

SECOND REGULAR SESSION

HOUSE BILL NO. 2708

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LAVENDER.

6762H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 326.319, 327.081, 332.061, 333.231, 334.050, 335.036, and 338.070, RSMo, and to enact in lieu thereof seven new sections relating to fund balances.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 326.319, 327.081, 332.061, 333.231, 334.050, 335.036, and 338.070, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 326.319, 327.081, 332.061, 333.231, 334.050, 335.036, and 338.070, to read as follows:

326.319. 1. All moneys payable pursuant to the provisions of this chapter shall be collected by the division of professional registration who shall transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Accountancy Fund" which is hereby created.

2. Notwithstanding the provisions of section 33.080 to the contrary, money in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the **average** amount of ~~[the appropriation]~~ **expenses** from the board's funds for the preceding **three completed** fiscal ~~[year or, if the board requires by rule certificate or permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year]~~ **years**. The amount, if any, in the fund which shall lapse is that amount in the fund ~~[which]~~ **that** exceeds **two times** the ~~[appropriate multiple of the appropriations from the board's funds for the preceding fiscal year]~~ **amount of such three-year average. However, no moneys in this fund shall be transferred and placed to the credit of general revenue in fiscal year 2020.**

3. In any proceeding in which a remedy provided by subsection 1 or 2 of section 326.310 is imposed, the board may also require the respondent licensee to pay the costs of the proceeding

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 if the board is a prevailing party or in settlement. The moneys shall be placed in the state
18 treasury to the credit of the "Missouri State Board of Accountancy Investigation Fund", which
19 is hereby created, to be used solely for investigations as provided in this chapter. The moneys
20 shall not be considered in calculating amounts to be transferred to general revenue as provided
21 in subsection 2 of this section. The fund shall be used solely for board investigations.

22 4. The board shall set the amount of the fees which this chapter authorizes and requires
23 by rule pursuant to chapter 536. The fees shall be set at a level to produce revenue which shall
24 not substantially exceed the cost and expense of administering this chapter.

327.081. 1. All funds received pursuant to the provisions of this chapter shall be
2 deposited in the state treasury to the credit of the "State Board for Architects, Professional
3 Engineers, Professional Land Surveyors and Professional Landscape Architects Fund" which is
4 hereby established. All expenditures authorized by this chapter shall be paid from funds
5 appropriated to the board by the general assembly from this fund.

6 2. The provisions of section 33.080 to the contrary notwithstanding, money in this fund
7 shall not be transferred and placed to the credit of general revenue until the amount in the fund
8 at the end of the biennium exceeds two times the **average** amount of ~~[the appropriation]~~
9 **expenses** from the board's funds for the preceding **three completed** fiscal ~~[year or, if the board~~
10 ~~requires by rule permit renewal less frequently than yearly, then three times the appropriation~~
11 ~~from the board's funds for the preceding fiscal year]~~ **years**. The amount, if any, in the fund
12 which shall lapse is that amount in the fund ~~[which]~~ **that** exceeds **two times** the ~~[appropriate~~
13 ~~multiple of the appropriations from the board's funds for the preceding fiscal year]~~ **amount of**
14 **such three-year average. However, no moneys in this fund shall be transferred and placed**
15 **to the credit of general revenue in fiscal year 2020.**

332.061. All funds received pursuant to the provisions of this chapter shall be
2 transmitted by the director of the division of professional registration to the department of
3 revenue for deposit in the state treasury to the credit of the "Dental Board Fund" which is hereby
4 established. All expenditures authorized by this chapter shall be paid from funds appropriated
5 from the dental board fund by the legislature. The provisions of section 33.080 to the contrary
6 notwithstanding, money in this fund shall not be transferred and placed to the credit of general
7 revenue until the amount in the fund at the end of the biennium ~~[is]~~ **exceeds** two times the
8 **average** amount of ~~[the appropriation]~~ **expenses** from the board's funds for the preceding **three**
9 **completed** fiscal ~~[year or, if the board requires by rule permit renewal less frequently than yearly,~~
10 ~~then three times the appropriation from the board's funds for the preceding fiscal year]~~ **years**.
11 The amount, if any, in the fund which shall lapse is that amount in the fund ~~[which]~~ **that** exceeds
12 **two times** the ~~[appropriate multiple of the appropriations from the board's funds for the~~

