

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 12, 2012

3:20 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Craig Johnson, Vice Chair
Representative Dan Saddler
Representative Steve Thompson
Representative Lindsey Holmes
Representative Bob Miller

MEMBERS ABSENT

Representative Mike Chenault

COMMITTEE CALENDAR

HOUSE BILL NO. 275

"An Act requiring that a policy of group health insurance offered by the state and certain local governments include coverage for colorectal screening, allow retirees to choose between brand-name and generic drug products, and limit certain prescription drug benefit payments to an amount based on the cost of the generic drug product."

- HEARD & HELD

HOUSE BILL NO. 337

"An Act relating to the Board of Registration for Architects, Engineers, and Land Surveyors and to the Department of Commerce, Community, and Economic Development."

- MOVED HB 337 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 275

SHORT TITLE: RETIREE BENEFITS:COLORECTAL/DRUG BENEFITS

SPONSOR(S): REPRESENTATIVE(S) LYNN

01/17/12	(H)	PREFILE RELEASED 1/13/12
01/17/12	(H)	READ THE FIRST TIME - REFERRALS
01/17/12	(H)	L&C, FIN
03/12/12	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 337

SHORT TITLE: BD OF ARCHITECTS, ENGINEERS, SURVEYORS

SPONSOR(S): REPRESENTATIVE(S) THOMPSON BY REQUEST

02/22/12 (H) READ THE FIRST TIME - REFERRALS
02/22/12 (H) L&C, FIN
03/12/12 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE BOB LYNN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 275.

MIKE SICA, Staff
Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 275 on behalf of the prime sponsor, Representative Bob Lynn.

GARY MILLER, Vice President, Southeast Region
Retired Public Employees Alaska (RPEA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 275.

PAUL DAVIS, MD, FAAFP
Medical Director
Colorectal Cancer Screening Program
Alaska Native Medical Center (ANMC)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 275.

MOLLY MCCAMMON
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 275.

PATRICK LUBY, Advocacy Director
AARP Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 275.

EMILY NENON, Alaska Government Relations Director
American Cancer Society Action Network
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 275.

RICHARD BENEVIDES
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 275.

DAVID OLEWILER
Palmer, Alaska

POSITION STATEMENT: Testified during the discussion of HB 275.

LYNETTE BERGH, Staff
Representative Steve Thompson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 337 on behalf of the sponsor,
Representative Steve Thompson.

DON HABEGER, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, & Economic Development(DCCED)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions on HB 337.

ERIC ERICKSEN, P.E. - Electrical Engineer; Board Member
Board of Architects, Engineers, and Land Surveyors (AELS Board)
Department of Commerce, Community, & Economic Development(DCCED)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 337.

COLIN MAYNARD, P.E. - Structural Engineer; Member
Alaska Professional Design Council, LLC (APDC)
Anchorage, Alaska.

POSITION STATEMENT: Testified during the discussion of HB 337.

BRIAN HANSON, P.E. - Civil and Mining Engineer; Board Member
Board of Architects, Engineers, and Land Surveyors (AELS Board)
Department of Commerce, Community, & Economic Development(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 337.

DALE NELSON, P.E. - Civil Engineer
Alaska Professional Design Council, LLC (APDC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 337.

BOYD BROWNFIELD, P.E. - Civil Engineer; Board Member
Board of Architects, Engineers, and Land Surveyors (AELS Board)

Department of Commerce, Community, & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 337.

HARLEY HIGHTOWER, Architect; Chair

Board of Architects, Engineers, and Land Surveyors (AELS Board)
Department of Commerce, Community, & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 337.

RICHARD HEIEREN, Land Surveyor; Board Member

Board of Architects, Engineers, and Land Surveyors (AELS Board)
Department of Commerce, Community, & Economic Development (DCCED)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 337.

BURT LENT, Landscape Architect; Board Member

Board of Architects, Engineers, and Land Surveyors (AELS Board)
Department of Commerce, Community, & Economic Development (DCCED)
Wasilla, Alaska

POSITION STATEMENT: Testified in support of Board of Architects, Engineers, and Land Surveyors (AELS Board)

ACTION NARRATIVE

[3:20:29 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Miller, Saddler, Thompson, Holmes, and Olson were present at the call to order. Representative Johnson arrived as the meeting was in progress.

