



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #651

Initial and Renewal Credential Fee Structure (R&L)

CURRENT LAW

The Department of Regulation and Licensing (R&L) is required by s. 440.03(9) of the statutes to include with each biennial budget request the results of its analysis of the adequacy of the existing initial and renewal credential fee schedule to support the proposed operating budget for the agency. Under this review, the Department must analyze the administrative and enforcement costs that are attributable to the regulation of each licensed occupation. Based on this review, R&L must then recommend adjustments to initial and renewal credential fee amounts, when required, to reflect the proper apportionment of the agency's costs to each occupation. Biennially, as part of the Legislature's consideration of the agency's budget, any proposed fee adjustments are incorporated into the statutory schedule of initial and renewal fees.

Initial Credential Fees. For initial credentials, the license fee represents the shared, budgeted administrative costs attributable to new licensees. These administrative cost items include such activities as processing applications and determining eligibility for licensure. These total costs are then divided by the projected number of new licensees over the biennium in order to determine the amount of the fee. Currently, the initial license fee is set by statute at \$53.

Credential Renewal Fees. For credential renewals, an occupation's total renewal fee consists of two cost components: a fixed portion and a variable portion. The fixed portion represents the shared, budgeted administrative costs that are charged equally to all regulated occupations. These common shared-cost items are divided by the estimated number of renewing license holders over the biennium in order to determine the fixed cost component of the fee. Currently, the fixed cost renewal fee component is \$53. The variable portion of the renewal fee consists of each licensed profession's share of direct enforcement costs attributed to it during the most recent prior fiscal year divided by the total number of licensees in the profession. Currently, the variable cost portion of the renewal fee added from \$0 to \$290 to the cost of a license, depending on the enforcement experience of the occupation. The fixed renewal costs and the

apportioned variable costs for each occupation are then added to arrive at the fee amount to be included in a statutory schedule of renewal fees.

R&L is required to credit 10% of the revenue generated from initial and credential renewal fees to the general fund as GPR-Earned. Consequently, the fees must be set at a level sufficient to fund the agency's administrative and enforcement costs, net of the revenue allocations to the general fund.

GOVERNOR

No provision.

DISCUSSION POINTS

1. Notwithstanding the current statutory directive that the Department biennially review and recommend any necessary adjustments to its schedule of initial and renewal credential fees for the regulated professions, the agency did not prepare and formally submit a revised schedule for the current 2003-05 biennium. Further, the Department did not prepare and formally submit a revised schedule for the 2005-07 biennium. As a result, the agency continues to assess initial and renewal credential fees based on its analysis of costs for the 2001-03 fiscal biennium. As noted in a companion paper on the agency's GPR-Earned collections, the current fee schedule has resulted in considerable fund balances in recent years in R&L's fee-generated appropriation account.

2. With respect to the agency's decision not to submit a revised fee schedule for the 2005-07 biennium, R&L has indicated that it is awaiting further direction from the Legislature in connection with implementing recommendations contained in a recent Legislative Audit Bureau (LAB) evaluation of the agency's fee-setting methodology.

3. *Development of the Current Fee-Setting Methodology.* The agency's current fee-setting methodology dates from the early 1990's. In 1990, as part of a routine compliance audit, the LAB reviewed R&L's credential fee-setting methodology. That audit found that the agency had not been gathering or monitoring financial information to determine whether it was appropriately and equitably establishing fees for the various professions, but had recently begun to develop a new system to obtain the necessary revenue and expenditure data. At the time, R&L indicated that it would begin to use the new data to better apportion the costs of regulation to specific occupations.

4. A follow-up audit in August, 1992, found that R&L's newly-implemented revenue and data collection systems were adequate and that the methodology used by the agency (see "Current Law" above) to establish renewal fees was reasonable. The audit recommended minor documentation improvements that were subsequently implemented by the Department. The fee-setting methodology in place after the follow-up audit was then used in each succeeding biennium through 2001-03 to set initial and renewal credential fees sufficient (with additional modest revenue collections from examinations and other minor fees) to support the agency's operations.

5. In the Governor's 2001-03 biennial budget recommendations for the agency, funding was proposed for a consultant to review the adequacy and appropriateness of the agency's fee-setting methodology. The Finance Committee deleted the proposed funding for the consultant and instead requested that the LAB undertake such an evaluation. The intended purpose of the audit was to ensure that the agency's fee-setting procedures were documented and straightforward in administration, represented the actual costs associated with the regulation of licensed professions, and provided adequate revenues to support the agency's costs of operation. This audit provision was included in the 2001-03 biennial budget bill, as approved by the Legislature, but was subsequently item vetoed by the Governor.