13 ~~preceding fiscal year]~~ **amount of such three-year average. However, no moneys in this fund**
14 **shall be transferred and placed to the credit of general revenue in fiscal year 2020.**

2 333.231. 1. All fees payable under this chapter shall be collected by the division of
2 professional registration and transmitted to the department of revenue for deposit in the state
3 treasury to the credit of the fund to be known as the "Board of Embalmers and Funeral Directors'
4 Fund".

5 2. All compensation of board members and employees and all expenses incident to the
6 administration of this chapter shall be paid out of the board of embalmers and funeral directors'
7 fund. No expense of this board shall ever be paid out of any other fund of the state, either by
8 deficiency bill or otherwise.

9 3. The provisions of section 33.080 to the contrary notwithstanding, money in this fund
10 shall not be transferred and placed to the credit of general revenue until the amount in the fund
11 at the end of the biennium exceeds two times the **average** amount of ~~[the appropriation]~~
12 **expenses** from the board's funds for the preceding **three completed** fiscal ~~[year or, if the board~~
13 ~~requires by rule permit renewal less frequently than yearly, then three times the appropriation~~
14 ~~from the board's funds for the preceding fiscal year]~~ **years**. The amount, if any, in the fund
15 which shall lapse is that amount in the fund ~~[which]~~ **that** exceeds **two times** the ~~[appropriate~~
16 ~~multiple of the appropriations from the board's funds for the preceding fiscal year]~~ **amount of**
17 **such three-year average. However, no moneys in this fund shall be transferred and placed**
18 **to the credit of general revenue in fiscal year 2020.**

2 334.050. 1. There is hereby established in the office of the state treasurer a fund to be
2 known as the "Board of Registration for the Healing Arts Fund". All fees of any kind and
3 character authorized to be charged by the board shall be collected by the director of the division
4 of professional registration and shall be transmitted to the department of revenue for deposit in
5 the state treasury for credit to this fund, to be disbursed only in payment of expenses of
6 maintaining the board and for the enforcement of the provisions of law concerning professions
7 regulated by the board; and no other money shall be paid out of the state treasury for carrying out
8 these provisions. Warrants shall be issued on the state treasurer for payment out of said fund.

9 2. The provisions of section 33.080 to the contrary notwithstanding, money in this fund
10 shall not be transferred and placed to the credit of general revenue until the amount in the fund
11 at the end of the biennium exceeds two times the **average** amount of ~~[the appropriation]~~
12 **expenses** from the board's funds for the preceding **three completed** fiscal ~~[year or, if the board~~
13 ~~requires by rule permit renewal less frequently than yearly, then three times the appropriation~~
14 ~~from the board's funds for the preceding fiscal year]~~ **years**. The amount, if any, in the fund
15 which shall lapse is that amount in the fund ~~[which]~~ **that** exceeds **two times** the ~~[appropriate~~
16 ~~multiple of the appropriations from the board's funds for the preceding fiscal year]~~ **amount of**

17 **such three-year average. However, no moneys in this fund shall be transferred and placed**
18 **to the credit of general revenue in fiscal year 2020.**

19 3. The board shall charge each person applying to and appearing before it for
20 examination for certificate of licensure to practice as physician and surgeon, an examination fee.
21 Should the examination prove unsatisfactory and the board refuse to issue a license thereon, the
22 applicant failing to pass the examination may return to any meeting and be examined upon
23 payment of a reexamination fee.

