

MINUTES
SENATE FINANCE COMMITTEE
March 1, 2006
9:07 a.m.

CALL TO ORDER

Vice Chair Con Bunde convened the meeting at approximately [9:07:50 AM](#).

PRESENT

Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Donny Olson
Senator Lyman Hoffman

Also Attending: SENATOR GARY STEVENS; TOM MAHER, Staff to Senator Gene Therriault, PAT DAVIDSON, Director, Division of Legislative Audit; RICK URION, Director, Division of Corporations, Business and Professional Licensing, Department of Community and Economic Development;

Attending via Teleconference: From Kodiak: NORM WOOTEN, Member, Kodiak Chamber of Commerce; SUE JEFFERY, Member, Kodiak Chamber of Commerce; PAT BRANSON, President, Kodiak Chamber of Commerce, and Assembly Member, Kodiak Island Borough; From Mat-Su: SUNDI HONDL, President, Alaska Physical Therapy Association; From Anchorage: PATRICIA MCADOO, Physical Therapist

SUMMARY INFORMATION

SB 207-AK AEROSPACE DEVEL. CORP BD MEMBERSHIP

The Committee heard from the sponsor and the Kodiak Chamber of Commerce. A committee substitute was adopted and the bill reported from Committee.

SB 253-EXTEND BOARD OF CHIROPRACTIC EXAMINERS

The Committee heard from the sponsor. The bill was reported from Committee.

SB 254-EXTEND PT & OCCUPATIONAL THERAPY BOARD

The Committee heard from the sponsor and representatives of the profession. The bill was reported from Committee.

SB 255-OPTOMETRY: EXTEND BD/ LIC. ENDORSEMENT

The Committee heard from the sponsor, the Division of Legislative Audit and the Department of Commerce, Community and Economic Development. An amendment was amended and adopted and the bill was reported from Committee.

[9:08:07 AM](#)

#sb207

CS FOR SENATE BILL NO. 207(L&C)

"An Act relating to the membership on the board of directors of the Alaska Aerospace Development Corporation."

This was the second hearing for this bill in the Senate Finance Committee.

Senator Stedman moved for adoption of CS SB 207, 24-LS1208\I, as a working document.

[9:08:15 AM](#)

Vice Chair Bunde objected to the motion to explain that the committee substitute represents a compromise and would enable the fiscal note to be zero. The committee substitute would provide a requirement that residents of Kodiak would hold two seats on the board of the Alaska Aerospace Development Corporation (AADC). If no local residents applied for a seat, another Alaskan resident could fill the vacancy.

[9:08:55 AM](#)

SENATOR GARY STEVENS, sponsor of the bill, supported the requirement that Kodiak residents would hold two seats. This has been the historical practice. Local representation is important due to the issues regarding access and impacts to beaches and other areas near the launch facility. He had held a non-voting seat on the board but found it difficult to serve without voting

privileges and therefore resigned from the position. This legislation would have no fiscal impact. The practice of local representation has been successful in the past and no reason exists why it would not be successful in the future.

[9:10:33 AM](#)

Senator Stedman asked if the seats held by local residents would be designated.

[9:10:44 AM](#)

Senator G. Stevens replied that a Kodiak resident could hold any seat on the board provided that local residents hold two seats.

[9:11:03 AM](#)

Vice Chair Bunde called upon testifiers.

[9:11:20 AM](#)

NORM WOOTEN, Member, Kodiak Chamber of Commerce, testified via teleconference from Kodiak in support of the bill and in support of the specification that local residents would hold seats.

[9:11:50 AM](#)

SUE JEFFERY, Member, Kodiak Chamber of Commerce, testified via teleconference from Kodiak to the importance of designating two seats on the board for local residents. This would ensure that the board has a "closer ear to the ground in Kodiak" to abate problems before they arise. Oftentimes, conflicts are due to a lack of communication that led to the problems.

