 (1) (g). Let me know how you would like to proceed. ✓

If you have any questions or comments, please do not hesitate to contact me. ✓

Thank you,

Michael P. Gallagher  
Legislative Attorney  
Phone: (608) 267-7511  
E-mail: michael.gallagher@legis.wisconsin.gov

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

LRB-0252/P1dn  
MPG:nwn:ph

November 12, 2010

Cindy Dombrowski:

Please review this draft carefully to ensure that it is consistent with your intent.

The appropriation is for *all moneys* received from gifts, grants, settlements, and proceeds, rather than 90 percent of the moneys from those sources. Is that consistent with your intent?

Please note that while this new appropriation includes amounts received from "settlements," Article X, section 2, of the Wisconsin Constitution requires that any amounts received in settlements that are attributable to fines or forfeitures must be deposited in the common school fund. Also, despite the broad language of s. 20.165 (1) (g) — "all moneys received under chs. 440 to 480" — any fines or forfeitures collected under chs. 440 to 480 must be deposited in the common school fund. Accordingly, this draft includes language for the exclusion of fines and forfeitures in both the new gifts, grants, settlements, and proceeds appropriation and the existing general program operations appropriation under s. 20.165 (1) (g). Is that acceptable?

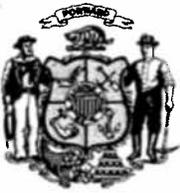
This draft also contains other edits to the existing language under s. 20.165 (1) (g). As we discussed on the telephone, while current s. 20.165 (1) (g) establishes an appropriation of 90 percent of "all moneys received under chs. 440 to 480" and states several exceptions, that section states only some, not all, of the exceptions set forth in s. 20.165 (gc) to (s). This draft simplifies and amends the language of s. 20.165 (1) (g) to reference all of the exceptions. Are these changes acceptable?

Finally, do you want to delete the reference, in s. 20.165 (1) (g), to s. 440.055 (2) regarding a DRL charge for the service of accepting fee payment with a credit card? Under s. 440.055 (2), moneys collected as charges for this service must be sufficient to cover the costs to DRL of providing the service. It probably makes more sense to treat the s. 440.055 (2) service charge as being included in the appropriation for proceeds received for "services" for the purposes for which received under the new gifts, grants, settlements, and proceeds appropriation, rather than designating those proceeds for general program operations under s. 20.165 (1) (g). Let me know how you would like to proceed.

If you have any questions or comments, please do not hesitate to contact me.

Thank you,

Michael P. Gallagher  
Legislative Attorney  
Phone: (608) 267-7511  
E-mail: michael.gallagher@legis.wisconsin.gov



ep2

DOA:.....Dombrowski, BB0086 - Gifts and Grants Appropriation

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

1 AN ACT <sup>don't gen.</sup> ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**OCCUPATIONAL REGULATION**

This bill creates a continuing appropriation for all moneys received by DRL from gifts, grants, settlements, and proceeds, for the purposes for which the moneys are received.

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:*

2 **SECTION 1.** 20.165 (1) (g) of the statutes is amended to read:

3 20.165 (1) (g) ~~General program operations.~~ The amounts in the schedule for  
4 the licensing, rule making, and regulatory functions of the department, other than  
5 the licensing, rule-making, and credentialing functions of the medical examining  
6 board and the affiliated credentialing boards attached to the medical examining

1 board and except for preparing, administering, and grading examinations. Ninety  
2 ~~Except as otherwise provided in this section, ninety percent of all moneys received~~  
3 ~~under chs. 440 to 480, except ch. 448, ss. 440.03 (13), 440.05 (1) (b), and 446.02 (3)~~  
4 ~~(a) other than fines and forfeitures, less \$10 of each renewal fee received under s.~~  
5 ~~452.12 (5), and; all moneys transferred from the appropriation under par. (i); and all~~  
6 ~~moneys received under s. 440.055 (2), shall be credited to this appropriation.~~

7 **SECTION 2.** 20.165 (1) (j) of the statutes is created to read:

8 20.165 (1) (j) *Gifts, grants, settlements, and proceeds.* All moneys received from  
9 gifts, grants, and bequests, for the purposes for which received; all moneys, other  
10 than fines and forfeitures, received in settlement of actions or proposed actions for  
11 violations of chs. 440 to 480, for the purposes for which received; and all moneys  
12 received from fees or other charges for photocopies, generation of copies of documents  
13 from electronic storage or other storage media, conferences, sales of publications,  
14 lists of credential holders, and promotional or other materials, and other services  
15 provided incidental to the licensing, rule making, and regulatory functions of the  
16 department, for the purposes for which received.

\*\*\*\*NOTE: This Section involves a change in an appropriation that must be reflected  
in the revised schedule in s. 20.005, stats.

17 (END)

D-note

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

LRB-0252/~~redn~~<sup>2 P2</sup>  
MPG:|.....  
nmn

Date

Cindy Dombrowski:

This draft reconciles LRB-0252/P1<sup>✓</sup> and LRB-0939/P2<sup>✓</sup>. Both LRB-0251<sup>✓</sup> and LRB-0939<sup>✓</sup> should continue to appear in the compiled bill.

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

LRB-0252/P2dn  
MPG:nwn:ph

February 18, 2011

Cindy Dombrowski:

This draft reconciles LRB-0252/P1 and LRB-0939/P2. Both LRB-0252 and LRB-0939 should continue to appear in the compiled bill.

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DOA:.....Dombrowski, BB0086 - Gifts and Grants Appropriation

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**OCCUPATIONAL REGULATION**

This bill creates a continuing appropriation for all moneys received by DRL from gifts, grants, settlements, and proceeds, for the purposes for which the moneys are received.

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

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

2 **SECTION 1.** 20.165 (1) (j) of the statutes is created to read:

3 20.165 (1) (j) *Gifts, grants, settlements, and proceeds.* All moneys received from  
4 gifts, grants, and bequests, for the purposes for which received; all moneys, other  
5 than fines and forfeitures, received in settlement of actions or proposed actions for  
6 violations of chs. 440 to 480, for the purposes for which received; and all moneys

1 received from fees or other charges for photocopies, generation of copies of documents  
2 from electronic storage or other storage media, conferences, sales of publications,  
3 lists of credential holders, and promotional or other materials, and other services  
4 provided incidental to the licensing, rule making, and regulatory functions of the  
5 department, for the purposes for which received.

\*\*\*NOTE: This Section involves a change in an appropriation that must be reflected  
in the revised schedule in s. 20.005, stats.

6

**(END)**