Montana Environmental Health Association

November 6, 2015

Montana Environmental Health Association
P.O. Box 741
Helena, MT 59624

Economic Affairs Interim Committee
Montana Legislative Services Division
P. O. Box 201706
Helena, MT 59620

RE: SB 390 – Interim Study of Department of Labor and Industry Fees

Dear Economic Affairs Interim Committee:

This correspondence is to inform you that the Montana Environmental Health Association (MEHA) has several areas of concern related to the interim study of fees and licensing Boards. MEHA is an organization of public health professionals including Registered Sanitarians, environmental consultants and other health professionals dedicated to protecting our environment and public health. The organization is responsible for licensure and/or permitting of Montana's licensed food establishments, water systems, wastewater systems and public accommodations. The organization is also responsible for air quality programs and subdivision review programs.

The main concern of the association are the ever-increasing cost of fees, how professional licensing fees are established and are assigned to licensing boards, and whether a more fair and equitable system can be implemented for all licensed professions.

Registered sanitarians are a part of Montana's public health system and under state law must be licensed in order to provide ethical and educational standards. Most registered sanitarians work for local government and earn a modest salary. The increasing fees are a financial burden to license holders. The last fee increase of $90.00 raised the licensing fee to $270.00. Currently all of the registered sanitarian license fee is paid by the license holder. Our association's understanding is that our group of professionals pays a much greater fee for licensure because the number of registered sanitarians is significantly less than the number of professionals in similar groups.

MEHA urges the committee to consider the following questions when examining fees charged by the DLI to licensing boards:

1. Is there any potential for base funding for license fees from the general fund? The services provided to the public are mandated by state law and protect public health and safety. Therefore, our association believes that base funding would be a sound and reasonable approach to address this issue.
2. Is there a possibility of adjusting fee schedules based on the size of the licensure group?
3. Can administrative or legal costs be reduced to lower overall licensure fee to registered sanitarians?

Thank you for your work on the interim study. MEHA looks forward to hearing your response to the above listed questions.

Sincerely,

Christine Hughes

Christine Hughes
MEHA Legislative Committee Co-Chair

ECONOMIC AFFAIRS INTERIM COMMITTEE 2015-16

December 1-2, 2015 Exhibit 8

11/5/15

Economic Affairs Interim Committee members:

RE SB390

For 24 years, I have attended all but one Board of Outfitter's meetings, either while serving three terms as member of the board or as an association representative. Based on this experience, I believe the board members struggle with the board's budgeting process for two main reasons:

1) For board members, even those public and outfitter members with accounting careers, budget presentations based previously on SBSS and now SABRES were confusing at best and completely bewildering at worst. The presentations have varied in style and accuracy, and explanations have been either tersely uncommunicative or overly detailed, relying on buzzwords and budget terms unfamiliar to board members.

2) Budget determinations have been, in large, presented as "done deals" with little or no interaction between board members and the Business Services Division (BSD). As noted in the background information for the SB390 Study of Fees for Licensing Boards, page 4, "Commensurate with Costs" section,

"SB 79, effective July 1, 2015, removes the term "fees commensurate with costs" and redefines the criteria under which fees are charged. The change addressed an audit contention in the past, *but does not necessarily resolve a complaint from boards that contend "costs" ought to be commensurate with "fees", which is to say that some board members have suggested that costs ought to be cut so that licensing fees do not have to be raised. This push-pull budgeting responsibility has rankled many administratively attached boards (particularly small ones) for a long time. The department, which is not paying the fees, set the costs for those who are. Setting the budget always has been considered the department's joint responsibility with boards.* Submitting the boards' budgets to the governor's office is one of the tasks under 2-15- 121, MCA, which describes departmental interfaces with administratively attached agencies. *The boards say that those paying the fees have little ability to control the department's costs.*"

I have wondered how interim committees would feel if, say, the legislative services division decided unilaterally to purchase expensive equipment, software, or document-handling systems to "improve efficiency" for interim committee legislators, and the committee members had to pay for these improvements. A crude analogy, yes, but one that mirrors a board's relationship with budgeting. A more basic view is that a board does not get a budget to consider; they get a bill they must pay.

Comments

I anticipate the interim committee's review of indirect costs assessment, specifically the methods used by the BSD to distribute indirect costs on individual boards. In a recent BSD request for board comment on your proceedings, an explanation noted that:

"The Department assesses charges to the boards in primarily two ways:

1) Any hours or charges that can be specifically attributed to a specific board are directly charged to that board,
2) Other hours or charges are distributed to all boards on a percentage basis, based on the level of effort to provide services during the preceding quarter (measured by calculating each board's share of direct-billed hours)."