6. *Fee-Setting Issues During 2003-05 Budget Deliberations.* As part of the 2003-05 biennial budget, the Department did not request nor did the Governor recommend any changes to initial and renewal credentials. The agency's explanation for not revising credential renewal fees at that time was that the inadequacy of the existing fee-setting methodology made it impossible to determine with any level of assurance whether any proposed fee represented a given profession's cost of regulation. Further, since the agency's operational costs for enforcement activities were virtually identical to those incurred in the prior biennium, there seemed to be little reason to change the fees. Further the Department indicated that the administrative costs of implementing any fee changes could not be justified.

7. The agency highlighted some additional concerns with respect to the existing fee-setting methodology. It noted that the current procedure did not consider complexity, severity, and resources dedicated to a complaint when cost allocations were made. Further, complaints in the health professions were generally more costly than those in the business or direct licensing areas. Finally, enforcement costs tended to vary depending on the stage at which a complaint investigation was closed. In the agency's view, it was not clear that the current fee methodology captured these types of cost differences.

8. Since the agency had not submitted a revised fee schedule, concerns were raised during the Finance Committee's deliberations on the Department's 2003-05 budget as to the adequacy of R&L's existing fee structure to support the agency's budgeted operating costs.

9. During this period, the Department contracted with Grant Thornton Consultants to review on an expedited basis the agency's fee structure and make recommendations for possible statutory adjustments to the schedule of credential renewal fees for the 2003-05 biennium. Using the available cost data at hand, the consultant prepared a series of initial and renewal fee modifications that were presented to the Finance Committee during the final stages of its deliberations on the agency's budget.

10. Based on the consultant's recommendations, the Department indicated that the initial and renewal fee schedules could be revised accordingly. The agency proposed a new variable initial credential fee rather than the current uniform \$53 fee. Under the proposal, initial fees would have varied from a low of \$34 to a high of \$641 per credential holder. The proposal also recommended renewal fees that would have varied between \$35 and \$985. In several cases the proposed initial

fees for a profession would have exceeded the amounts charged for a subsequent license renewal.

11. According to the information provided by the consultant, it had been difficult to allocate the variable costs of enforcement to the regulatory costs for each profession. This situation was attributable to the way that the agency tracked enforcement actions. The agency's time tracking procedures did not allow for consideration of the amount of time spent on each case or the complexity of the proceeding. In the absence of this actual data, the consultant attempted to calculate these costs by using: (a) detailed records where they are available; (b) interviewing supervisors to obtain best estimates of staff support time; and (c) extrapolating overall time spent per profession using partial time records.

12. The consultant further recommended that the Department keep more detailed records that would enable R&L to accurately calculate the actual amount of time spent on the enforcement and administration of each profession. The consultant also suggested revising the fee schedule every four years (though the fees would still be paid every two years), so that any short-term increases in enforcement-related costs for the profession could be averaged out over a longer period of time.

13. Because of concerns relating to: (a) the adequacy of the agency's available cost data that could be employed in the development of any new fee schedule; and (b) the magnitude of some of the proposed fee change recommendations, the Finance Committee chose not to incorporate any of the consultant's recommendations into a revised fee schedule for the 2003-05 biennium. Instead, the Committee again included language directing the LAB to conduct an evaluation of the methodologies used by R&L to establish initial and renewal fee levels and to report its finding by mid-2004. Language directing the audit was ultimately enacted.

14. Beginning in November, 2003, the Department put in place a new spreadsheet-based timekeeping system to track the allocation of staff hours to administrative and enforcement activities relating to each regulated profession.

15. *LAB Findings.* On July 13, 2004, LAB released the results of its review of the Department's fee-setting methodology that had been used in recent years to determine credential fees. Among the findings of the audit were the following:

- Even though almost all of the regulated professions have the same \$53 initial fee, some credentials require relatively more services than others to issue. For example, the Department has to review several documents, including an examination, before providing an initial credential to certified public accountants while real estate salespersons only have an application to review.

- The current methodology allocates enforcement costs (used for setting renewal credential fees) based on the number of cases handled per credential type rather than accounting for the hours required to resolve each enforcement matter. As a result, comparable cost allocations would be applied both to a simple case and to a complicated, drawn-out case.

- Under the current methodology, 72.6% of all costs are categorized as administrative

overhead and are allocated equally to all credential holders. The audit found that the agency believes that many of these overhead costs should instead be allocated to the credential holders that are receiving the specific administrative services.

- In reviewing the Grant Thornton Consultants proposal prepared during the 2003-05 biennial budget deliberations, the LAB noted that the proposal appropriately allocated more of the costs related to activities of the Divisions of Credentialing, Board Services, and Legal Counsel rather than just the costs of the Division of Enforcement. As a result, 58.2% of the agency's costs were being allocated to specific credential types rather than the 27.4% of such costs that were being allocated under the current methodology.