HB 275-RETIREE BENEFITS: COLORECTAL/DRUG BENEFITS

[3:20:40 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 275, "An Act requiring that a policy of group health insurance offered by the state and certain local governments include coverage for colorectal screening, allow retirees to choose between brand-name and generic drug products, and limit certain prescription drug benefit payments to an amount based on the cost of the generic drug product."

[3:21:03 PM](#)

REPRESENTATIVE BOB LYNN, Alaska State Legislature stated that this bill is about saving money and saving lives. He related a scenario in which in which he filled a prescription at a Fred Meyer pharmacy. The pharmacist talked to him about the cost of brand name prescription drugs.

[3:22:36 PM](#)

MIKE SICA, Staff, Representative Bob Lynn, Alaska State Legislature, on behalf of the sponsor, Representative Bob Lynn, stated that this bill would affect about 14,000 public retirees that are pre-Medicare age or under the age of 65.

[3:22:48 PM](#)

REPRESENTATIVE LYNN stated that the cost difference between using brand name and generic drugs is staggering. He passed out a list of drugs his pharmacist gave him. Everyone probably takes one or more of these drugs, he said. He compared the cost of brand name drugs to the generic drug for several drugs, as follows: Zofran, \$3,204 for brand name drug as compared to \$10.35 for generic; Effuxor, \$1,375 for brand name drug as compared to \$23.40 for generic; Prilosec, \$714.24 for brand name drug versus \$20.85 for generic; Glucophage, \$91.68 for brand name drug versus \$1.32 for a 90-day prescription of the generic drug. He characterized the price difference as amazing. Thus the potential for savings is great. This bill proposes that retired state employees must use the generic drug, although if the retiree wanted to use the brand name the retiree could pay the difference. He pointed out that the only exception would be if a doctor or pharmacist designates the drug must be a brand name or if a [generic] drug is not available. He turned to the second portion of the bill, which relates to colorectal screening and is a life-saving measure. Currently, retired state employees under the ages of 65 are not eligible for insurance coverage for colorectal screenings; however, Alaskans who are incarcerated do receive the benefit of screening. He concluded that HB 275 will save money and save lives.

[3:25:46 PM](#)

MR. SICA referred to page 1, which would add a new paragraph to extend colorectal screening as a preventive measure and is similar to a measure the committee considered last year. He stated that this would extend health care coverage of colorectal screening for cancer to a group of retirees, including public

retirees, the judicial system, the Teachers' Retirement System (TRS), the public employees. About 14,000 people, not including dependents would be affected by the bill, and this group comprises the only major group in Alaska without this important coverage. He stressed this as a lifesaving technique. He pointed out that the Department of Corrections advises that inmates also have colorectal screening using American Cancer Society guidelines and inmates have coverage.

He turned to paragraph (14) of the bill, which would offset the cost of colorectal screening by requiring the same group to use generic rather than brand name drugs unless their doctor or pharmacist recommends a brand name since some drugs, such as cardiac or psychiatric medicines differ from the generic brand or may not be available. If the retiree beneficiary wants to use the brand name the individual must pay the difference.

[3:28:15 PM](#)

MR. SICA recalled the sponsor's earlier testimony. He emphasized that the sponsor thought it would be useful to use the savings to cover colorectal screening, which is a high priority for many people. He pointed out that the sponsor has worked with the American Cancer Society, the Retired Public Employees' Association (RPEA), the AARP, and the administration, including the Division of Retirement and Benefits. He hopes the fiscal impact reductions will fund the cost of colorectal screening.

MR. SICA referred to the three fiscal notes. He related that the Division of Insurance submitted a zero fiscal note. He referred to the 2012 Buck Consultants study dated January 18, 2012, which shows the cost of colorectal screening would be \$3.19 million and the savings resulting from using generic drugs would be \$3.23 million. The sponsor estimated the possible costs savings at \$40,000 in the first year. The Division of Retirement and Benefits submitted a one-time cost of \$26,000 to change brochures. He referred to the Department of Health and Social Services fiscal note just received, which is a little complicated, but discussed Medicaid benefits for brand name prescription drugs. He pointed out that in 2010 a Medicaid task force recommends the state move more toward generic drugs.

[3:30:19 PM](#)

REPRESENTATIVE SADDLER asked for the cost for the colorectal screening.

MR. SICA answered that individual cost for colonoscopy would range from \$1,800 to \$6,000 depending on what the doctor discovers. He suggested that the Division of Retirement and Benefits used a cost of \$3,000-4,000, but he was not certain.

