

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 7, 2005

3:21 p.m.

DRAFT

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Gabrielle LeDoux
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

Representative Pete Kott

COMMITTEE CALENDAR

HOUSE BILL NO. 123

"An Act relating to occupational licensing fees and receipts; extending the termination dates of the Boards of Barbers and Hairdressers, Social Work Examiners, Pharmacy, Professional Counselors, Psychologist and Psychological Associate Examiners, and Veterinary Examiners; relating to an exemption that allows one bill to continue more than one board, commission, or agency program; and providing for an effective date."

- MOVED HB 123 OUT OF COMMITTEE

HOUSE BILL NO. 109

"An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

- MOVED HB 109 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 123

SHORT TITLE: OCCUPATIONS: FEES & EXTENSION OF BOARDS

SPONSOR(s): LABOR & COMMERCE

02/02/05 (H) READ THE FIRST TIME - REFERRALS
02/02/05 (H) L&C, FIN
02/07/05 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 109

SHORT TITLE: SCREENING NEWBORNS FOR HEARING ABILITY
SPONSOR(S): REPRESENTATIVE(S) RAMRAS

01/26/05 (H) READ THE FIRST TIME - REFERRALS
01/26/05 (H) L&C, HES, FIN
02/04/05 (H) L&C AT 3:15 PM CAPITOL 17
02/04/05 (H) Heard & Held
02/04/05 (H) MINUTE(L&C)
02/07/05 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

RICK URION, Director
Occupational Licensing
Division of Commerce, Community, and Economics
Juneau, Alaska
POSITION STATEMENT: Offered testimony and support for HB 123.

PAT DAVIDSON, Legislative Auditor
Legislative Audit Division
Juneau, Alaska
POSITION STATEMENT: Offered testimony for HB 123.

JEAN MISCHEL, Attorney
Legal Services and Research Division
Legislative Affairs Agency
Juneau, Alaska
POSITION STATEMENT: Offered testimony for HB 123.

ANNE HENRY, co-secretary/counselor
American Counselors Association of Alaska (ACAALASKA)
Anchorage, Alaska
POSITION STATEMENT: Testified in opposition to HB 123.

DIANA STRAUB, hairdresser
Member of the Board of Barbers and Hairdressers
Wasilla, Alaska
POSITION STATEMENT: Testified in support of HB 123.

JANE PIERSON, Staff
Representative Jay Ramras

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 109.

MARGARET LANIER-KOSSLER, Program Manager

State of Alaska DHSS/EHDI program

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 109.

ACTION NARRATIVE

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at [3:23:13 PM](#). Representatives Lynn, LeDoux, Guttenberg, Crawford, and Anderson were present at the call to order.

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HB 123-OCCUPATIONS: FEES & EXTENSION OF BOARDS

CHAIR ANDERSON announced HOUSE BILL NO. 123, which is "an Act relating to occupational licensing fees and receipts; extending the termination dates of the Boards of Barbers and Hairdressers, Social Work Examiners, Pharmacy, Professional Counselors, Psychologist and Psychological Associate Examiners, and Veterinary Examiners; relating to an exemption that allows one bill to continue more than one board, commission, or agency program; and providing for an effective date."

CHAIR ANDERSON started off by announcing that there was an amendment for this bill, and that he would get to it after the public testimony.

[3:26:12 PM](#)

RICK URION, Director, Division of Occupational Licensing, Department of Commerce, Community, and Economics, gave his support for the bill, and noted that the sections of the bill that warranted his strongest support are the extensions. He then announced that he is here today to explain and clarify the first

four sections of the bill, which will explain the fines and penalties of the bill.

MR. URION explained that the law required that the aggregate cost for regulating the profession itself divided by the number of licensees, becomes the licensing fee. Included in this fee, were the fines and penalties that were generated from disciplinary action. He then said that that the professions pays the cost of any disciplinary action and thus it seems only fair that the profession would receive any rewards from monies gained from these actions.

CHAIR ANDERSON interjected, and referring to the amendment suggested by Mr. Urion, asked if it is adopted, would the fees and adjustments acquired that do not equate to the operational costs of the professional board be returned in some way or adjusted for accordingly.

MR. URION stated that existing law says that the division can charge whatever it costs. This is determined every year, and is adopted into regulation. He then said that there is a required 30-day public notice period before it is enacted. The amendment eliminates this expensive regulation and the 30-day requirement.

CHAIR ANDERSON moved that the committee adopt the amendment as suggested by Mr. Urion. He ended by asking if there were any objections to adopting it into the bill.