[9:12:58 AM](#)

PAT BRANSON, President, Kodiak Chamber of Commerce, and Assembly Member, Kodiak Island Borough, testified via teleconference from Kodiak, that the AADC has a significant impact on the local community, economically and in other ways. The designated seats provide a link between the board and the community. It also somewhat relieves the chair and the chief executive officer of the burden of attempting to ascertain and meet the needs of the community. The AADC is an important aspect of Kodiak Island.

[9:15:19 AM](#)

Senator Olson asked how often board decisions were divided and the presence of two locals would "tip the balance".

[9:15:57 AM](#)

Senator G. Stevens responded that traditionally the board membership has always been comprised of two local residents. Only recently, with the resignation of a member who was a local resident and the replacement of that seat by a non-local resident, has this not been the case. In the two years that Senator G. Stevens served on the board, no issues were decided by a close vote. The board has usually agreed on matters before it. The purpose of the designated seats is to receive community input and to provide feedback to the community on AADC activities and to inform the community of when and why access closures are necessary.

[9:17:20 AM](#)

Senator Olson asked why the bill sponsor found serving as a non-voting member frustrating.

[9:17:32 AM](#)

Senator G. Stevens explained that he held one of two non-voting seats designated for legislators. His frustration was borne from his interest in having a voice in decision making, not because of any controversy in board actions.

[9:18:11 AM](#)

Vice Chair Bunde removed his objection to the adoption of the committee substitute and Version "I" was ADOPTED without further objection.

Senator Dyson offered a motion to report CS SB 207, 24-LS1208\I, from Committee with individual recommendations and a new fiscal note.

[9:18:39 AM](#)

There was no objection and CS SB 207 (FIN) was MOVED from Committee with a zero fiscal note dated 2/28/06 from the Department of Commerce, Community and Economic Development.

9:18:50 AM

#sb253

SENATE BILL NO. 253

"An Act extending the termination date for the Board of Chiropractic Examiners; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

TOM MAHER, Staff to Senator Gene Therriault, paraphrased from the sponsor statement [copy on file] informing that the Legislative Audit Division conducted the scheduled audit of the Board of Chiropractic Examiners incorporating revisions made to the "sunset process" during the previous legislative session. These revisions include changing the lapse date of this board from "not to exceed four years" to "not to exceed eight years". In addition, to better measure operational performance, two new criteria were added to statute that must be considered in the course of a sunset review by the auditors: the extent to which the board, commission, or agency has effectively attained its objectives and the efficiency with which it has operated; and the extent to which the board, commission or agency duplicates the activities of another governmental agency or the private sector.

Mr. Maher reported that the Division of Legislative Audit concluded that the Board of Chiropractic Examiners operates in the public's best interest and should continue to regulate chiropractors. The Board safeguards the public interest by promoting the competence and integrity of those who practice in this field and continues to improve its effectiveness and ensure chiropractors are licensed in the State of Alaska.

Mr. Maher stated that this legislation would extend the lapse date of the Board eight years from June 30, 2006 to June 30, 2014.

Mr. Maher noted that the audit made no other recommendations to the legislature regarding this Board.

Mr. Maher informed that the fiscal note accompanying this legislation reflects projected future costs of the Board's operations. Governor Murkowski's proposed FY 07 operating budget contains funding for this Board's operations in FY 07.

[9:21:14 AM](#)

Vice Chair Bunde pointed out that the operations would be funded with Receipt Supported Services. Like many other State boards and commissions, this board is self-supporting.

[9:21:39 AM](#)

Senator Stedman offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Without objection SB 253 was MOVED from Committee with a zero fiscal note #1 from the Department of Commerce, Community and Economic Development.

[9:21:54 AM](#)

#sb254

SENATE BILL NO. 254

"An Act extending the termination date for the State Physical Therapy and Occupational Therapy Board; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

TOM MAHER, Staff to Senator Gene Therriault, paraphrasing from the sponsor statement [copy on file], testified that a scheduled audit conducted by the Division of Legislative Audit concluded that the Physical Therapy and Occupational Therapy Board is operating in the public's best interest and should continue to regulate the physical and occupational therapists. The Board safeguards the public interest by promoting the competence and integrity of those who practice in this field and continues to

improve its effectiveness and ensure therapists are licensed in the State of Alaska.

