

Appendix B

Study Plan for Senate Bill No. 390 - A study of how the Department of Labor and Industry determines fees for its services to licensing boards

Between 2011 and 2014, the Economic Affairs Interim Committee reviewed licensing boards under a directive from HB 525 in the 2011 session. The review included an overview of each board, its functions, its licensing fees, the number of licensees, the number of complaints, and the costs. In addition, the 2011-2012 EAIC authorized a survey to determine licensee and public attitudes toward the licensing boards. The survey provided an opportunity for comment on the boards. In the 2011-2012 interim the Committee heard from members of each of the licensing boards and also provided an opportunity for public comment on the boards before voting as to whether the board ought to be retained or not. All boards were retained.

What the survey and reviews indicated were general satisfaction with the role of the licensing boards but some concern over the budget and costs of licensing fees. The study required under SB 390 is intended to provide a more in-depth look at how those budgets and fees are set. SB 390 listed the following required examinations but allowed additional areas of study:

- look at fees incurred, calculated, or charged by the Department of Labor and Industry that are:
 - (i) associated with licensing individuals, including initial licensing, reciprocity, and renewal;
 - (ii) related to compliance, including inspections and audits; and
 - (iii) related to any legal or enforcement actions;
- compile costs by the department that are:
 - (i) direct and indirect costs;
 - (ii) standardized administrative service costs for license verification, duplicate licenses, late penalty renewals, license lists, and other administrative service costs;
 - (iii) administrative service costs not related to a specific board or program; and
 - (iv) legal costs;
- look at how DLI determines whether fees for administrative services are commensurate with the costs of the services provided, including whether boards have to pay indirect costs for a portion of administrative services regardless of whether the boards benefit from those services; and
- determine whether the services provided add value to the work of the boards and contribute to public safety.

Preliminary study approach:

The preliminary study document would include:

- a history of how the Department of Labor and Industry has developed its current "fees commensurate with costs" structure with information on how the Department of Labor and Industry plans to implement charges under the expanded list of components in SB 79 (for example 37-1-134 prior to revisions enacted in SB 79 said the department was to set board fees "commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits". The SB 79 approach is for fees "that provide the amount of money usually needed for the operation of the board for services, including but not limited to..." the activities above but also investigations and discipline, a much broader approach that is intended to help with audit compliance and more closely match what board operations entail.
- examples based on past materials delivered to the EAIC on board costs and comments to fee increases from various boards. These comments include 7-pages of comments to a recent fee increase for the Board of Sanitarians.
- questions to Committee members to determine what additional information they want regarding costs of boards. For example, the Committee has two main options for looking at fee setting. One is to determine if the Department is more generous with what is assessed for indirect costs (using overall Department staffing as a factor) than are other Departments with administratively attached boards. This would be a top-down determination of a budget rather than a bottom-up approach,

Board of Sanitarians Comparative Budget for conference call v. face-to-face meeting			
	amount	cost	notes
Staff meeting	8 hours/134	1072	estimate based on agenda items suggested from previous meeting rate includes EO Attorney and Administrativr Specalist
Staff preperation	10 hours/134	1340	estimate based on agenda items suggested from previous meeting rate includes EO Attorney and Administrative Specialist
member per diem	4/50.	200	
Travel	1684/.56	943.04	
hotel	3/83.	249	
meals	3/17. + 3/12	87	
communications	1/11.02+.0844/min	11.02	
lunch	8/10.	80	
Total		3982.06	

which would consider only actual operational costs and then take a proportion of that amount for indirect costs. Some board members and licensees have complained that they have little room to cut budgets and cannot determine the number of hours an attorney or other specialist spends on a task (see the example budget provided to the Board of Sanitarians, above, comparing the cost of a meeting by conference call versus face to face. The example shows the staff meeting and preparation both requiring the executive officer, an attorney, and an administrative specialist at a rate of \$134 an hour).

- a review of materials provided to the Appropriations/Senate Finance and Claims Committees to determine how much detail these committees receive during the budgeting process and, if possible, see whether board and department roles are separated out. This helps determine department flexibility to move appropriation authority.
- a look at how often appropriation authority is transferred among boards, for what purposes, how authorized, and whether boards have been detrimentally affected; and
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- a review of Audit Committee financial reports related to licensing boards.

The study would include discussions with Department of Labor and Industry budgeting personnel, the administrator of the Business Standards Division, and any board members who wish to meet (in person or via teleconference) with the EAIC related to their budget process.

The study also would include:

- a comparison with other Montana agencies that staff similar administratively attached boards or councils to determine whether costs are equivalent. In particular, the comparison would include a review of how the Department of Justice assesses costs for attorneys in comparison with how the Department of Labor and Industry does the same assessments.
- sample costs from other states' licensing boards to provide a regional perspective on how licensing costs are determined for similar activities.

Deliverables:

A final product would:

- show the rationale used by the Department of Labor and Industry to determine direct and indirect costs for licensing boards;

- provide a budget analysis of indirect costs assessed by the Department of Labor and Industry to licensing boards and to its other units to determine revisions, if any, over time;
- provide a perspective on Montana cost assessments in comparison with other state licensing boards in the region;
- if legislators determine a need, recommend ways to increase transparency for the boards and licensees regarding their budgets; and
- draft legislation, if any is needed, to clarify how direct and indirect costs are to be developed, whether contingency authority is appropriate for a board individually or for the department, and whether the concept of administratively attached agencies needs to be refined in general.