



Legislative Fiscal Bureau

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April 16, 2009

Joint Committee on Finance

Paper #346

Mutual Fund Fees (Financial Institutions)

[LFB 2009-11 Budget Summary: Page 249, #5 (part)]

CURRENT LAW

Under current law, the Department of Financial Institutions (DFI) imposes a filing fee of \$750 for every registration of securities statement and notice of filing. DFI also imposes an annual filing fee at the rate of 0.05% of the dollar amount of securities sold by a mutual fund to persons in this state during the preceding state fiscal year. For each annual filing, the fee paid for securities sold in this state in the prior fiscal year must be a minimum of \$150 but not exceed \$1,500. A filer may elect not to report the dollar amount of securities sold in this state if the filer elects to pay the maximum fee of \$1,500.

These fees are deposited to DFI's general program operations appropriation, along with other revenue from various license, filing, and examination fees and assessments applicable to financial institutions and services. Such funds are used to pay for DFI's operating expenses, including staffing and administrative costs. At the end of each fiscal year, most unencumbered program revenue in the appropriation is lapsed to the general fund.

GOVERNOR

Increase the filing fee for each registration of securities statement and notice of filing from \$750 to \$1,000. The administration estimates that this provision would increase program revenue by \$850,000 annually.

Increase the minimum and maximum limits of the annual filing fee to \$500 and \$10,000, respectively; however, maintain the rate of the fee at 0.05% of the dollar amount of securities annually sold in this state. The requirement to report the dollar amount of securities sold in this state could be waived under the proposal if the filer elected to pay the proposed maximum fee

of \$10,000. The administration estimates that this provision would increase program revenue by \$8,434,800 annually.

The proposal would first apply to filings received by DFI's Division of Securities on the day following publication of the budget bill.

DISCUSSION POINTS

1. DFI's Division of Securities is responsible for regulating the offer and sale of securities, franchise investment offerings, and corporate takeovers. The Division carries out these responsibilities through the following: (a) registration requirements for securities and franchise offerings (or allowing certain exemptions from such requirements); (b) licensing and monitoring of the activities of broker-dealers, securities agents, and investment advisers; and (c) field audits, surveillance, and investigation of complaints.

2. The vast majority of affected parties under these changes are mutual funds. Under the statutes, the fees are imposed on "open-end management companies" and "face amount certificate companies." An open-end management company, the most common of which is a mutual fund, is a company that distributes and redeems securities. A face amount certificate company is a type of investment company that issues debt securities to its investors; however, relatively few of these companies remain in operation. For the purposes of this paper, "mutual funds" will refer to these two types of companies.

3. Under the Wisconsin Uniform Securities Law (Chapter 551 of the State statutes), an indefinite amount of securities must be registered for offer and sale in this state under a registration statement relating to redeemable securities issued by a mutual fund, and a filing fee of \$750 must be paid for every registration statement filed to register securities and for every notice filing of securities in this state. Mutual funds must file an annual report with the Division of Securities showing the amount of the mutual fund's securities sold to persons in this state in the prior year and must pay a fee of 0.05% of the dollar amount of such sales, but not less than \$150 nor more than \$1,500. A mutual fund may elect not to report the amount of securities sold to persons in this state if the maximum fee of \$1,500 is paid.

4. DFI reports that at the end of calendar year 2008, approximately 17,000 mutual funds reported annual filings with the state. Only three mutual funds were based in Wisconsin. A single mutual fund company may report multiple filings if the company operates multiple mutual funds. The Department reports that, in 2008, 75% of filers in this state paid the minimum fee of \$150, 15% paid the maximum fee of \$1,500, and the remaining 10% paid a fee of between \$150 and \$1,500.

5. According to DFI, over 5,000 mutual funds reported annual filings of \$0 and paid the minimum \$150 fee for the option of offering securities in this state in 2007-08. The Department believes that a relatively large increase in the minimum filing fee may alter current reporting behavior and cause some mutual funds to choose not to register with the state if the fund reports

annual filings of \$0; however, the exact decrease in the number of mutual fund filings with the state as a result of the proposed minimum fee increase is unknown. Additionally, mutual funds which currently forego the administrative cost of tracking annual sales of securities in this state and elect to pay the maximum filing fee may, under the proposal, find it cost effective to track and accurately report Wisconsin sales at the higher maximum rather than pay the proposed annual maximum fee of \$10,000.