Mr. Maher explained that this legislation would extend the lapse date of the Board by eight years from June 30, 2006 to June 30, 2014.

Mr. Maher reported that the audit contained no other recommendations pertaining to this Board.

Mr. Maher informed that the fiscal note accompanying this legislation reflects projected future costs of the Board's operations. Governor Murkowski's proposed FY 07 operating budget contains funding for this Board's operations in FY 07.

[9:23:05 AM](#)

SUNDI HONDL, President, Alaska Physical Therapy Association, testified via teleconference from Mat-Su in support of the continuation of the Board.

[9:24:03 AM](#)

PATRICIA MCADOO, Physical Therapist, testified via teleconference from Anchorage that she supported this bill. Because physical therapy education could not be obtained in Alaska, a "strong" Board is important. This Board is one of the most respected and hard working bodies of this type in the country. The Board process is an investment in the protection of Alaskans.

[9:25:15 AM](#)

Senator Stedman offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Vice Chair Bunde noted that this Board, like most of the State boards and commissions, is self-supporting.

There was no objection and SB 254 was MOVED from Committee with zero fiscal note #1 from the Department of Commerce, Community and Economic Development.

[9:25:51 AM](#)

#sb255

CS FOR SENATE BILL NO. 255(L&C)

"An Act extending the termination date for the Board of Examiners in Optometry; amending the licensing endorsement and renewal provisions for optometrists; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

TOM MAHER, Staff to Senator Gene Therriault, read the sponsor statement into the record as follows.

This legislation stems from recommendations contained in the Legislative Audit Report entitled, "Department of Commerce, Community and Economic Development, Board of Examiners in Optometry Sunset Audit", dated September 27, 2005 [copy on file.]

Legislative Audit concluded that the Board of Examiners in Optometry (BEO) continues to serve a public need and is operating in the public best interest. The regulation and licensing of qualified optometrists is necessary to protect the public's health, safety and welfare. Further, the BEO has operated effectively, adopted regulatory changes and supported legislation that improved its oversight process and promoted more effective regulation of licensed optometrists. Accordingly, SB 255 extends the sunset date for the BEO to June 30, 2014 for an eight-year extension.

Legislative Audit also recommended that the Legislature amend the optometry statutes to ensure they support current license endorsement for the diagnostic use of pharmaceutical agents. Currently, statutory language provides for a single endorsement for both prescribe and use. However, the BEO is issuing two types of endorsements. The first allows a practitioner to both prescribe and use pharmaceutical agents and the second type of endorsements allows a practitioner "use" only. Current law does not authorize the use only endorsement. SB 255 corrects this situation by adding a section authorizing a use only endorsement and also "grandfathers" in the practitioners that were given that endorsement over the years.

Finally, the Senate Labor and Commerce Committee approved an amendment offered by the Department of Commerce, Community and Economic Development that deleted the statutory cite requiring 24 hours of continuing education instruction, allowing the Board to establish through regulation, the number of hours without amending statute. This amendment was requested by the BEO in its response to the audit.

Mr. Maher stated that the operational expenses of this Board would not change as a result of the changes made.

[9:29:14 AM](#)

Senator Olson asked if additional witnesses were present to testify to this bill.

[9:29:24 AM](#)

Vice Chair Bunde answered that no others had signed up to testify.

[9:29:27 AM](#)

Senator Olson asked about the endorsements allowing optometrists to use pharmaceuticals but not prescribe them.

[9:30:03 AM](#)

Mr. Maher replied that this proposed change would correct a situation already occurring in which the Board issues such endorsements.

[9:30:15 AM](#)

PAT DAVIDSON, Director, Division of Legislative Audit, recalled that during the early 1990s, statutes were changed to allow optometrists to use and prescribe pharmaceutical agents. However, the legal interpretation of this provision stipulated that the optometrist must practice both use and prescription. The proposed change would provide an endorsement for optometrists intending to only use pharmaceuticals and not prescribe them.