[3:31:43 PM](#)

REPRESENTATIVE HOLMES answered whether the sponsor considered applying generic drugs to current public employees.

MR. SICA answered that the sponsor was trying to take advantage of the savings by using generic drugs and use it to cover the colorectal screening. In 2010, the Division of Retirement and Benefits' newsletter explained substantial savings by using the voluntary use of generic drugs. The active state employees saved about \$414,000, whereas the retirees saved \$7.6 million. He surmised that the higher the copay the higher the generic drug usage. He related his understanding that the retiree plan has a difference of \$8-4 dollars between using the brand name or the generic drug.

CHAIR OLSON remarked that the contract negotiation for state employees may prevent mandating it.

[3:33:44 PM](#)

MR. SICA provided a brief sectional analysis of the bill. Section 1 paragraph (13) would extend the coverage to cover colorectal screening to municipal and state employees and officers who retire under the Public Employees' Retirement System (PERS), the Judicial Retirement System, the Teachers' Retirement System, or the former Elected Public Officers Retirement System health coverage would include colorectal screening, which is the one group not covered in Alaska.

MR. SICA related that Section 1, paragraph (14) would increase the use of generic drugs by allowing the beneficiary to choose between generic and brand name drugs unless the doctor or the pharmacist indicates a brand name must be used or that it is not available. He explained that Section 2 amends the definition of generic drug as in AS 08.80.480. He read:

An equivalent drug product means a drug product that has the same established name, active ingredients, strength or concentration, dosage form and route of administration. It is formulated to contain the same

amount of active ingredients in the same compendia or other applicable standards for strength, quality, purity, and identity, but may differ in characteristics such as shape, scoring configuration, packaging, excipients including colors, flavors, preservatives, and expiration time;

3:35:25 PM

MR. SICA added that generic drugs are a lot cheaper. He referred to handout in the members' packet that indicates generic medicine is 70 to 90 percent less expensive.

3:35:42 PM

GARY MILLER, Vice President, Southeast Region, Retired Public Employees of Alaska (RPEA) read a letter from Bob Doll, as follows [original punctuation provided]:

The Retired Public Employees of Alaska (RPEA) is gratified to offer its support for your draft bill, HB 275, to require that retiree medical insurance coverage include colorectal screening and colonoscopies. In fact, providing this coverage has been a major objective of RPEA for several years. We hope that the Alaska legislature will seize this opportunity to offer coverage for both retirees and the state. The bill will also include use of generic prescription drugs, a goal that RPEA has pursued among its members for many years in our continuing efforts to increase the cost of health care.

Some of our members are concerned with the mechanism to trade-off the cost of colonoscopies against the savings from increased use of generic drugs. While we applaud the effort to increase both health concepts, the dollar values resulting will have an uncertain impact on our members. Accordingly, we hope that the final version of HB 275 will incorporate a sunset provision of five years in order to ensure a future review of the results it has produced. Buck Consultants in their letter of November 29, 2007, reported on their efforts to estimate return-on-investment (ROI) for adding colonoscopy coverage to the retiree plan. That letter concluded, in part, "...we believe an explicit colon screening diagnostic

provision in the retiree plan will prove financially positive over time (p.4)."

As long ago as August 29, 2005, the American Cancer Society, Alaska Office, wrote to then Commissioner of Administration ray Matiashowski reporting the results of a study by the Lewin Group, a nationally recognized health policy consulting firm located in Washington D.C.

[3:38:19 PM](#)

MR. MILLER continued to read, as follows:

Based on the results of that study the Society reported, "Our final conclusion is that there is no economic reason for insurance plans not to cover the full range of colorectal cancer screenings and there are tremendous life-saving benefits for doing so."

The Congress has included in the Affordable Care Act of 2010 coverage for colorectal cancer screenings. For state retirees covered by Medicare, such screenings are a major step forward in the effort to combat this disease. Retirees under 65 years of age, covered only by the state medical plan, are left to combat this threat at their own expenses, an inconsistency that we find difficult to understand.

While the Buck analysis is useful in supporting the goals of HB 275, it is merely a statistical and financial document. It does not include any consideration for the number of fellow retirees - among who will eventually be included all current members of the Alaska State legislature - who will contract colorectal cancer and whose prospects for survival will be vastly enhanced if that cancer can be detected early. While the financial rational for HB 275 should be enough to draw the support for the bill, I hope that the legislature will not overlook the important humanitarian dimension of a condition which all of us may face at some time.