REPRESENTATIVE GUTTENBERG commented that they have lumped a lot of bills together here that cover several professional boards

and he asked if all the changes made in HB 123 were uniform to all the professional boards mentioned in the bill.

[3:30:23 PM](#)

MR. URION answered that the changes to fines and penalties to all the licensed professions.

REPRESENTATIVE GUTTENBERG then asked if these changes are uniformly applied to all boards and commissions.

MR. URION asserted that generic language was used and it was applicable to all the licensed professions.

CHAIR ANDERSON pointed out that a number of bills regarding professional licensing were introduced. However, Josh Applebee, staff to Representative Anderson, compiled all of these disparate bills into one bill.

REPRESENTATIVE GUTTENBERG related his understanding that none of this legislation addressed any of the recommendations from the legislative audits.

[3:32:02 PM](#)

PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, discussed Sections 5-10, which dealt with extension deadlines. She began by stating that in 2005, 12 boards and commissions will reach sunset status, which amounts to almost half of all boards and commissions. The alignment of these sunsets happened for various reasons. During the course of these audits, the audit division wanted to be more strategic about the date extensions being recommended. For this reason, the division

investigated a period of six years. Given the particular circumstances for each board and commission, the division made individual recommendations to spread out the sunset dates. Although it appears as if they are weighted to the year 2010, there is a spectrum of dates spread out evenly.

MS. DAVIDSON announced that the division had a few changes for the committee to consider. She mentioned that the division recommended that the board of hairdressers and barbers be able to delegate the practical examination to the training schools and supervisors. This, she said, could be spot checked by the board without any undo costs and would not create a public hazard. With regard to the Board of Pharmacy, she said that they had a concern with the actual licensing fee increases. For the Board of Psychologists and Psychological Associates she said that there were two recommendations. The first was that there needed to be an increase in licensing fees to finance the board's deficit, and second, that the governor make timely appointments to the board.

[3:36:50 PM](#)

REPRESENTATIVE ROKEBERG (looking at the unqualified law exempt section of Alaskan Statute 44.66.050 E) asked if Ms. Davidson was familiar with the 1977 legislation (amended in 2002) that basically describes the enactment of a bill that provides for more than one board, commissioner, or agency. He then asked her if she was informed of the history and intent of the statute and the 1977 legislation that created it.

MS. DAVIDSON specified that the 1977 legislation was the original legislation and her understanding is that the intention

of the bill to have each board and commission be looked at separately and to have individual audits. The whole process is a very involved process and significant use of resources. Though reviewing the boards on an individual basis is the spirit of the law, the legislature faces almost half of the boards right now due to their sunset alignment this year.

REPRESENTATIVE ROKEBERG asked if there is a legal opinion on this interpretation of the statute.

JEAN MISCHEL, Attorney, Legislative Legal Counsel and Research Services, Legislative Affairs Agency, agreed with Ms. Davidson's interpretation, which was generally the way the law is understood.

REPRESENTATIVE ROKEBERG related his understanding of the boards being discussed in HB 123, there are, save one, no substantive recommendation from the audits to make any additions or corrections to the statute.

MS. DAVIDSON answered that the only substantive change would be whether the legislature decides to merge two of the professional boards into one.

[3:40:13 PM](#)

REPRESENTATIVE ROKEBERG, asked if the committee would be remiss in its legislative oversight if it were to pass this bill and lump all of these boards under one statute that addresses all sunset extensions.

MS. DAVIDSON stated that it was up to the pleasure of the committee.

CHAIR ANDERSON mentioned that he believed that he was saving the legislature money and time with HB 123. He then directed a question to Ms. Mischel if section 13, which adds the new section exempting from the prohibition to combine legislation concerning regulatory boards and commissions, is legal and conforming.

MS. MISCHEL answered by stating that Chair Anderson, being a later legislator could, in fact, modify the implementation of a previously legislated statute, which is what you are doing here.

CHAIR ANDERSON then asked if it were valid when, as the committee goes from one board to another, and by section within each board, the changes that are being considered will simply be attached to the relevant sections of the professional boards governing statute. By doing so, he said, there is no change to the construct of the bill. He commented that additions and deletions will not affect the extension of the board regardless.

MS. MISCHEL indicated that she is not one hundred percent sure what the Chair was getting at and then offered her interpretation. She stated that if you change the dates on the board extension pursuant to the recommendation, and then asked the chair if he meant, given this, would he be in compliance.

CHAIR ANDERSON stated that if we are in the spirit of the law within section 13 of the past legislation, the committee is not obligated to just extend dates, and that if a committee desires to change the fee structure, it can do this in this legislation.