[9:31:26 AM](#)

Senator Olson asked if optometrists have commented on the use and prescription of pharmaceuticals.

[9:31:41 AM](#)

Ms. Davidson told of extensive discussion on the matter during the 1990s when the statute was originally amended to allow the practice. The issue before the Committee in this legislation pertains to endorsement for use only.

Ms. Davidson explained that the career span of most practicing optometrists is approximately 30 years. Education of optometry has only included instruction on the dispensing of prescriptions for the past ten to 15 years. Some practitioners do not feel adequately trained to prescribe medications.

[9:32:59 AM](#)

Senator Olson asked if the endorsement is limited to topical medication or includes systemic medications.

[9:33:24 AM](#)

Ms. Davidson had not researched the matter for this hearing, as the provision is already law.

[9:33:48 AM](#)

Senator Dyson shared that he had learned that the endorsement only extends to topical pharmaceuticals.

[9:33:59 AM](#)

Senator Dyson asked the purpose of the addition of the provision pertaining to postgraduate continuing education in Section 4 of the committee substitute.

[9:34:37 AM](#)

Mr. Maher responded that the Senate Labor and Commerce adopted the change at the request of the Board.

[9:34:47 AM](#)

Ms. Davidson furthered that the intent is to eliminate the statutorily determined number of hours of continuing education required. This provision would direct the Board to determine the appropriate number of hours through the regulatory process.

[9:35:33 AM](#)

RICK URION, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community, and Economic Development, requested additional changes to be made to the bill. He did not propose these amendments when the Senate Labor and Commerce Committee was hearing the bill because some legislators "came to the erroneous opinion" that sunset legislation should only address the extension of lapse dates and should propose no changes to the conditions of the entity being audited. He disagreed with this position, asserting that the scheduled lapse extensions were an opportunity to implement necessary changes. Once the term of an entity was extended no further attention was paid to matters pertaining to that entity.

AT EASE [9:37:18 AM](#)

[9:37:49 AM](#)

Amendment #1: This amendment deletes "president" and inserts "chair" in subsection (c)(1) of AS 08.72.060. Miscellaneous powers and duties of board. The amended statute reads as follows.

- (c) The board shall
- (1) elect a chair [PRESIDENT] and secretary from among its members...

This amendment also inserts new subparagraphs to AS 08.72.140. Qualifications for examination., which stipulates the conditions an applicant must meet to take the examination. The inserted language reads as follows.

- (3) has not committed an act in any jurisdiction that would have constituted a violation of this chapter or regulation adopted under this chapter at the time the act was committed; and
- (4) has not been disciplined by an optometry licensing entity in another jurisdiction and is not the

subject of a pending disciplinary proceeding conducted by an optometry licensing entity in another jurisdiction; however, the board may consider the disciplinary action and in its discretion determine if the person is qualified to be admitted to the examination.

This amendment also inserts language to subparagraph (8) of AS 08.72.170. Licensure by credentials., which stipulates the conditions an applicant must meet to receive a license by credentials. The amended language reads as follows.

(8) has not been disciplined by an optometry licensing entity in another jurisdiction and is not the subject of a pending disciplinary proceeding conducted by an optometry licensing entity in another jurisdiction; however, the board may consider the disciplinary action and in its discretion determine if the person is qualified for licensure.

This amendment also deletes subparagraph (6) of AS 08.72.181. Fees., pertaining to the fees the Department would set. The deleted language reads as follows.

[(6) BRANCH OFFICE LICENSE AND RENEWAL]

This amendment also deletes AS 08.72.274. Exemption., from statute. The deleted language reads as follows.

[AS 08.72.274. EXEMPTION. EXCEPT FOR AS 08.72.275, THIS CHAPTER AND REGULATIONS ADOPTED UNDER THIS CHAPTER DO NOT LIMIT THE PRACTICE OF AN OPTICIAN LICENSED UNDER AS 08.71.]

New Text Underlined [DELETED TEXT BRACKETED]

Senator Dyson moved for adoption.

