Legislative Fiscal Bureau
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Lapse of Surplus Fee Revenues (Insurance)

[LFB 2011-13 Budget Summary: Page 261, #2]

CURRENT LAW

The Office of the Commissioner of Insurance (OCI) is the state agency charged with regulation and oversight of the insurance industry. OCI activities include ensuring that insurance policies meet requirements in state law, examining and monitoring the financial status of insurers, licensing agents and insurers, and providing insurance information to the public. To fund its operations, OCI collects fees for its licensing, examination, and other activities. State statutes and administrative rules specify what fees OCI may charge and the levels of those fees. Ninety percent of OCI fee revenues are credited to the agency's PR-funded general program operations appropriation and the remaining 10% is deposited into the general fund as GPR-Earned.

OCI also administers three segregated insurance funds -- the injured patients and families compensation fund, the state life insurance fund, and the local government insurance fund. The operations and payments of these funds are supported with SEG paid by participants in those funds, rather than by PR revenue generated by OCI's regulatory activities.

GOVERNOR

Require OCI to lapse to the general fund at the end of each fiscal year any unencumbered PR balance in the office's general program operations appropriation that exceeds 10 percent of the expenditures from that appropriation.

DISCUSSION POINTS

1. OCI charges fees for licenses, examinations, and other activities related to the regulation of the insurance industry. The bill would require any unencumbered PR balance at the end of each fiscal year in OCI's general program operations appropriation that exceeds 10 percent of

the expenditures from that appropriation to lapse to the general fund. The segregated insurance funds administered by OCI are supported with SEG paid by participants in those funds, and would not be subject to this lapse.

2. 2009 Act 28 (the 2009-11 biennial budget) increased fees charged for the appointment or the renewal of an appointment of an insurance agent from $7 to $16 for resident agents, and from $24 to $50 for non-resident agents, and established these fees in statute. The previous fees for these appointments were specified in rule.

3. Act 28 also required OCI to lapse to the general fund $11,378,100 in 2009-10 and $11,392,200 in 2010-11 from the revenues resulting from these fee increases. In addition to these lapses, OCI made other required lapses of $9,378,500 in 2009-10 and $8,464,700 in 2010-11. Accounting for all lapses and the 10% amount required to be transferred as GPR-Earned, OCI transferred approximately $24.7 million in fee revenue to the general fund in 2009-10, and was expected to transfer approximately $23.8 million in fee revenue to the general fund in 2010-11.

4. Based on its current fee structure, the agency currently generates significantly more insurance fee revenue annually than the amount the agency requires to support its ongoing general program operations. Under the Governor's budget, OCI's PR-funded general program operations budget would be approximately $16.7 million PR annually, while the agency is expected to collect approximately $39.1 million in fee revenue annually.

5. The Department of Administration (DOA) estimated that OCI would lapse $19,000,000 in 2011-12 and $18,500,000 in 2012-13 in surplus revenue as a result of the change in the change proposed under this item. However, this amount does not reflect another provision in the bill that would require OCI to lapse an additional $1,466,500 annually from fee revenue to the general fund (See LFB Summary of Governor's Budget, Page 75, #3 and Page 76, #4). Since this lapse was accounted for elsewhere in the Governor's budget, the amount of surplus revenue that would be lapsed annually under this item was overstated by that double-counted amount of $1.4 million.

6. Under the bill, any unencumbered revenues in OCI's PR general program operations appropriation that exceed 10% of the expenditures in that appropriation would lapse to the general fund at the end of the fiscal year. However, the GPR-Earned estimates under the Governor's bill did not originally bring the closing balance in the OCI general program operations appropriation to 10% of expenditures. Under the bill and the administration's requested modification to funding budgeted for the Medigap Helpline identified as part of the DOA Secretary's March 31, 2011 letter to the Committee's Co-Chairs, 10 percent of OCI expenditures would equal approximately $1,739,300 in 2011-12 and $1,721,800 in 2012-13.

7. On April 8, 2011, DOA informed OCI that it would be required to lapse an additional $1,625,400 in 2010-11. This action will reduce the opening PR balance in 2011-12 to $512,400. As this change will reduce the 2011-12 closing balance, it will also reduce the amount of surplus revenue that OCI would be able to lapse in that year by a corresponding amount.