6. In 2008, 3,400 mutual funds filed and paid the \$750 fee to register securities and for every notice filing of securities in this state. According to the Department, the decision to register is based on economic factors rather than fee amounts, and the same number of mutual funds would likely register if the fee were raised to \$1,000.

7. At the end of each fiscal year, DFI lapses most unencumbered program revenue to the general fund. Therefore, the proposed fee increases would indirectly increase general fund revenues.

8. State-by-state comparisons are difficult to make for registration and annual filing fees because states impose multiple varieties of fees as to what is charged, for what purpose, to whom, and to what limits the fee is imposed. Wisconsin imposes a fee on the actual sale of securities, whereas many states base fees on expected sales. Wisconsin's neighboring states impose the following fees:

| <u>State</u> | <u>Mutual Fund Fees</u> |
|--------------|---|
| Illinois | Charges a straight annual fee of \$1,800 plus \$180 per series in portfolio for open end mutual funds and imposes an initial fee for fixed offerings of 0.05% of the maximum offering price with a \$500 minimum and a \$2,500 maximum. |
| Indiana | Charges an initial fee of \$500 or \$1,000, depending on the offering size, and an annual fee of 0.05% of the maximum aggregate offering price with a maximum fee of \$2,000. |
| Iowa | Charges an initial and annual fee of \$1,000 for an indefinite offering and imposes a fee for a fixed offering of \$250 plus a sales report fee of 0.10% of sales over \$250,000, or a flat fee of \$1,250. |
| Michigan | Charges an initial fee of \$500 for all investment company filings and renewal fees in four categories, with a minimum of \$100 for projected sales of \$250,000 or less and a maximum of \$1,400 for projected sales over \$1 million. |
| Minnesota | Imposes a filing fee on companies as opposed to most other states (including Wisconsin) which impose filing fees by fund. Minnesota imposes a fee of between \$100 and \$300 for every application for registration or notice filing, and imposes an annual fee of 0.05% of the maximum aggregate offering price with no maximum limit. |

9. According to DFI, the initial registration fee of \$750 was created to accompany the annual securities filing fee pursuant to the 1983 budget bill. The fee has not been changed since.

10. DFI reports that the annual filing fee was changed several times from 1970 to 1983, when it was set at the current rate of 0.05% with a minimum fee of \$150 and a maximum fee of

\$1,500. The filing fee has not been altered since.

11. The following table shows the revenue generated over the past 10 years through the registration fee and the annual filing fee. From 1998-99 to 2007-08, registration fee revenue increased at an average annual rate of 2.11% from \$2,115,000 to \$2,552,000. Over the same time period, annual filing fee revenue increased from \$4,525,000 to \$7,158,000 at an average annual rate of 5.23%. Revenue generated through this fee is collected at a rate of 0.05% of the total dollar amount of securities sold in this state; therefore, fee collections may vary year-to-year based on the annual dollar amount of securities sold in this state.

| <u>Year</u> | <u>Registration Fee (Thousands)</u> | <u>Percent Change</u> | <u>Filing Fee (Thousands)</u> | <u>Percent Change</u> |
|-------------|---|---------------------------|-----------------------------------|---------------------------|
| 1998-99 | \$2,115 | | \$4,525 | |
| 1999-00 | 2,596 | 22.72% | 4,995 | 10.39% |
| 2000-01 | 2,456 | -5.37 | 5,756 | 15.25 |
| 2001-02 | 1,897 | -22.78 | 5,667 | -1.56 |
| 2002-03 | 1,667 | -12.10 | 5,940 | 4.82 |
| 2003-04 | 1,706 | 2.34 | 6,134 | 3.27 |
| 2004-05 | 1,778 | 4.22 | 5,903 | -3.76 |
| 2005-06 | 2,071 | 16.46 | 6,038 | 2.27 |
| 2006-07 | 2,507 | 21.03 | 6,485 | 7.41 |
| 2007-08 | 2,552 | 1.80 | 7,158 | 10.37 |

12. The registration and filing fees imposed on securities sold in this state have not been changed in 26 years. If the \$750 registration fee had been automatically indexed by the general rate of inflation (the consumer price index for all urban consumers, published by the U.S. Bureau of Labor Statistics), the fee would be \$1,586 in 2009. If the minimum and maximum limits for 0.05% of the dollar amount of securities sold in this state had been automatically indexed by the general rate of inflation, the minimum and maximum fees would be \$317 and \$3,171, respectively, in 2009. Therefore, it could be argued that the proposed increase in the registration and notice of filing fee is reasonable, whereas the proposed increases in the maximum and minimum annual filing fees are relatively high.