MS. MISCHELE confirmed that legislative oversight does exist within the present legislature.

[3:43:58 PM](#)

REPRESENTATIVE GUTTENBERG asked if the single subject rule would be violated if a committee wanted to create a substantive amendment for one of the boards.

MS. MICHELE answered that such a situation would not violate the single subject rule. She noted that there is a broad line of cases that define the single subject rule quite well. However a change that described here like this would require a title change because the title does not encompass licensing standards.

[3:45:16 PM](#)

MS. MICHELE said that the title does not encompass licensing standards, but that it extends the termination dates of the board and refers to licensing fees.

CHAIR ANDERSON announced that the bill as amended is before the committee. He indicated that he was a little hesitant, since he did not want to see the different aspects offered now, without having the various boards present to hear the suggestions. He indicated that he only wanted to address the extension aspect of the bill, not any fee increases.

MS. DAVIDSON interjected that these fee increases are not statutory changes, but instead they are merely suggestions. The responsibility of the fee increases lays with the Division of

Occupational Licensing. She pointed out that the only statutory changes were to allow the Board of Barbers and Hairdressers the ability to delegate the supervision of the state practical licensing exam to the actual schools and training facilities, and to merge the Board of Marital and Family Counseling and the Board of Professional Counseling into one board.

[3:47:18 PM](#)

CHAIR ANDERSON reminded the committee that the Amendment 1 which was adopted does state that the division itself can make statutory changes to the fee structure accordingly. He then offered the addition of Amendment 2 which provided for a date change for the Board of Barbers and Hairdressers which would extend the board to the year 2011. Other additions in this conceptual amendment were extensions of the professional boards of social work examiners, pharmacy, professional counseling, pharmacy, and psychological associate examiners, to 2010, and veterinary examiners to 2009. This is all per recommendation by Ms. Davidson. He announced that Conceptual Amendment 2.

REPRESENTATIVE CRAWFORD asked if the amendments being adopted would affect fee collection, and would the division have the ability to collect fees over a number of years as it can now.

[3:50:49 PM](#)

MS. DAVIDSON clarified that although the Division of Legislative Audit recommends fee increases based on its analysis, the Division of Occupational Licensing actually calculates the license fees. She indicated that the one thing that would throw off any board's estimated fee schedule would be licensing

investigations because they are time intensive and they are expensive. She then stated that that the Division of Legislative Audit had the view that no provision in law allows the recoupment period to be extended into the future. However, the Division of Occupational Licensing has extended it out to four years to recoup fees over time.

REPRESENTATIVE ROKEBERG supposed that, in the past, a board that uses its own money to perform an investigation and a subsequent fine is imposed, yet the money garnished by the board from the individual or group is placed into the state general fund, even though the regulatory board spent their own money to conduct the investigation. He then stated that HB 123 corrected this problem.

MR. URION related an example of a very expensive investigation of a real estate agent which resulted a fine of \$ 25,000. However, the cost to get this fine allocated did exceed this amount. Amendment 1 addressed the aforementioned problem.

REPRESENTATIVE ROKEBERG highlighted that each board is self-supporting, but the misconduct of one within a group can result in the other people in the profession having to pay for it as a group. They get in other words, a double penalty, since they have to come up with the cash to prosecute and then, when this is done, they get none of the benefits of the monies gathered by the administration of the fine.

REPRESENTATIVE CRAWFORD asked if there is any opposition to the merger of the Board of Professional Counselors, and the Board of Marital and Family Counseling.

[3:56:21 PM](#)

CHAIR ANDERSON indicated that there was opposition to the proposed merger, and that he wanted to wait on that question until they had heard from some people in the public that were testifying on behalf of these groups.

ANNE HENRY, Co-Secretary/Counselor, American Counselors Association of Alaska, related that the Licensed Professional Counselors Board oppose the merger for many reasons. The merger, she said, would increase the fees because it would increase the number of meetings. She noted that she discussed this merger with the American Association of State Counseling Boards who said that in states that this has happened, the result has been problematic due to more meetings, and a rise in turf issues.

REPRESENTATIVE CRAWFORD announced that he is concerned with adding more than a sunset clause in the legislation. He then expressed the need for more committee discussion.

CHAIR ANDERSON indicated that for the record, the legislature is not merging the boards and that the committee has not adopted an amendment to do so. This bill is particularly focused on sunset clauses that affect various professional boards. He ended by stating that the opposition is safe and there will be no further talk of merger.

REPRESENTATIVE LEDOUX confirmed this by asking again whether the committee would definitely not be doing anything with the board of family and marital therapy.