335.036. 1. The board shall:

2 (1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and
3 the board may appoint, employ and fix the compensation of a legal counsel and such board
4 personnel as defined in subdivision (4) of subsection 10 of section 324.001 as are necessary to
5 administer the provisions of sections 335.011 to 335.096;

6 (2) Adopt and revise such rules and regulations as may be necessary to enable it to carry
7 into effect the provisions of sections 335.011 to 335.096;

8 (3) Prescribe minimum standards for educational programs preparing persons for
9 licensure pursuant to the provisions of sections 335.011 to 335.096;

10 (4) Provide for surveys of such programs every five years and in addition at such times
11 as it may deem necessary;

12 (5) Designate as "approved" such programs as meet the requirements of sections 335.011
13 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall
14 annually publish a list of such programs;

15 (6) Deny or withdraw approval from educational programs for failure to meet prescribed
16 minimum standards;

17 (7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

18 (8) Cause the prosecution of all persons violating provisions of sections 335.011 to
19 335.096, and may incur such necessary expenses therefor;

20 (9) Keep a record of all the proceedings; and make an annual report to the governor and
21 to the director of the department of insurance, financial institutions and professional registration;

22 (10) Establish an impaired nurse program.

23 2. The board shall set the amount of the fees which this chapter authorizes and requires
24 by rules and regulations. The fees shall be set at a level to produce revenue which shall not
25 substantially exceed the cost and expense of administering this chapter.

26 3. All fees received by the board pursuant to the provisions of sections 335.011 to
27 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of
28 nursing fund. All administrative costs and expenses of the board shall be paid from

29 appropriations made for those purposes. The board is authorized to provide funding for the
30 nursing education incentive program established in sections 335.200 to 335.203.

31 4. The provisions of section 33.080 to the contrary notwithstanding, money in this fund
32 shall not be transferred and placed to the credit of general revenue until the amount in the fund
33 at the end of the biennium exceeds two times the **average** amount of ~~[the appropriation]~~
34 **expenses** from the board's funds for the preceding **three completed** fiscal ~~[year or, if the board~~
35 ~~requires by rule, permit renewal less frequently than yearly, then three times the appropriation~~
36 ~~from the board's funds for the preceding fiscal year]~~ **years**. The amount, if any, in the fund
37 which shall lapse is that amount in the fund ~~[which]~~ **that** exceeds **two times** the ~~[appropriate~~
38 ~~multiple of the appropriations from the board's funds for the preceding fiscal year]~~ **amount of**
39 **such three-year average. However, no moneys in this fund shall be transferred and placed**
40 **to the credit of general revenue in fiscal year 2020.**

41 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
42 under the authority delegated in this chapter shall become effective only if it complies with and
43 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All
44 rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed.
45 Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or
46 adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This
47 section and chapter 536 are nonseverable and if any of the powers vested with the general
48 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
49 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
50 any rule proposed or adopted after August 28, 1999, shall be invalid and void.

338.070. 1. The board of pharmacy shall set the amount of the fees which this chapter
2 authorizes and requires by rules and regulations promulgated pursuant to chapter 536. The fees
3 shall be set at a level to produce revenue which shall not substantially exceed the cost and
4 expense of administering this chapter. All fees shall be paid before an applicant may be admitted
5 to examination or his or her name placed upon the register of pharmacists, or before any license
6 or permit, or any renewal thereof, is issued by the board.

7 2. All fees payable pursuant to the provisions of this chapter shall be collected by the
8 division of professional registration and transmitted to the department of revenue for deposit in
9 the state treasury to the credit of the fund to be known as the "Board of Pharmacy Fund".

10 3. The provisions of section 33.080 to the contrary notwithstanding, money in this fund
11 shall not be transferred and placed to the credit of general revenue until the amount in the fund
12 at the end of the biennium exceeds two times the **average** amount of ~~[the appropriation]~~
13 **expenses** from the board's funds for the preceding **three completed** fiscal ~~[year or, if the board~~
14 ~~requires by rule permit renewal less frequently than yearly, then three times the appropriation~~

15 ~~from the board's funds for the preceding fiscal year] years.~~ The amount, if any, in the fund
16 which shall lapse is that amount in the fund ~~[which]~~ **that** exceeds **two times** the ~~[appropriate~~
17 ~~multiple of the appropriations from the board's funds for the preceding fiscal year]~~ **amount of**
18 **such three-year average. However, no moneys in this fund shall be transferred and placed**
19 **to the credit of general revenue in fiscal year 2020.**

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