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BILL ANALYSIS

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Senate Fiscal Agency

Lansing, Michigan 48909

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House Bill 4820 (Substitute H-2 as reported with amendments)

House Bill 4821 (Substitute H-2 as reported with amendments)

House Bill 4822 (Substitute H-2 as reported with amendment)

Sponsor: Representative Michael J. Griffin

First House Committee: State Affairs (House Bills 4820 & 4822)

Public Health (House Bill 4821)

Second House Committee: Appropriations

Senate Committee: Health Policy

Mich. State Law Library

Date Completed: 6-27-88

RATIONALE

The Department of Licensing and Regulation has recently obtained new data processing equipment that will enable it to computerize its records and procedures more fully. Reportedly, however, the lack of uniform terminology and deadlines in the applicable laws hampers the efficient use of the new system. The Department also claims that the Occupational Code is made unnecessarily cumbersome by the recurrence in each occupation's article of fee payment and renewal requirements that could be established by more generalized language that applied to all occupations. Finally, fee structures have been criticized for failing to be sufficiently detailed and itemized, for failing to reflect departmental costs adequately, especially with regard to examinations, and for failing to mention fees imposed under the State License Fee Act (whose enabling legislation is the Occupational Code). Thus, some have suggested legislation to revise occupational fee structures, standardize terminology, and consolidate various fee payment, examination, and renewal provisions into language that would apply generally to all occupations.

CONTENT

House Bill 4820 (H-2) would amend the State License Fee Act to institute new fee structures; specify fees for renewal licenses, duplicates, license verification, and changing records; and increase the amount of the real estate license fee that is credited to the real estate education fund.

House Bill 4821 (H-2) would amend the Public Health Code to revise provisions applicable to the licensure of health care professionals, including license renewal and reinstatement, and services provided under a contract with the Department; to establish a new fee structure; and to specify a two-year completion deadline for licensure requirements.

House Bill 4822 (H-2) would amend the Occupational Code to institute generalized fee, examination, and licensure provisions; provide that licensure and registration fees would be as specified in the State License Fee Act, and set a one-year completion requirement.

The bills would take effect on March 1, 1989. A detailed description follows.

House Bill 4820 (H-2)

The bill would amend the State License Fee Act to:

- Institute new fee structures—such as application processing fees, annual license fees, and examination fees—that would replace current fee structures for occupations covered under the Act.
- Require the Department of Licensing and Regulation to charge a \$20 late renewal fee if a person failed to renew a license or registration on or before the expiration date prescribed by the Department by rule.
- Increase from \$5 to \$10 the fee for a duplicate license or registration.
- Permit the Department to charge a \$5 fee for providing written verification that a person was or was not licensed or registered at the time of the verification request. If the person requesting written verification sought specific detailed information beyond the information described in the bill, the charge for verification would be \$15.
- Allow the Department to charge a \$10 fee for correcting its records and issuing a new document when a person notified the Department of a change of name, address, or employer. If the change did not require the issuance of a new document, no charge could be made.
- Increase from \$3 to \$5 the amount of each real estate license fee that is deposited with the State Treasurer to the credit of the real estate education fund.
- Add fees for a person licensed or seeking licensure to engage in the practice of counseling, and for a person registered or seeking registration as a certified occupational therapist or therapist assistant.
- Repeal the current provision on fees for land sales (MCL 338.2235), and prohibit a fee from being charged for the registration of property approved under the Land Sales Act.

(Occupations covered in the Act include: public accountant; architect; professional engineer; landscape architect; barber; marriage counselor; collection agency manager; professional community planner; cosmetologist; manicurist; electrologist; employment agency operator; forester; hearing aid dealer or salesperson; horologist (maker of or dealer in timepieces); real estate broker, associate broker, or salesperson; residential builder or maintenance and alteration contractor or salesperson; myomassologist (masseuse); mortician, embalmer, or funeral director; social worker; nursing home administrator; professional

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boxer or wrestler; a person involved in the manufacture, distribution, prescribing or dispensing of controlled substances under Part 73 of the Public Health Code; chiropractor; dentist, dental assistant, or dental hygienist; physician; registered or licensed practical nurse; optometrist; ocularist; osteopathic physician; pharmacist; physical therapist; physician assistant; podiatrist; psychologist; registered sanitarian; and, veterinarian.)