CHAIR ANDERSON announced that this was again correct. He went on to say that it was only a recommendation from Legislative Audit that this bill could be the appropriate vehicle for administering the merger of the two boards.

[4:00:02 PM](#)

DIANA STRAUB, Hairdresser, Member of the Board of Barbers and Hairdressers, stated that the board is a hard working board, as evidenced by how they dealt with the licensing of tattoo and piercing facilities that took place a couple of years ago. She expressed her desire for the board to continue in the same manner it has in the past.

CHAIR ANDERSON, upon determining that no one else wished to testify, closed public testimony and said that he would entertain a motion from the members at this point.

REPRESENTATIVE ROKEBERG interjected his belief that the legislature as illustrated by this present legislation, has the ability to exempt itself from its oversight abilities.

REPRESENTATIVE LEDOUX asked if the merger ideas were slated to be revisited on another bill platform before this committee.

MS. DAVIDSON stated that these boards are under sunset this year, and will go through this year and will end by next year. She then said that it will then be eliminated.

CHAIR ANDERSON surmised that it would be next year or the one after that when legislation will be introduced to deal with it.

REPRESENTATIVE LEDOUX pontificated that her understanding still was that it was going to be sunsetted next year, according to what was being said. She then said that if the committee does not do anything, the board gets sunsetted.

MS. DAVIDSON informed the committee that there are only two groups, the Board of Marital and Family Therapy and the Board of Dental Examiners, that are not being covered by this legislation. She specified that between HB 123 and other bills, all the boards and commissions under sunset this year are covered.

The committee took an at-ease from 4:04:11 to 4:04:48.

[4:04:49 PM](#)

CHAIR ANDERSON informed the committee that the Board of Marital and Family Counseling and the Dental Examiner Board is being dealt with in other bills. He then requested for a motion to move the bill out of the committee.

REPRESENTATIVE LEDOUX moved to report HB 123, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 123(L&C) is so moved from the House Labor and Commerce Standing Committee.

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DRAFT

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HB 109-SCREENING NEWBORNS FOR HEARING ABILITY

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CHAIR ANDERSON announced that the final order of business would HOUSE BILL NO. 109, "An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

[4:06:35 PM](#)

JANE PIERSON, staff for Representative Jay Ramras, announced that she had no other comments add to her testimony from the previous hearing.

REPRESENTATIVE ROKEBERG asked if there was any testimony from the insurance industry as to the cost of the mandates under Section 5.

MS. PIERSON answered that Mr. Stoops did speak about the history of the mandates and how section 5 may impact insurance rates.

REPRESENTATIVE ROKEBERG asked if the sponsor had any discussion regarding offered underwritten coverage versus the managed underwritten coverage.

MS. PIERSON deferred to Margaret Lanier-Kossler, who would be a better person to answer this particular question.

REPRESENTATIVE ROKEBERG reiterated his question concerning the coverage provided by insurance companies and whether it would be offered versus managed.

MARGARET LANIER- KOSSLER, Program Manager, Early Hearing Testing and Intervention Program, regretted to inform the committee that she was not the person who could answer this question.

MS. PIERSON explained that this has already been covered by the insurance companies and is included in birthing costs. She said this is not a big leap from the current situation.

CHAIR ANDERSON believed that this can be debated.

[4:10:13 PM](#)

REPRESENTATIVE ROKEBERG announced that there are very important issues. He said that one of the goals of this committee has been to make health insurance more affordable and available for everyone. He then said that the committee today has to be aware of the real issue here. He explained that the difference between the two types of insurance was that the offered coverage is coverage that is offered and the insurance company can charge the individual a premium for it. However, the mandated coverage entails a cost that is spread out throughout the insured community of that company. A vast majority of people are not affected by this bill. Only 20-35 percent of Alaskan people are affected, because the majority of people are under the ERISA program, or are self-insured coverage and they don't pay.

[4:11:23 PM](#)

REPRESENTATIVE ROKEBERG concluded that all this would do is to make the insurance bill to the small business more unaffordable.

4:11:54 PM

CHAIR ANDERSON shared this concern with Representative Rokeberg, and indicated that he felt the same about small businesses absorbing the cost. However, he felt that the tests themselves on the children of the state far outweigh the cost to the small businesses of Alaska. He ended by stating that it would be good to know specifically what the medical costs would be before the bill leaves this committee and goes on to the finance committee.

MS. PIERSON said that she believed that such cost information was provided by the March of Dimes. She recounted the number being \$420,000 in special education and over \$1 million for undetected deafness for each child over a lifetime.