8. The Committee could adopt the Governor's recommended statutory change relating

to fee revenue (Alternative #1). If this provision were adopted, any future change to OCI expenditures or fee levels would have a direct effect on the general fund. Specifically, any increase in OCI expenditure would decrease revenue to the general fund, while any increase in OCI fees would increase revenue to the general fund. Based on current general fund commitments and previous actions by the administration and the Legislature to use insurance fee revenue to generate revenue for the general fund, the Committee could adopt the Governor's proposal. It could also be argued that individuals and businesses that pay OCI fees benefit, to some degree, from GPR-funded state programs.

9. Under Alternative #1, the revised total amount estimated to be lapsed is $15,867,000 in 2011-12, and $17,286,600 in 2012-13, which is $3,133,000 less in 2011-12 and $1,213,400 less in 2012-13 than the administration's estimates ($19,000,000 in 2011-12 and $18,500,000 in 2012-13). This updated estimate reflects the following changes: (a) correcting for the double-counted $1.4 million in lapses that are reflected in another section of the bill; (b) bringing the annual closing balance fully down to 10% of expenditures; (c) reducing the opening 2011-12 balance to reflect the $1.6 million in additional 2010-11 OCI lapse; and (d) updating OCI expenditure authority under the assumption that the Committee would adopt the modification to Medigap helpline funding requested by the administration. The attachment to this paper provides the projected OCI revenues, expenditures, and lapses for each year of the 2011-13 biennium under this alternative.

10. If the Committee adopts the Governor's recommendation, it could also delete the specified lapses in the bill and the current law requirement that OCI lapse 10% of all fee revenue to the general fund (Alternative #2). This would not have any additional fiscal effect compared to Alternative #1, since all unexpended OCI revenues would be transferred to the general fund at the end of the fiscal year. OCI indicates that this change would reduce the administrative burden by requiring one large year-end lapse, rather than a continuous 10% transfer in addition to a year-end lapse of all surplus revenue.

11. An argument could be made that the fees collected by OCI should be used for the purpose of funding that agency, rather than as a permanent source of revenue to the general fund. The bill would maintain fees at levels that exceeds OCI expenditures, with most of the surplus funds transferred to the general fund. It could also be argued that, even if specified one-time lapses of insurance fee revenue have been authorized in the past to increase revenue to the general fund, ongoing future transfers of this revenue may neither be necessary or desirable.

12. If the Committee wants to maintain the proposal to lapse surplus revenue, but alter the fees to more closely reflect the amount budgeted for OCI operations, it could return the fees for agent appointment and renewal of agent appointments to the level that existed prior to 2009 Act 28, while maintaining the requirement to lapse any surplus revenues (Alternative #3). This alternative would reduce estimated appointment and renewal fee revenue by approximately 55%, and would reduce the total amount lapsed under this provision by an estimated $17,714,200 in 2011-12 and $15,794,600 in 2012-13.

13. The Committee could decide to delete the Governor’s recommendations to lapse surplus revenues and return the agent appointment fees to the level that existed prior to Act 28 (Alternative #4). However, this would create an unexpended fee revenue balance in OCI in each

year, and reduce the amount transferred to the general fund by $20,458,120 in 2011-12 and by $19,958,120 in 2012-13, compared to what was originally projected under the Governor's bill.

14. Alternatively, the Committee could amend the bill to gradually reduce agent appointment fees over the next two biennia to the levels that existed prior to Act 28 (Alternative #5). Under this alternative, the appointment fees set in statute for resident agents would equal $16 in 2011-12 (the current level), $13 in 2012-13, $10 in 2013-14, and $7 in 2014-15 (the pre-Act 28 level). The appointment fees set in statute for non-resident agents would equal $50 in 2011-12 (the current level), $41 in 2012-13, $32 in 2013-14, and $24 in 2014-15 (the pre-Act 28 level). Table 1 shows these fees and the projected decrease in revenues to the general fund in each of the next four fiscal years under this alternative, compared to Alternative #1.

TABLE 1

Agent Appointment Fee Levels and OCI Revenue Reduction
2011-13 and 2013-15 Biennia

	2011-12	2012-13	2013-14	2015-16
Fee for Resident Agents	$16.00	$13.00	$10.00	$7.00
Fee for Nonresident Agents	$50.00	$41.00	$32.00	$24.00
Estimated Reduction to OCI Revenue, Compared to Alternative 1 ($ in millions)	$0.00	-$4.77	-$9.77	-$14.79

15. If the Committee agrees with the Governor's recommendation to maintain OCI revenues at a level above the OCI operations budget and transfer the balance to the general fund, it could increase the general fund effect of this lapse by increasing the OCI fees. Since fees are currently set at levels that would generate revenues in excess the 10% minimum balance threshold, any OCI fee increase would directly benefit the general fund. One option would be an increase to the agent appointment and renewal fees that were increased in the 2009-11 biennial budget (Alternative #6). If appointment and renewal fees were set at $18 for resident agents (an increase of $2), and $55 for nonresident agents (an increase of $5), this would represent approximately a 10% increase to these fees. This alternative would reduce GPR-Earned by $481,900 in 2012-13, and increase GPR-Earned by $1,437,700 in 2012-13, compared to the original administration estimates.