13. Other options would include increasing the \$750 registration fee by an amount other than the proposed increase. For each \$125 increase in the registration fee, the fee would be expected to generate an additional \$425,000 per year of revenue. For example, the following increases in the current fee would be expected to increase revenue as follows: (a) for a \$125 increase -- \$425,000 per year; (b) for a \$375 increase -- \$1,275,000 per year; (c) for a \$500 increase -- \$1,700,000 per year; (d) for a \$625 increase -- \$2,125,000 per year; (e) for a \$750 increase -- \$2,550,000 per year.

14. Many other options could be considered to change the minimum and maximum annual filing fees. The table below provides four other examples of changes to the current \$150 minimum and \$1,500 maximum, and the corresponding annual increase in revenue estimated for

each pairing.

| <u>Minimum Fee</u> | <u>Maximum Fee</u> | <u>Annual Change to Bill</u> | <u>Annual Change to Base</u> |
|--------------------|--------------------|------------------------------|------------------------------|
| \$250 | \$5,000 | -\$5,134,800 | \$3,300,000 |
| 350 | 7,500 | -2,634,800 | 5,800,000 |
| 650 | 12,500 | 2,965,200 | 11,400,000 |
| 750 | 15,000 | 5,215,200 | 13,650,000 |

15. Others might suggest that a fee increase should only be imposed if the resultant program revenues were to be used for the purposes for which the fee exists. The administration has not indicated that this would be the case and all revenues generated through this fee increase would be lapsed to the general fund.

ALTERNATIVES

Registration Fees

1. Approve the Governor's proposal to increase the registration of securities statement and notice of filing fee from \$750 to \$1,000.

2. Adopt one of the fee increases on registration fees specified below:

| | <u>Increase Fee by</u> | <u>Increase Fee to</u> | <u>Fund</u> | <u>Change to Bill</u> | <u>Change to Base</u> |
|-----|------------------------|------------------------|-------------|-----------------------|-----------------------|
| 2a. | \$125 | \$875 | GPR-REV | -\$850,000 | \$850,000 |
| | | | PR-REV | -850,000 | 850,000 |
| 2b. | 375 | 1,125 | GPR-REV | 850,000 | 2,550,000 |
| | | | PR-REV | 850,000 | 2,550,000 |
| 2c. | 500 | 1,250 | GPR-REV | 1,700,000 | 3,400,000 |
| | | | PR-REV | 1,700,000 | 3,400,000 |
| 2d. | 625 | 1,375 | GPR-REV | 2,550,000 | 4,250,000 |
| | | | PR-REV | 2,550,000 | 4,250,000 |
| 2d. | 750 | 1,500 | GPR-REV | 3,400,000 | 5,100,000 |
| | | | PR-REV | 3,400,000 | 5,100,000 |

3. Delete provision.

| ALT 3 | Change to Bill Revenue |
|--------------|-------------------------------|
| GPR | - \$1,700,000 |
| PR | - 1,700,000 |

Annual Filing Fees

4. Approve the Governor's proposal to increase the minimum and maximum annual filing fees to \$500 and \$10,000, respectively.

5. Adopt one of the minimum and/or one of the maximum fee brackets listed below:

| | Increase Minimum Fee to | Increase Maximum Fee to | Fund | Change to Bill | Change to Base |
|-----|-------------------------------|-------------------------------|-------------------|------------------------------|--------------------------|
| 5a. | \$250 | \$5,000 | GPR-REV PR-REV | -\$10,269,600 -10,269,600 | \$6,600,000 6,600,000 |
| 5b. | \$350 | \$7,500 | GPR-REV PR-REV | -5,269,600 -5,269,600 | 11,600,000 11,600,000 |
| 5c. | \$650 | \$12,500 | GPR-REV PR-REV | 5,930,400 5,930,400 | 22,800,000 22,800,000 |
| 5d. | \$750 | \$15,000 | GPR-REV PR-REV | 10,430,400 10,430,400 | 27,300,000 27,300,000 |

6. Select a different pairing of minimum and maximum annual filing fees.

7. Delete provision.

| ALT 7 | Change to Bill Revenue |
|-------|---------------------------|
| GPR | - \$16,869,600 |
| PR | - 16,869,600 |

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