MCL 338.2203 et al.

House Bill 4821 (H-2)

The bill would amend the Public Health Code to make various changes in the licensing provisions applicable to health care professionals, including:

- Specifying that failure of a licensee or registrant to receive notice of license or registration renewal from the Department of Licensing and Regulation would not relieve the licensee or registrant of responsibility for renewal.
- Requiring a person who sought "reinstatement" or reclassification of a license or registration to pay the application processing fee as a reinstatement or reclassification fee. If approved, the person would have to pay the yearly license or registration fee for the applicable license or registration period. "Reinstatement" would mean the granting of a license or certificate of registration, with or without limitations or conditions, to a person whose license or certificate of registration had been suspended or revoked.
- Specifying that the bill would not prohibit a person who had a contract with the Department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.
- Providing that if the Department terminated a contract with a person who had been administering a licensing or registration examination to applicants in a specific profession, and the Department began to administer the examination, the Department could not charge an applicant a fee that was greater than the fee charged under the contract, unless the examination fee for that profession was increased under the State License Fee Act.
- Instituting a new fee structure that would provide for nonrefundable application processing fees, examination fees, and renewal fees.
- Establishing procedures for persons who had to take an examination or be re-examined.
- Requiring that fees be prescribed on a per-year basis. If licenses and registrations were established on a biennial or triennial basis, the fee would have to be two or three times the per-year amount, respectively.
- Requiring that all requirements for licensure or registration be completed within two years after the Department received the application. If the requirements were not completed within two years, the fees would have to be forfeited to the Department and the application would be void. A person whose application was void would have to submit a new application and fees and would have to meet the standards in effect on the date of receipt of the new application.
- Prohibiting a physician's assistant for a medical doctor from applying for reinstatement of a revoked license before three years, instead of one year, after the revocation.
- Requiring the name of the physician's assistant for an osteopathic doctor, as well as the name of the supervising physician, to appear on prescription forms when the prescription of drugs was delegated to a physician's assistant.
- Repealing a provision under which a person who does not pay a fee is subject to a delinquent charge.

The bill is tie-barred to House Bill 4820.

MCL 333.16108 et al.

House Bill 4822 (H-2)

The bill would amend the Occupational Code to do the following:

- Replace occupation-specific requirements for fees, examinations, and licensure, with generalized provisions that would apply to all occupations regulated by the Code.
- Provide that the specific amounts to be charged for licenses, registrations, and other activities provided for in the Code would be as prescribed in the State License Fee Act.
- Strike and repeal repetitive references to the State License Fee Act and provisions that would be subsumed under the bill's general provisions.

Licensure/Registration

Under the bill, an application for a license or registration would have to be accompanied by a nonrefundable application processing fee and, if required by the Department of Licensing and Regulation, the fee for a required examination or inspection or for the initial license or registration period. The bill also would require the payment of examination fees and license or registration fees. License and registration fees would have to be prescribed on a pre-year basis, although licenses or registrations established by the Department as biennial renewals would have to be twice the per-year amount.

As a rule, all requirements for licensure or registration would have to be completed by the applicant within one year after the Department received the application or mailed a notice of an incomplete application to the applicant. If the requirements were not completed, the fees paid would be forfeited to the Department and the application would be void. A person whose application was void would have to submit a new application and fees and meet the standards in effect on the date of receiving the new application. (Architects, engineers, surveyors, landscape architects, and community planners would have 10 years to complete application requirements.)