Why use the previous quarter to gauge indirect costs? **If directs can be calculated monthly, perhaps indirect costs could be, too.** I assume the department uses a quarter's worth of direct charges to create an average per month percentage for the quarter, evening out month-to-month variations, but month-to-month assessments of both cost categories may help board members understand budget explanations at this board's quarterly meetings, if only by reviewing current monthly numbers that reflect actual real-time monthly direct and indirect expenses.

As you may understand from my layperson's basic accounting suggestion above, my budget expertise is limited to common sense based on long-time business accounting that keeps my fishing outfitting business afloat (no pun intended). But, I'm willing to learn in order to serve as an effective board member.

Consequently, **I ask that the committee consider, as noted on page 21 of your 2015-2016 draft work plan, bullet point #2, "ways to increase transparency for the board and licensees regarding their budgets."** You may consider two avenues:

1) As noted in my introductory paragraph, board member education in BSD budgeting formulae and budget report review – basically, how budgets are created and training a board member to comprehend the budget reports presented at meetings.

2) Create a council of board members who meet with BSD budgeting personnel periodically to review major administrative adjustments and concomitant expenditures contemplated by the division administrators to help understand:
- why any administrative changes are needed,
- how such changes will aid in board administration, and
- what short- or long-term savings are anticipated, if any.

As for contingency authority, I agree with the purpose of SB79, to redefine the way a board may approach unexpected expenses - for our board, typically those associated with complaints and disciplinary hearings.

The committee heard testimony suggesting general funds be allocated to offset some professional board expenses when board administration of licensee qualification standards is tied directly to existing statutes intended to protect the public health, safety, and welfare. For the Board of Outfitters, statutes direct hunting outfitters to keep records of hunting districts used, species and gender of big game taken, and designation of public or private land where game was taken, reasoning that Montana's wildlife management is beneficial to Montanans and our nonresident hunting guests, and these specific game records assist in this management. **Perhaps general funds could offset the board and division staff expense of collecting, analyzing, and retaining these data sets, rather than levying these costs on outfitters.**

However, since no general funds are currently allocated to professional boards, legislative oversight is via appropriation, regardless of a board's cash balance. Perhaps, enterprise authority could replace appropriation, with the understanding that legislative oversight should be levied in another appropriate manner to - what's the current word -. "incentivize" indirect cost controls.

I'm encouraged by the suggestion that the committee may draft legislation, *if needed*, to "clarify how direct and indirect costs are to be developed," with the aim of keeping indirect costs at the individual board level as reasonable as possible.

Contingency authority or enterprise funding, or, alternately, accurate and cautious appropriations, along with possible budget transparency improvements coming from this committee's deliberations would help the Board of Outfitter's members handle their duties more effectively without changing current fee levels.

Thank you for the opportunity to comment.

Robin Cunningham
Fishing Outfitter #210
Headwaters Guide Service

To: Pat Murdo
Legislative Services
Staff for the Economic Affairs Committee
pmurdo@mt.gov

November 5, 2015

From: Pat Tabor
Board Member, Montana Board of Outfitters

Re: Board Member Notice - Opportunity to comment to Economic Affairs Interim Committee RE: SB 390 Study

The following comments are in response to a request Board members received October 19, 2015 soliciting comments on charges assessed to licensing Boards/programs by the Department as identified in SB 390. I am forwarding my comments to you for compilation and distribution to the members of the Economic Affairs Interim Committee.

Background

The 2015 Legislature passed SB 390, which directed the Economic Affairs Interim Committee (EAIC) to study the charges applied to Boards by the Department of Labor and Industry.

Comments and Recommendations

Recommendation 1: Consider a reduction in Fees Charged for Licensing Outfitters and Guides
Justification/rationale

1) Administrative costs have been reduced with the passage of HB 274. The 2013 Montana State Legislature passed HB 274 coined the Paperwork Reduction Act. This legislation was supported by a very large majority and enjoyed significant bipartisan support and provided sweeping reforms in reporting requirements and administrates functions for the first time in 30 years. HB 274 materially reduced the reporting, collection, filing and management of non-essential information being required by licensees.