Vice Chair Bunde objected for an explanation.

Mr. Union stated that the Board requested the changes proposed in this amendment during the audit process. The proposed changes were endorsed by the "audit process" but were not included in the Division of Legislative Audit recommendations.

Mr. Urion characterized the changes as housekeeping amendments that would allow the board to "better license people and get people to work" and would provide discretion to the board in determining whether to license applicants by their credentials or by examination.

Mr. Urion noted the change of title of the board leadership position from "president" to "chair" would be consistent with other law in which the governor could appoint a person to the seat.

Mr. Urion stated that the Division no longer licenses branch offices and therefore the setting of a fee for this service is not applicable.

[9:39:29 AM](#)

Senator Olson asserted that the proposed statutory change pertaining to board discretion regarding disciplinary actions taken in other jurisdictions would be significant. He asked the historical position of the board in dealing with disciplinary actions against an optometrist.

[9:39:58 AM](#)

Mr. Urion read a statement made by the president of the board, "Currently there is nothing in the practice act authorizing the board to deny or put stipulations on new licenses by examination." Mr. Urion explained that the board currently has no such discretion, which the adoption of this amendment would allow.

[9:40:25 AM](#)

Senator Olson asked the purpose of the board if almost every applicant would be guaranteed a license.

[9:40:41 AM](#)

Mr. Urion corrected that not every applicant would receive a license. The proposal would provide discretion to the board to make determinations. The disciplinary action taken in another jurisdiction could have been for an offense not identified as such in Alaska statute, or the offence could have occurred several years prior, or been a minor offense.

[9:41:01 AM](#)

Senator Olson asked the number of optometrists disciplined during Mr. Urion's tenure with the Division.

[9:41:18 AM](#)

Mr. Urion answered, "Not very many if any."

[9:41:23 AM](#)

Senator Dyson appreciated the presentation of the amendment. He declared a potential conflict of interest in that his personal optician is the current president of the board, is politically active in local affairs and Senator Dyson has contributed to his campaigns.

[9:42:12 AM](#)

Senator Olson asked about the deletion of certain fees.

[9:42:20 AM](#)

Mr. Urion reiterated that only the fees pertaining to the branch office would only be eliminated.

[9:42:54 AM](#)

Ms. Davidson had reviewed the amendment and noted that although most of the changes appear to be "housekeeping", she was unsure about the consequences of repealing AS 08.72.274. Exemption., from statute. This statute provides exemptions "except for AS 08.72.275". The referenced statute, AS 08.72.275 applies to both opticians and optometrists and provides an exemption to the standard specification of eyewear that a licensee could dispense, including nonflammable and plastic coated lenses. Eyewear that did not meet the standard specification could be dispensed at the written request of the patient under this statute. Ms. Davidson was unsure whether the repeal of AS 08.72.274 would eliminate this exemption for some practitioners. She was unaware of current practice in this matter.

[9:45:38 AM](#)

Vice Chair Bunde stated that additional time could be spent to address these concerns or the amendment could be amended to remove the proposed repeal of AS 08.72.274.

[9:45:50 AM](#)

Mr. Urion preferred the latter.

[9:46:04 AM](#)

Senator Stedman offered a motion to amend the amendment to delete the language that would repeal AS 08.72.274.

There was no objection and the amendment was AMENDED.

[9:46:19 AM](#)

Without further objection Amendment #1 as amended was ADOPTED.

[9:46:26 AM](#)

Senator Dyson offered to sponsor an amendment to repeal the statute when the full Senate body considered this bill if the determination was made that the repeal would have no unintended consequences.

[9:47:20 AM](#)

Senator Stedman offered a motion to report CS SB 255(L&C), as amended, from Committee with individual recommendations and accompanying fiscal note.

There was no objection and CS SB 255 (FIN) was MOVED from Committee with zero fiscal note #1 from the Department of Commerce, Community and Economic Development.

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ADJOURNMENT

Vice-Chair Con Bunde adjourned the meeting at [9:47:47 AM](#)