16. Table 2 provides the total biennial lapse amount for each alternative, and the difference to the administration's original estimates under the bill. The lapse amount is broken out by the amount that would come from the surplus lapse under this item, the specified lapse under the bill, and the 10% fee lapse under current law.

TABLE 2

2011-13 GPR-Earned Estimates under Alternatives
($ in Millions)

	Original Estimates
Surplus Lapse	$37.50
Specified Lapse	2.93
10% GPR-Earned	7.92
Total GPR-Earned	48.36

	Alternative 1	Alternative 2	Alternative 3	Alternative 4	Alternative 5	Alternative 6
Surplus Lapse	$33.15	$44.01	$6.91	$0.00	$28.86	$37.93
Specified Lapse	2.93	0.00	2.93	2.93	2.93	2.93
10% GPR-Earned	7.92	0.00	5.01	5.01	7.45	8.45
Total GPR-Earned	$44.01	$44.01	$14.85	$7.94	$39.24	$49.31
Difference from Original Estimates	-4.35	-4.35	-33.51	-40.42	-9.12	0.96

ALTERNATIVES

1. Approve the Governor's recommendations. Reduce estimates of GPR-Earned by $3,133,000 in 2011-12, and by $1,213,400 in 2012-13 to reflect reestimates of the amount that would be available for deposit to the general fund.

ALT 1	Change to Bill Revenue
GPR	- $4,346,400

2. Approve the Governor's recommendations. In addition, delete the specified lapses for OCI under in the budget bill, and the 10% required transfer as GPR-Earned in current law. Reduce estimates of GPR-Earned by $3,133,000 in 2011-12, and by $1,213,400 in 2012-13 to reflect reestimates of the amount that would be available for deposit to the general fund.

ALT 2	Change to Bill Revenue
GPR	- $4,346,400

3. Approve the Governor's recommendations. Reduce agent appointment and renewal fees to pre-Act 28 levels ($7 for resident agents and $24 for non-resident agents), beginning on the effective date of the bill. Reduce estimates of GPR-Earned by $17,714,200 in 2011-12 and $15,794,600 in 2012-13.

ALT 3	**Change to Bill** Revenue
GPR	- $33,508,800

4. Delete provision. Reduce agent appointment and renewal fees to pre-Act 28 level ($7 for resident agents and $24 for non-resident agents), beginning on the effective date of the bill. Reduce estimates of GPR-Earned by $20,458,100 in 2011-12 and $19,958,100 in 2012-13.

ALT 4	**Change to Bill** Revenue
GPR	- $40,416,200

5. Approve the Governor's recommendations. Reduce agent appointment fees for resident agents to $13 in 2012-13, $10 in 2013-14, and $7 in 2014-15, and the appointment fees for non-resident agents to $41 in 2012-13, $32 in 2013-14, and $24 in 2014-15. Reduce estimates of GPR-Earned by $3,133,000 in 2011-12 and $5,985,400 in 2012-13

ALT 5	**Change to Bill** Revenue
GPR	- $9,118,400

6. Approve the Governor's recommendations. In addition, increase fees for agent appointment and renewals to $18 for resident agents and $55 for nonresident agents, beginning on the effective date of the bill. Reduce estimates of GPR-Earned by $481,900 in 2011-12, and increase estimates of GPR-Earned by $1,437,700 in 2012-13.

ALT 6	**Change to Bill** Revenue
GPR	$955,800

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Attachment

ATTACHMENT

OCI Revenues, Expenditures and Lapses under Alternative #1

	2011-12	2012-13
Opening Balance	$512,400	$1,739,300
Revenues	$39,915,100	$39,915,100
Expenditures	$17,393,300	$17,218,100
Lapses/Transfers to General Fund		
10% of Fee Revenue (Current Law)	$3,961,500	$3,961,500
Specified Lapse (Under the Bill)	$1,466,500	$1,466,500
Closing Balance Prior to Surplus Lapse	$17,606,300	$19,008,400
Surplus Lapse	**$15,867,000**	**$17,286,600**
Closing Balance after Surplus Lapse	$1,739,300	$1,721,800