RPEA is proud to have the opportunity to endorse HB 375.

[3:41:07 PM](#)

PAUL W. DAVIS, MD, FAAFP, Medical Director, Colorectal Cancer Screening Program, Alaska Native Medical Center (ANMC), said that he is the medical director, Alaska Native Medical Center Colorectal Cancer Screening Program, and works in the screening program for the Yukon Kuskokwim Health Corporation. He has worked in Dillingham, Seward, and many parts of the state providing colonoscopies and colorectal cancer screening for Alaska Native and other Alaskans. He stated that colon cancer is a major killer, and the second highest cancer killer of Americans, in particular, this cancer hits the Alaska Native population hard. He said 1 of 19 Americans will be diagnosed with colon cancer before they die, but the rate of 1 of 8-9 indicates twice the risk for the Alaska Native population. This cancer is preventable, unlike lung cancer which cannot be screened. This cancer can be found in a stage, similar to cervical cancer or pap smears, but the test is even more cost effective than pap smears. In 1960, cervical cancer killed more women than any other cancer, but with screening women no longer need to die of cervical cancer. He also said that colon cancer is similar since people start to grow precancerous polyps in their 40s and for the average population are at risk by age 50. He said colorectal screening is lifesaving. The medical community has known for some time that removing polyps helped prevent colon cancer. However, two weeks ago in the New England Journal of Medicine, Dr. Sidney Winawer, a gastroenterologist, and his colleagues in Boston published a study in Boston indicates more than a 50 percent decrease in death rate from cancer is achieved by having a single colonoscopy to remove polyps between the ages of 50-65. In 2007, former Governor Frank Murkowski signed into law that any insurance company doing business in Alaska is required to offer colon cancer screening. Yet our own retirees between the ages of 50-65 are not given that benefit, which is required by law. He recalled in 2007 saying, "Finally our Alaska State Governor was paying attention to the Alaska gas pipeline that really needs to be scoped out."

[3:44:59 PM](#)

DR. DAVIS characterized the second part of the bill, which addresses brand name drugs versus generic drugs as trading something that has no benefit to retirees. He explained that generic prescription drugs are as good and are equivalent to the brand name prescription drugs. He offered his belief that ordering brand name medicines drives up health care costs. He stated that since health care dollars are limited these dollars need to be spent wisely. He emphasized that colorectal cancer

screening is a wise use of health care dollars and spending them on brand name drugs that have no proven benefit over generic drugs is not a wise use of health care dollars. Even if the tradeoff did not exist, colorectal cancer screening not only saves lives and prevents colon cancer, but in the long run saves the state a huge amount of money. He pointed out that it is far less expensive to screen people and prevent diseases than it is to take care of colon cancer when it develops. He said, "It is an extremely expensive disease to take care of and patients always suffer and die."

[3:46:31 PM](#)

MOLLY MCCAMMON stated that in 1997 she was a 45-year-old state employee, when she was diagnosed with stage one colorectal cancer following a colonoscopy paid for by her State of Alaska health insurance coverage. She stated that she knew her grandfather had died of colon cancer at the age of 45. A grandfather is a second-degree relative and while that alone is not significant in terms of colon cancer her doctor recommended a colonoscopy due to some very minor symptoms. She expressed her belief that she would have ignored the symptoms completely if her insurance had not covered the procedure. She had the procedure and the doctor discovered the tumor and surgically removed it. Her colon cancer was discovered early enough to surgically remove it and she did not even need radiation or chemotherapy. However, now that she is 60 and a state retiree, she discovered that screening colonoscopies are not covered by her health insurance. She offered her belief that this is absurd since preventing colorectal cancer and not just early diagnosis should be a major reason for supporting routine colorectal cancer screening. She emphasized that colorectal cancer screening is the only effective test and early detection is very treatable. She related as humans our tendency is to postpone or even avoid expensive procedures like a colonoscopy until either a tumor is too large to ignore or the cancer has spread to other parts of the body. Treatment for colorectal cancer has improved significantly over the past few years, which has resulted in more than a million colorectal cancer survivors in the U.S. She said, "I really consider myself fortunate to be one of them and I know it's because I was able to have my colonoscopy covered by health insurance. I urge you to support this legislation so that there will be more survivors like me. Thank you very much."