CHAIR ANDERSON stated that this was the balancing that we have to assess.

REPRESENTATIVE GUTTENBERG pointed out that there were ways to figure out how to measure costs. The larger picture, which is the health of the families and individuals is more important than the ledger book of some company, and needs to be addressed.

4:15:00 PM

REPRESENTATIVE CRAWFORD surmised that this legislation doesn't impact any union insurance plans, but rather it only impacts small employers and solitary individuals.

REPRESENTATIVE ROKEBERG answered this by stating that some unions are underwritten and administered/insured by major insurance companies. He indicated that there may be one state

bargaining unit that may have an underwritten plan, but all of the others are exempt from this mandate. In further explanation, Representative Rokeberg clarified "you're not paying towards the cost it incurs when you mandate the cost into all other policies." The aforementioned is part of the cost shifting that occurs.

CHAIR ANDERSON clarified this by stating Representative Rokeberg is saying that by imposing the screening cost, it filtrates to the smaller businesses and not the masses.

REPRESENTATIVE CRAWFORD asked whether this legislation mandates that union healthcare plans are required to cover hearing screening.

REPRESENTATIVE ROKEBERG answered by stating that these union health plans are federally covered by ERISA, which exempts state regulation of their plans, even though the legislature has mandated hearing screening.

REPRESENTATIVE CRAWFORD stipulated then, that the iron worker union's healthcare plan is not required to pay for the mandated hearing screening.

REPRESENTATIVE ROKEBERG retorted that this is the inequity of a cost shift. He ended by highlighting that Alaska has a limited number of insurance companies that want to come and write policies here for small groups or insurance for individuals.

REPRESENTATIVE LEDOUX asked what the cost of a newborn hearing screening would be for the individual.

MS. PIERSON answered that it was between 20-60 dollars. In further response, she informed the committee that it was 10,000 new babies are born in AK every year.

REPRESENTATIVE LEDOUX inquired as to the definition of a fraternal benefit society.

REPRESENTATIVE ROKEBERG explained that there are certain underwriting groups that are founded on fraternal organizations and that there are Alaska statutes that separate these from actual insurance companies. These special provisions are probably analogous to other insurance groups.

REPRESENTATIVE LEDOUX then asked if they are governed by ERISA. She then asked what the rationale was in distinguishing between fraternal benefit societies and normal insurance providers.

REPRESENTATIVE ROKEBERG explained that the state allows the fraternal organizations a little more flexibility in underwriting criterion that is peculiar to their membership.

REPRESENTATIVE LEDOUX stated that it sounds like the committee needed to make a policy decision as to whether or not anyone that offers insurance would be required to be part of the coverage. She revealed that she had a hard time distinguishing between fraternal organizations and any other insurance group.

MS. PIERSON recalled the testimony of Reid Stoops at the meeting of the American Association of Health Plans, who said that generally he supported the bill. She also recalled that he said that the American Association of Health plans would rather have

a mandated offering rather than a benefit elective insurance. She noted that this only affects 25 percent of people.

REPRESENTATIVE GUTTENBERG directed attention to page two, line 13, and asked what the bill is looking to find. The phrase "subject to availability" is ubiquitous in legislation and law making.

REPRESENTATIVE ROKEBERG stated that this is not an appropriation bill, and the language is merely intent language.

[4:25:22 PM](#)

CHAIR ANDERSON announced that public testimony is closed and reminded the committee that a CS was adopted at an earlier juncture.

REPRESENTATIVE ROKEBERG said that although he had concerns, he will support moving it out of committee. He expressed a need for a comprehensive examination of costs and benefits, and impacts on both consumers and the insurance companies. He clarified that he absolutely supports the spirit of the bill and the issue behind it.

MS. PIERSON related that Mr. Stoops had said that every time the legislature mandates the policies, it costs the individual policy owners an additional \$75.

[4:27:44 PM](#)

CHAIR ANDERSON suggested that further concerns can be addressed on the floor. He then reminded the committee that the sponsor Representative Ramras is a small business owner and is probably

keeping this in mind and weighing the issues being discussed today and looking at what the greater good might be in this situation.

REPRESENTATIVE GUTTENBERG questioned the societal savings to private industry from these ten or twelve mandated benefits.

REPRESENTATIVE LYNN moved to report CSHB 109, Version 24-LS0450\G, Mischel, 2/04/05, out of committee with individual recommendations and the accompanying fiscal notes. There being no objections, CSHB 109(L&C) was reported out of the House Labor and Commerce Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [4:29:35 PM](#)

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