   Key features included in HB274 follow:

   - Reduction of year-end reports required in the form of logs and statistics, and the use of a streamlined reporting system that can be completed and submitted utilizing an on-line form. This will replace previous logs used for the submittal of fishing and hunting clients served, and eliminate the requirement of the submittal of statistic sheets. Eventually, these logs will be fully automated and will be accessible to outfitters to update daily online.
   - Elimination of the approval process of transfer of NCHU between licensees replaced with a simplified one-page form that the Department will process to track holders of NCHU on record.
   - Substantial simplification of both the Outfitter and Guide initial license applications reducing number of pages materially. Additionally, the application process was has been streamlined Department wide as a pathway to fully automated online initial license application processing in the future.

- Materially revamped the Operations Plan Form resulting in fewer pages, and eliminating much of the detail replaced with affidavits. The most significant change will be the completion of a section of the Operations Plan by the licensee indicating the various Land Use Approval Forms (L-1s) and Public Land Permits the licensee both holds and is authorized to use. By shifting the reporting of these elements of the outfitter's operations to the licensee in one specific area of a report, the need to submit individual L-1s and copies of Federal or State public land permits or licenses will no longer be necessary. It should be noted that the outfitter must retain the signed originals of all L-1s and permits/licenses and be prepared to make them available for inspection or audit at any time.
- Revision of the data submitted for private land authorized for hunting/fishing use by indicating areas on Operations Plan using GIS Codes versus Township/Range/Section

The Board and Department believe that these changes will ultimately reduce the administrative burden on outfitter and guide licensees. Additionally, over time this will enable the Department to migrate towards a fully automated online license application and record keeping process. The end result of reducing the amount of physical records submitted, processed by specialists and retained in storage should lead to costs savings in the long run as a means to contain and perhaps reduce costs to the pool of licensees in the future. I believe these savings should be passed along to the licensees in the form of fee reductions.

2) The current balance in the Board of Outfitters budget is approximately 2 times the current operating budget and is nearly to the point that will exceed the Boards authority to withhold those reserves.

   This indicates that current fee schedules are resulting in the collection of fees in excess of expenditures and have been for several years. With the realized cash savings from HB 274 (detailed description above) it is logical that the current fee structure should be revisited and reduced.

3) Current fees, particularly those related to Guide Licensing may be too high and are creating an artificial barrier to entry and industry participation.

   Employment as a Montana hunting or fishing guide is seasonal business providing seasonal part-time and season full-time employment for 1,800 licensed guides. The non-refundable application fee of $150 is appropriate for longer term employees, however, many guides, particularly in the hunting industry may work as little as a few days in the six week general season. For these people the $150 fee cuts in significantly to what they will actually see as take home pay at the end of service. A fee reduction for guides would result in lowering the financial hurdle and increasing the opportunity for a person to work as a seasonal part-time guide employee.

<u>Recommendation 2: Consider substituting full-time attorney hours with Para-legal level employees.</u>
Justification/rationale

Each Board has access to legal support. In the case of the Board of Outfitters we have the services of a highly qualified and competent attorney. While the services of a professional and licensed attorney are

needed occasionally more often the work he is engaged in could be completed by a lower level employee operating at the para-legal level with supervision by the Board attorney.

A great deal of the work currently being performed by the Board attorney involves basic review and research in support of the Boards disciplinary charge. Complaints rendered to the Board of Outfitters are frequently of the minor clerical errors nature and seldom has the more serious issued that jeopardized the heath safety and welfare of clients. In the former situation the assistance of a para-legal operating at a reduce pay level with appropriate over sight would likely accomplish the legal support necessary at a reduced cost.

Recommendation 3: Mandate and fully support automated licensing and reporting systems.
Justification/rationale

It is well beyond time to have a fully automated and online solution for simple Guide and Outfitter Licensing and annual reporting. As the 2015 season comes to a close thousands of pages of handwritten reports are being submitted to the Board of Outfitters in preparation for license renewal. These reports may be scanned and electronically filed, or may simply be filed. In either case the data contained within them is rendered inaccessible electronically and any report summaries needed for enforcement actions of simply to report on the nature of the industry are consequently a product of tedious and error prone hand tabulated summaries.

The cost of a new modernized system of online reporting could certainly be recovered by eliminating recurrent annual costs associated with this arcane system/process in a few short years. I strongly urge the committee to examine what barriers exist to moving to an automated licensing and reporting system and take steps to and to remove them and provide the necessary support through a one-time appropriation if necessary to ensure this is done.so this