Renewal/Reinstatement

The bill specifies that it would be the responsibility of the licensee or registrant to renew a license or registration. Generally, a person who failed to renew a license or registration on or before the expiration date could not practice the occupation, operate, or use the title after that date. A person who failed to renew a license or registration by the expiration date could renew by paying the required license or registration fee and a late renewal fee within 60 days after the expiration. Except as otherwise provided in the Code, a person who failed to renew a license or registration within the 60 days could be relicensed or reregistered without examination and without meeting additional educational or training requirements in force at the time of application if all of the following were met:

- The person applied within three years after the expiration.
- The person paid an application processing fee, the late renewal fee, and the per-year license or registration fee for the upcoming licensure or registration period.
- Penalties and conditions imposed by disciplinary action in this State or another jurisdiction had been satisfied.
- The person submitted proof of having completed the equivalent of one year of continuing education within the previous 12 months, if continuing education were required under a specific article of the Code.

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As a rule, relicensure or reregistration after three or more years past the expiration date would be subject to board-promulgated rules that could require a person to pass all or part of an examination, to complete continuing education requirements, or to meet current educational or training requirements. A person who sought reinstatement would have to file a petition with the Department and the appropriate board stating reasons for reinstatement and including evidence that the person was able and likely to serve the public in the regulated activity competently and in conformity with all other requirements prescribed by law, rule, or an order of the Department or board.

Contract with Department

The bill specifies that the Code would not prohibit a person who had a contract with the Department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.

If the Department terminated a contract with a person who had been administering a licensing or registration examination to applicants in a specific profession, and the Department itself began to administer the examination, the Department could not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee in that profession was increased under the State License Fee Act.

MCL 339.105 et al.

SENATE COMMITTEE ACTION

The Senate Health Policy Committee adopted amendments to all of the bills to add a March 1, 1989, effective date. The Committee also adopted amendments to House Bill 4820 (H-2) to add fees for a person licensed or seeking licensure in the practice of counseling, and for a person registered or seeking registration as a certified occupational therapist or therapist assistant. In addition, the Committee adopted amendments to House Bill 4821 (H-2) to delete an application processing fee for a license or registration renewal, but to require an application processing fee for renewal of an expired license or registration.

FISCAL IMPACT

House Bills 4820 & 4822

House Bill 4820 (which would amend the State License Fee Act) and House Bill 4822 (which would amend the Occupational Code) together would have a fiscal impact on State government of \$847,000 in additional fee revenues on an average, annualized basis, and \$292,000 in additional annual expenses for a net fiscal impact of \$555,000 in increased funds annually. The bills would have no fiscal impact on local government.

The increased annualized fee revenues would be detailed as follows:

Bureau of Health Services and Commercial	
Services change in fee structure	\$400,000
Real estate education fund - increase in fee	165,000
Licensing of professional counselors - new	150,000
Licensing of occupational therapists - new	<u>132,000</u>
Total increased annualized fee revenue	\$847,000

The increased annual expenses would be detailed as follows:

Licensing of professional counselors - new	\$153,000
Licensing of occupational therapists - new	<u>139,000</u>
Total increased annual expenses	\$292,000

House Bill 4821

The bill would have an indeterminate fiscal impact on State government and no fiscal impact on local government. The bill would provide for a nonrefundable application processing fee which would be separate from the license or registration fee. Currently, if an applicant decides not to complete the licensing process, the Department of Licensing and Regulation withholds the portion of the license or registration fee that would cover the processing expense. The nonrefundable fee that would be established in this bill would be approximately the same amount that would be withheld under the current method. Therefore, the fiscal impact on the State would be minimal, but the exact fiscal impact cannot be determined.

ARGUMENTS

Supporting Argument

The bills would update and streamline the licensing laws for occupations and professions. By separating fees into their component parts, the bills would permit the Department of Licensing and Registration to charge fees that were specific to the matter at hand. This would improve accountability, facilitate refunds, and better link fees with costs. New provisions for examination fees would enable the Department to recoup costs in this area, where revenues presently lag behind costs. Generalized provisions for fee payment, renewals, and other matters would enable the Legislature to make changes in fees or procedures without having to amend each occupation's specific article. Standardized terminology and uniform provisions would help the Department to make more efficient use of new, programmable, high-speed processing equipment, as well as make the laws more comprehensible.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.