[3:48:47 PM](#)

PATRICK LUBY, Advocacy Director, AARP Alaska, said that AARP is in strong support of HB 275. Medicare now covers all colorectal cancer screening without any copay or deductibles. Through research the federal government has discovered that colorectal cancer screening saves lives and money. Early detection and treatment make good economic sense and good health preventive policy. Our active public employees and inmates in the correctional system can have colorectal cancer screening coverage. He stated that AARP thinks it makes sense for PERS and TRS retirees too young for Medicare to also have health care coverage. He concluded by saying that AARP urges members to support HB 275.

[3:50:04 PM](#)

EMILY NENON, Alaska Government Relations Director, American Cancer Society Action Network, stated that she has worked on this issue for some time and wrote her first letter on this issue on behalf of the American Cancer Society in 2005. She said she hopes this issue will get resolved before she is ready to retire. In 2006, the legislature passed House Bill 393, which required all state-regulated insurance plans to cover colon cancer screening according to the American Cancer Society guidelines. At the time, the society found a number of other plans not covered by the state added colorectal cancer screening coverage, such as Providence Health System, which is self-insured. In 2011, Medicare changed rules its rules to cover 100 percent of the colorectal cancer screening without any copay. She highlighted that remaining are those retirees ages 50-64. She recalled previous testimony that colonoscopies are expensive, which is true. However, colonoscopies are recommended once every ten years and if averaged out become cheaper than mammography screening. She highlighted that colorectal cancer is the second leading cause of cancer deaths in Alaska and across the nation. She emphasized that it is true that Alaska Natives have the highest incidence of colorectal cancer of any population group in the nation. She pointed out that with early detection, the five-year survival rate from colon cancer is over 90 percent, but if colorectal cancer is not caught until it reaches organs, when symptoms are most likely to occur, the five-year survival rated drops to 11 percent. She estimated that with regular screening half of colorectal cancer deaths could be prevented. She urged support for HB 275.

[3:53:05 PM](#)

RICHARD BENEVIDES stated that most of the points he raised at the hearing last April are applicable points. He offered the reason he is not currently in Juneau is since he had a colonoscopy as part of routine physical in 2008. The colonoscopy revealed that he had stage four colon cancer that had spread to his liver. His doctor told him that a person with stage four colon cancer has a life expectancy of two years. He offered his belief if he had not had the colorectal cancer screening in 2008 that he probably would not have survived without this detection. He has had two surgeries and radiation, plus five months of IV chemotherapy and three months of oral chemotherapy as part of his treatment. He continues to work to rebuild his core strength. He characterized this bill as an incredibly important bill. He said once he becomes a retiree he would like to have another colonoscopy. He said he thinks that it is important for retirees over 50 to get this coverage. He also said that this bill makes sense and will save thousands of dollars by detecting colon cancer before it becomes more serious. He said, "Even though I have this great insurance, I pay at least \$10,000 out of pocket every year for my percentage...for treatments and drugs. He implored members to pass this bill. He pointed out that somewhere right now a retiree has colon cancer, but has no idea they have colon cancer. He stated that he would like to help that person.

[3:56:29 PM](#)

DAVID OLEWILER stated that he is a 56-year-old PERS retiree. He worked for the Municipality of Anchorage for 31 years. He related that five years ago he received his first colonoscopy and a noncancerous polyp was removed. This year his doctor recommended a follow-up colonoscopy; however, Alaska Care excluded this retiree health care benefit in 2010. The cost of his colonoscopy was also estimated between \$1,800 and \$6,000, depending on the results of the procedure; however, he is not able to budget 100 percent of the costs out of pocket. Without insurance benefits he must delay the colonoscopy from one to two years to budget for it. Additionally, most colon cancers do not exhibit symptoms until latter stages of the disease, which makes him extremely uneasy about delaying the test. He stressed that with every passing month he feels as though he is rolling the dice with his own health. He pointed out that he has nine more years before Medicare will pay for his colonoscopy. All of the information provided in members' packets documents the life-saving benefits of colorectal cancer screening and others have testified to that end. Each medical document he has read urges Americans over the age of 50 to have a colorectal cancer

screening prior on a scheduled basis. Every article urges screenings before any symptoms arise. He listed his sources as the American Cancer Society, the American College of Physicians, FightColorectalCancer.org, and Colon Cancer Alliance. He characterized HB 275 as an important piece of legislation. This bill would restore a component for a life-saving procedure along with a mechanism to recover the costs of the test. He emphasized that this bill is a win-win for the state and for retirees. He concluded by saying, "It's also the right thing to do." He thanked Representative Lynn and Gara, and Mr. Sica.

