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Program Revenue Retention
(Safety and Professional Services -- Regulation of Professions)

[LFB 2023-25 Budget Summary: Page 556, #6]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) is required by statute to transfer 10% of revenues from health and business professions credentialing fees and certain proprietary schools regulation (educational approval program) fees to the general fund. Before the creation of DSPS, a similar provision was established for what is now the Medical Examining Board, under the state budget act of 1967. Through the creation of the state's various examining boards under the prior Department of Regulation and Licensing, the same 10% transfer has been applied to other licensing fee revenues. Since 2013-14, an average of $2.1 million annually has been transferred to the general fund under the provision.

DISCUSSION POINTS

1. Several agencies, including the Department of Financial Institutions (DFI), the Office of Commissioner of Insurance (OCI), the Public Service Commission (PSC), and the Secretary of State, are required to contribute a portion of certain annual fee and other revenues to the general fund. In some cases (including DSPS), the transfer is equal to 10% of any revenues subject to the requirement. In other cases, the required transfer exceeds 10%. The amount of agency contributions varies significantly, however; DFI and OCI transfers are estimated at $84.5 million and $31.5 million in 2022-23, respectively, while PSC and the Secretary of State would transfer $1.8 million and $119,000, respectively.

2. A requirement to transfer fee revenues to the general fund has several effects. For agencies primarily or exclusively funded by program revenues, the transfer has the effect of contributing to state general-fund expenditures that benefit both agency operations and the general public. The transfers also could be viewed as reducing the ability of agencies to accumulate revenues provided by law in reserve amounts that would far exceed the needs of the agency's program costs.

3. Assembly Bill 43/Senate Bill 70 would eliminate the statutory requirement that DSPS transfer 10% of revenues from health and business credentialing fees and educational approval fees to the general fund. The Administration estimates that $1,771,800 annually would be retained as program revenues under DSPS' health and business program, rather than be transferred to the general fund. The bill would increase the DSPS general operations appropriation for health and business occupational credentialing by the same amount. Educational approval fees retained would be an estimated $45,000, but the bill contains no additional expenditure authority on this basis.

4. The following table shows the amount that DSPS has transferred to the state's general fund over the past nine years, from 2013-14 through 2021-22. Transfers in the first two columns represent amounts assigned by the Department of Administration (DOA) to meet statewide general fund transfer requirements in past budget legislation. These transfers ended in 2016-17. Two other columns show the ongoing statutory requirement that 10% of the credential fee revenue DSPS collects for the health and business professions, and for proprietary schools regulation, be transferred to the general fund ("GPR Earned"). No statutory transfer requirement exists for revenues from DSPS safety and buildings program fees.

Transfers from DSPS to the General Fund

Fiscal Year	From Health and Business Occupations	From Building Trade Occupations	GPR-Earned from Health and Business Occupations	GPR-Earned from Proprietary Schools	Total
2013-14	$4,376,500	$1,855,600	$2,483,700	$0	$8,715,800
2014-15	4,376,500	1,855,600	1,993,500	0	8,225,600
2015-16	4,443,000	1,789,000	2,445,300	0	8,677,300
2016-17	4,443,000	1,789,000	2,213,300	0	8,445,300
2017-18	0	0	2,215,500	0	2,215,500
2018-19	0	0	2,242,800	0	2,242,800
2019-20	0	0	1,862,400	0	1,862,400
2020-21	0	0	1,513,100	0	1,513,100
2021-22	0	0	1,729,500	230,300	1,959,800

5. DSPS reports that if the general fund transfer were eliminated, the Department would use the funds to: (a) improve the credentialing process and other related operations; (b) continue to enhance technology and create resources to improve the user experience for applicants and to further reduce license processing timelines; (c) improve board support and operations to better facilitate board business; (d) add limited-term-employees (LTEs) as needed to handle any seasonal surges in application volume or to add capacity as regular credentialing staff assist with technology development and implementation; and (e) continue to expand free access to the prescription drug monitoring program (PDMP).

6. An argument favoring elimination of the program revenue transfer for health occupations is that DSPS would have greater resources allocable to credentialing and regulatory responsibilities, as described previously. Some may also argue that the amounts transferred by DSPS are not a significant portion of annual general fund revenues, and derive primarily from fees collected to individuals. This differs from fees remitted by DFI, OCI, and PSC, which derive from operations

of regulated businesses and may be more easily absorbable by such entities than by DSPS-regulated individuals. Proprietary schools fees are payable by institutions, but generated from tuition and fees paid by enrollees.

7. Given that the fees paid by license-seekers could be directed back into licensing and credentialing regulation, the Committee could eliminate the statutory requirement that DSPS must transfer 10% of health and business revenues to the general fund, and increase expenditure authority for DSPS health and business general operations by $1,771,800 each year [Alternative 1].

8. The Committee could also repeal the statutory transfers, but not appropriate additional funds by that directly-attributable amount [Alternative 2]. Rather, a repeal of the statutory transfer could support other expenditure authority the Committee may consider under other provisions, such as for the PDMP, agency staffing, or information technology improvements and maintenance.

9. The Committee could also take no action [Alternative 3]. As shown in Paper #680, the health and business regulatory appropriations have substantial available balances, and likely would not require additional revenues during the 2023-25 biennium to fulfill program responsibilities. Proprietary schools fees, most of which are subject to the 10% transfer to the general fund, have been less than expenditures in 2020-21, 2021-22, and 2022-23 to date. However, the account had a July 1, 2022, balance of $867,800, and Chapter SPS 404 of the administrative code (proprietary schools approvals) has a means of DSPS adjusting fees commensurate with costs of program operations.

ALTERNATIVES

1. Eliminate the statutory requirement that DSPS must transfer 10% of revenues from health and business credentialing fees and educational approval fees to the general fund. Provide $1,771,800 annually in expenditure authority to the DSPS program revenue appropriation for health and business regulation general operations.

ALT 1	Change to Base
PR	$3,543,600
GPR-REV	- $3,543,600
PR-REV	$3,543,600

2. Eliminate the statutory requirement that DSPS must transfer 10% of revenues from health and business credentialing fees and educational approval fees to the general fund. (Amounts would be retained as program revenues, but would not be authorized for expenditure.)

ALT 2	Change to Base
GPR-REV	- $3,543,600
PR-REV	$3,543,600

3. Take no action.

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