- LAB recommended that the Department could do even more in allocating costs to specific credentials by allocating some of the administrative activities of the Division of Management Services and the Office of the Secretary to specific credentials.

16. The LAB found that the new timekeeping model put in place by the Department in November, 2003, was an improvement over the existing methodology. The current methodology that had been in use since the early 1990's allowed for too many costs of regulation to be spread equally across all credential types rather than being apportioned by services provided. The LAB recommended additional modifications to the new timekeeping model to improve its accuracy and precision.

17. While the LAB found that the new timekeeping methodology, when fully implemented over the course of a biennial license renewal cycle, would more accurately capture the costs of regulation of the specific professions (in accordance with the requirements of current law), the audit did cite some possible drawbacks to the new cost allocation procedure. These include:

- The timekeeping system is more complex (making it more difficult to explain to credential holders) and requires better data keeping by the Department.

- There could be considerable fluctuations in fees for some credential types.

- Questions could be raised about the equitability of some of the possible credential fee levels. For example, under the Grant Thornton initial recommendations developed during the 2003-05 budget process, dance therapists, who earn fairly modest wages, were projected to pay a credential fee of \$161, while physicians were projected to pay \$151.

18. The audit offered the Legislature three possible types of options for the setting of credential fees during the 2005-07 budget process.

19. First, the credentialing fees currently enumerated in the statutes could remain unchanged (at least until additional data had been collected under the agency's new timekeeping system). Under this scenario, the agency would continue to generate sufficient revenues to cover operational costs during the 2005-07 biennium. [In fact, the current fee structure will produce additional fee revenue balances for the agency.] The principal rationale for leaving credential fees

unchanged at this time is that during the next biennium, the Department can fully develop its timekeeping data and would then have time and cost allocations for at least one full biennial credential renewal cycle that could be used to develop revised credential rates during the 2007-09 budget process. However, this option has the disadvantage in that it would continue to skirt the statutory directive that the agency periodically adjust its fees to reflect the proper apportionment of the agency's costs to each occupation.

20. Second, the current credential fees could be revised in some cases to consider surcharges during the 2005-07 biennium for specific professions that agree to pay higher fees in exchange for expanded services. This approach would have the advantage of being able to target funds directly for intended uses and for priority areas; however, it would require statutory changes and would not address the statutory directive that the agency periodically adjust its fees to reflect the proper apportionment of the agency's costs to each occupation. Further, the Department has never previously used surcharges to fund its own initiatives, and the administrative implementation of surcharges could be burdensome.

21. Finally, the Department could move to implement the consultant's recommendations developed during the 2003-05 biennial budget deliberations using the most complete timekeeping data available. However, as noted above, the agency will not have complete timekeeping data for a full biennial credential renewal cycle until well into the next fiscal year.

22. Since the agency's true costs of regulation for each occupation cannot not be fully determined until that time, the Committee may conclude that it would be more prudent to continue the current fee schedule during the 2005-07 biennium, but give the Department additional guidance with respect to developing the 2007-09 credential fee schedule as part of the agency's 2007-09 biennial budget request.

23. Under such an alternative, the Committee could include one or more of the following directives to guide the Department:

- Direct the Department to utilize the two most recent complete years of timekeeping data to develop initial and renewal credential fees for the 2007-09 biennium.
- Direct the Department thereafter to utilize the four most recent complete years of timekeeping data to develop initial and renewal credential fees for the 2009-11 biennium and beyond. [The consultant had recommended using a longer timeframe of four years to smooth out the impact of short-term increases in enforcement or other regulatory actions affecting specific occupations.]
- Direct the Department to ensure that an occupation's proposed initial credential fee is never more than the proposed renewal fee for the occupation. [The consultant's study prepared during the 2003-05 budget deliberations found that in some professions, low enforcement costs coupled with relatively few first-time licensees during a biennium had the effect of generating an initial credential fee amount that exceeded the amount of the computed renewal fee. This directive

would make an adjustment to reduce the fee for new licenses to the lesser of the new or the renewal fee based on the computed cost allocation. If the fee for the new license is reduced, the renewal fee for the license would be increased to compensate for the lost revenue. This type modification has also been recommended by several of the examining boards.]

ALTERNATIVES

[The Committee may adopt one or more of the following directives to guide the Department of Regulation and Licensing in developing a revised initial and renewal credential fee schedule for the regulated professions, first effective for the 2007-09 biennium.]

1. Direct the Department to utilize the two most recent complete years of timekeeping data to develop initial and renewal credential fees for the 2007-09 biennium.
2. Direct the Department thereafter to utilize the four most recent complete years of timekeeping data to develop initial and renewal credential fees for the 2009-11 biennium and beyond.
3. Direct the Department to ensure that an occupation's proposed initial credential fee is never more than the proposed renewal fee for the occupation.

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