

HOUSE FINANCE COMMITTEE
February 19, 2001
1:45 P.M.

TAPE HFC 01 - 31, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:45 P.M.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Bill Williams, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Bill Hudson
Representative Ken Lancaster
Representative Jim Whitaker

MEMBERS ABSENT

Representative Carl Moses
Representative Richard Foster
Representative John Harris

ALSO PRESENT

Heather Brakes, Staff, Senator Gene Therriault; Pat Davidson, Legislative Auditor, Legislative Audit Division; Catherine Reardon, Director, Division of Occupational Licensing, Department of Community & Economic Development.

PRESENT VIA TELECONFERENCE

Karen Grafton, Alaska Physical Therapy Association, Anchorage.

SUMMARY

SB 9 An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors.

CSSB 9 (L&C) was reported out of Committee with a "do pass" recommendation and with a new House Finance Committee fiscal note and a House Finance Committee Letter of Intent.

SB 52 An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board.

CSSB 52(FIN) was reported out of Committee with a "do pass" recommendation and with a new fiscal note by the House Finance Committee.

#SB9

SENATE BILL NO. 9

An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors.

Co-Chair Williams explained that the bill had been held over due to requests from some design council members. He indicated the issues:

- The audit recommended that the Legislature amend the statute to require individuals licensed by the Board to obtain continuing education. The design council and the Board support the continuing education requirements, however, they want them to be voluntary, not mandated.
- The audit also recommended that the statute be changed so that it would be consistent with the regulation to eliminate possible legal challenges. He noted that item caused the controversy.

Co-Chair Williams stated that the problem is that there currently are fifteen people who cannot get licensed in Alaska. Some members of the community have been requesting that the Board evaluate their years of experience as a substitute for the additional year of educational training. The Board was unwilling to do that and changed the regulations to strengthen the requirement that only a five-year degree would be accepted. When the regulation was changed, the Department of Law and Legislative Audit Division felt that the statute should mirror the regulation in order to minimize the possibility of a legal challenge.

Co-Chair Williams noted that the Board had promised:

- To look into the continued education requirement, and
- To look for a solution for those people that are currently unable to get licensure.

Co-Chair Williams recommended amending the bill and changing the sunset from 2005 to 2002 or 2003. He indicated that should give the Board time to look at these two issues and then make a resolution by the time their new sunset date is up.

He advised that a complication could exist with any attempt to add a "fix" to the bill because the title is crafted very

"tightly". There is no room to place any other issues into the bill without a title change resolution. He added that Legislative Audit suggests that another audit would take extra time. Co-Chair Williams wanted the bill to move with an accompanying "Letter of Intent".

HEATHER BRAKES, STAFF, SENATOR GENE THERRIAULT, commented in response to the ideas proposed by Co-Chair Williams. She stated that either shortening the sunset date or adopting a Letter of Intent would be acceptable.

Representative Davies inquired about the lawsuits that had been filed against the licensure requirement. He asked if the present statute places the State in a position to be involved in future lawsuits.

Co-Chair Williams replied that the State would be at risk for future lawsuits if the regulations continue to read that five-years are required. The Board is currently addressing that concern. He added that there could be lawsuits posed from the fifteen people who have not received their licensure. The Board is working on a stipulation that would allow those people to count their past work experience as a schooling credit.

PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, understood that current statute requires a certain certification for the national entity to make an education difference. There was a lawsuit; the Court upheld the Board's decision, which established precedence. Ms. Davidson knew of only one lawsuit, however, acknowledged that the potential for further lawsuits was out there.

Representative Davies asked if that lawsuit would test the fundamental issue of the statute requirement. Ms. Davidson stated she did not know. Currently, the Court has upheld what the Board was attempting to do in that situation.

Representative Lancaster asked if it the bill left open the question of continuing education.

Ms. Davidson stated that the bill, as it currently exists, would only extend the date. Therefore, the Board would make the determination of whether continuing professional education should be a statutory responsibility. She noted that would not preclude the board from coming back in a couple years to address the idea through legislation. She reiterated that as the bill currently exists, there is no statutory mandate for instituting continuing education.

Vice-Chair Bunde stated that if the bill was passed in its current form, then a Letter of Intent should accompany it so as to encourage the Board that in two years, they report

back regarding their progress in addressing the problem. He asked if that was a fair assessment.

Ms. Davidson agreed it was a fair assessment. She added that shortening the date would add work. A Letter of Intent would specifically ask the Board to define the recommendations before bringing it before the Committee's attention. She commented that the audit process would not be precluded; however instead, there would not be an automatic "trigger".

Vice-Chair Bunde MOVED to report CSSB 9 (L&C) out of Committee with individual recommendations and with an accompanying Letter of Intent with the fiscal note. He recommended working with Ms. Davidson to draft that letter.

Representative Croft voiced a conflict of interest noting that his wife is an architect. He commented that it was the genuine intention for that Board to determine what a credible level of experience would be for that service. He asked what the Letter of Intent should stipulate.

Co-Chair Williams noted that there were two recommendations made by the Board and that the Board agreed to address the continuing education issue and at the same time agreed that they would commit to the requirement concern. He understood that the education issue would be more difficult.

Representative Whitaker asked clarification about the issue of continuing education and/or the five-year certification concern. He asked if the Board, through the Letter of Intent, planned to make a determination in how to deal with these concerns by 2005.

