

Subject: HB159, Register Interior Designers, Public Testimony

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Dear House Labor & Commerce Committee of the Alaska Legislature:

I submit the following public testimony in advance of the hearing currently scheduled for HB159 on Monday, January 22, 2024 at 3:15PM. I am opposed to both HB159 and its companion bill SB73.

As I understand, based on my recollection of related testimony on SB73, specific circumstances driving the sponsors' perceived need for HB159 relate to an instance or multiple instances in which at least one of Alaska's interior design professionals may have been judged as individually or collectively lacking specified credentials necessary for participating in one or more federal design contract. Based on this prior testimony on SB73, I urge the House Labor & Commerce Committee of the Alaska legislature to consider the following before passing HB159 out of committee.

Specifically, the subject requirement is the need to be a "registered" interior designer as a condition of providing professional interior design services on federal contracts.

Upon becoming aware of the subject requirement, either as a condition of submitting a proposal or participating in the design work, what was the interior designer's response? What actions did the interior designer(s) take to remedy the issue with the federal agency, if any? What additional information and considerations can be gleaned from the outcomes of those actions?

Did the interior designer(s) seek clarification from the federal agency? If not, why not? If yes, what was the federal agency's complete response?

Does the federal agency retrospectively consider the subject requirement an error? If so, it may be helpful to understand how the error appeared in the request for proposal. Is the subject requirement part of a federal boiler plate template for similar contracts? Did the subject requirement fail to be eliminated from a contract borrowed from a similar federal project in another state that was hurriedly modified for an Alaska project(s)? Did a lone project manager independently take the initiative to include the subject requirement in a contract(s) without the knowledge or approval of agency leadership?

If the federal agency does not retrospectively consider the requirement to be an error, did the federal agency's region, district or division recently make this requirement as a matter of policy? What documentation is available to support such a decision? To what degree has a thorough review of this documentation informed the voting decisions of the House Labor and Commerce Committee?

Can any federal agency justify any requirement for professional registration of any kind as a condition of providing professional services on its federal contracts? If so, what is the basis of that justification? Is the power to require professional registration or administer professional licensing a federal power enumerated in the U.S. Constitution? How might the Supreme Court's imminent decision on Chevron and Deference impact the committee's opinions on HB159 both now and in the future following the supreme court's imminent ruling? Does Legislative Legal have any input to offer which might help clarify how the Supreme Court's ruling on Chevron and Deference could potentially impact professional licensing requirements and the costs thereof?

For now, would it be reasonable to interpret the subject requirement such that "registration" as a condition of satisfying the federal contract requirement is only required to the extent that

administrative means to register in the state where the professional services are to be provided exist? If so, SB73 and HB159 are clearly unnecessary.

Is it reasonable for the State of Alaska and Alaskans to incur burdens in association with the subject requirement? Burdens include the fact that professional licensing is widely recognized by small businesses and the working public as a barrier to work. Registration, and especially additive and incremental increases in registration administration needs when federally specified, expands the cost and size of state government. Depending on the whimsical interpretations of successive federal administrations, these fiscal impacts are inconsistently recognized and absorbed by states as unfunded federal mandates. If you do not agree, please advise, to what degree is the administrative burden of state licensing funded by the federal government?

On a state level, the perceived need and degree to which a profession should be regulated is an unfortunate and recent administrative practice. Wyoming may have been the first state to require engineers and surveyors to register in 1907. Professional registration of any kind is not a normal historical practice in the United States. Serious consideration should be given to eliminating the practice of it altogether. What is there to rely upon in the absence of the government's professional registration, you ask? It is the efficient, effective, and irreplaceable application of individual human judgement. Among other information, professionals and their patrons may continue to rely upon consideration of professionals' reputations and credentials including references, education, training, and experience. These criterium also happen to be the substantial basis of evaluation for professional proposals already.

Professional architects, registered interior designers, and conventional interior designers may debate the finer details of where there is or isn't cross-over and overlap in their professions. As an interior design lay person, the scope of interior design rouses no direct connection whatsoever with public safety. Interior design is artistic in nature. Making a direct connection between public safety and a profession that is inherently artistic is a trait most commonly associated with totalitarian regimes. Interior design is drapery, pillow cushions, and area rugs. Interior design is not a profession that rises to the threshold of what has only been recently recognized as one the government must regulate. Interior design is simply lipstick on the pig.

I urge the House Labor & Commerce Committee of the Alaska legislature to carefully consider these points and additional information before passing HB159 out of committee.

Sincerely,

Lucas Smith