Co-Chair Williams explained that the Board would address the continuing education concerns, and that they would need more time to settle the education issue.

Representative Whitaker pointed out that the legislation would be giving the Board four and a half years to deal with the issue.

Co-Chair Williams proposed that a Letter of Intent be drafted which would provide for a one-year time period to come to consensus.

Vice-Chair Bunde reminded members that currently, there are fifteen people that cannot get work because of the wording. He recommended resolving the issue more quickly.

Representative Davies noted that the Board has been "slow" to address this concern over the last several years. He questioned what the Letter of Intent would stipulate. Representative J. Davies suggested that the bill needed

something a "little stronger" than a Letter of Intent. He added that the date should be left at 2005, while drafting a strong Letter of Intent.

Representative Hudson agreed with Vice-Chair Bunde that the bill should be passed with a simple extension, adding a Letter of Intent that would direct the Board to present to the Legislature, no later than February 15th, 2001, recommended changes as indicated by the audit.

Co-Chair Williams stated that the title was too "tight" to change the bill. He reiterated that a Letter of Intent could address the needed changes. He asked how long the statute had been in place.

Ms. Davidson did not know, adding that she did not know when the lawsuit had been filed.

Co-Chair Williams reiterated his intent to have a Letter of Intent drafted.

CATHERINE REARDON, DIRECTOR, DIVISION OF OCCUPATIONAL LICENSING, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, questioned if it was intended that the Board find a way to license people who have less than a 5-year degree. She asked specifics on how to explain the Letter of Intent to the members of the Board.

Co-Chair Williams commented that the Legislature should not tell the Board how to do accomplish the intent but rather have them come up with a solution for those fifteen people in waiting. From that time forward, all candidates would need to have the five-year education degree.

Ms. Reardon advised that the licensing Board would be meeting Friday with a suggested regulation change.

Representative Lancaster asked if the Board would be requiring some kind of continuing education.

Ms. Reardon explained that would be a separate topic. She commented that she was not aware if the Board had the authority to mandate education by regulation. She proposed that the Board could "flush out" what a continuing education regime might look like. She believed that it would take a statute change to impose the requirement.

In response to Representative Lancaster, Ms. Reardon clarified that the five-year education degree and the continuing education topic were entirely separate. She emphasized that the Board does not see them related at all.

Representative Hudson MOVED to report CSSB 9 (L&C) out of Committee with individual recommendations and with the

attached House Finance Committee Letter of Intent and the new fiscal note. He noted that the Letter of Intent should be crafted with assistance from Ms. Davidson to reflect the recommended changes as indicated in the audit. Those changes should be presented to the Legislature no later than Feb 15th, 2002.

Representative Davies OBJECTED for a question.

Representative Davies asked specifically what the audit had requested. Representative Hudson read the findings and recommendation of the audit.

- The Legislature should consider revising statutes requiring continuing education for architects, engineers, and land surveyors.
- The Legislature should consider revising the structure of the State Board of Registration for Architects, Engineers and Land Surveyors.
- In order to improve statutory clarity, the Legislature should consider amending the Board's statutes related to licensure of architects by comity.

Representative Davies commented that he would prefer a Letter of Intent rather than just offering suggestions to the Board in relationship to the audit concerns. He stated that if that were the understanding, he would remove his objection.

Vice-Chair Bunde maintained that the third issue was the one of greatest concern. He believed that the other concerns could be worked out through the Board.

Ms. Davidson noted that the report recommends a statutory amendment that would make the statute line up with current Board policy. She advised that there is no statutory authority to require continuing education.

There being NO further OBJECTION, the bill was reported out of Committee.

CSSB 9 (L&C) was reported out of Committee with a "do pass" recommendation and with a new House Finance Committee fiscal note and a House Finance Committee Letter of Intent.

#SB52

SENATE BILL NO. 52

An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board.

HEATHER BRAKES, STAFF, SENATOR GENE THERRIAULT stated that under AS 08.84.010, the State Physical Therapy and Occupational Therapy Board regulates the professions of physical therapists, physical therapy assistants, occupational therapists and occupational therapy assistants and the practice of physical therapy and the practice of occupational therapy by ensuring that the requirements laid out for licensure are met and adhered to.

Ms. Brakes noted that the Board consists of seven members appointed by the Governor having the qualifications as established in AS 08.84.010. Board membership is prescribed by statute as having one physician, three physical therapists or two physical therapists and a physical therapy assistant, two occupational therapists or an occupational therapist and occupational therapists, assistant, and one lay person with no direct financial interest in the health care industry.

The State Physical Therapy and Occupational Therapy Board is set to expire June 30, 2001, under AS 08.03.010(1). If the Legislature does not act to extend the Board, it would have one year, until June 30th, 2002, to administratively conclude its affairs. Senate Bill 52 would extend the Board for another six years to June 30th, 2007.

KARIN GRAFTON, (TESTIFIED VIA TELECONFERENCE), ALASKA PHYSICAL THERAPY BOARD, ANCHORAGE, testified in support of the legislation. She offered to answer any questions of the Committee.

Representative Hudson MOVED to report CSSB 52 (FIN)am (C.a version) out of Committee with individual recommendations and with the accompanying new fiscal note. There being NO OBJECTION, it was so ordered.

CSSB 52(FIN) am was reported out of Committee with a "do pass" recommendation and with a new fiscal note by the House Finance Committee.

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ADJOURNMENT

The meeting was adjourned at 2:27 P.M.