[3:59:53 PM](#)

CHAIR OLSON left public testimony open.

[HB 275 was held over.]

HB 337-BD OF ARCHITECTS, ENGINEERS, SURVEYORS

[4:00:05 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 337, "An Act relating to the Board of Registration for Architects, Engineers, and Land Surveyors and to the Department of Commerce, Community, and Economic Development."

[4:00:39 PM](#)

REPRESENTATIVE THOMPSON stated that this bill would add a full-time investigator assigned to the Board of Architects, Engineers, and Land Surveyors (AELS).

[4:01:22 PM](#)

LYNETTE BERGH, Staff, Representative Steve Thompson, Alaska State Legislature, Alaska State Legislature, stated that HB 337 will revise the statutes to increase the part-time investigator to a full-time investigator position. Currently, the AELS shares one part-time investigator with five other boards, including construction contractors, home inspectors, electrical administrators, mechanical administrators, and storage tank workers. The investigator's oversight covers 20,000 licensees, of which 5,600 licensees relate the AELS board. Further, a new regulation will take effect in the next 30 days, which will add 10 additional engineering disciplines will be added to the AELS Board. The branches of engineering the AELS board will oversee

will increase from 6 to 16 branches, including structural, environmental, nuclear, and industrial engineering. This will add to the already heavy work load the department's investigator covers. She stressed the necessity of expanding the engineering disciplines for the safety of Alaskans, but it will add to an already heavy workload of the board's part-time investigator. Additionally, each of the six boards the investigator oversees has as an increasing number of licensees.

[4:03:58 PM](#)

MS. BERGH said the part-time investigator continually faces pressure to spend less time on the AELS board and more time on the other boards under his purview. Further, this sole investigator must maintain knowledge of statutes and regulations for all six boards. Clearly, the lack of a full-time investigator for the board could potentially reduce its effectiveness in carrying out charges required by the state statutes and regulations. One unintended consequence of overloading the investigator could result in a failure to fulfill to the fullest extent the state and regulatory charges. She concluded that this will put the state at risk and may inadvertently create a hazard to public health, safety, and welfare. She highlighted that HB 337 will ensure that the AELS board can continue the proper oversight of the AELS board's licensees, while remaining in compliance with all state regulations and statutes. She predicted that hiring a full-time investigator will help the AELS board maintain its reputation and integrity with respect to the professions it oversees.

[4:05:37 PM](#)

REPRESENTATIVE SADDLER questioned the need to expand engineering specialties.

MS. BERGH answered that specific engineering branches need to have some guidance to ensure public health, safety, and welfare. She explained that at the last board meeting the AELS approved added professions and branches; 10 different professions.

REPRESENTATIVE SADDLER asked whether one investigator will be sufficient to cover the additional licensees.

[4:06:50 PM](#)

MS. BERGH answered that one investigator would be amenable. She pointed out that the AELS board could revisit the matter at future board meetings.

[4:07:26 PM](#)

REPRESENTATIVE SADDLER asked whether the current investigator would resign from the other boards.

MS. BERGH offered to her knowledge that the investigator would do so. She deferred to the department to elaborate.

[4:08:00 PM](#)

DON HABEGER, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community, & Economic Development (DCCED), introduced himself.

[4:08:48 PM](#)

REPRESENTATIVE SADDLER asked the current investigator serves five other boards and HB 337 passes if this investigator would be assigned as the full-time investigator. He further asked if someone else would be hired to cover the additional five boards.

MR. HABEGER responded that the division would decide if current investigator is the appropriate choice for this board, and if so, he would be transferred to the new position control number (PCN). The division would have a vacant position and would do so through the job announcement network typically used.

[4:09:34 PM](#)

REPRESENTATIVE SADDLER asked if the division has any indication of whether the current investigator is interested in serving.

MR. HABEGER said the division would encourage the investigator to consider the full-time position.

[4:10:00 PM](#)

REPRESENTATIVE SADDLER asked if the division anticipates an increase in the number of investigations due to the engineering branch expansion.

MR. HABEGER offered his belief that investigations would increase since the workload has increased over time. He

explained that recent legislative audits discussed investigative timeliness. He reported that the 1,100 complaints arose in FY 11, and the investigators indicate a good case load is 35-40 cases. He anticipated that expanding this position to a full-time position would allow the board and division to address the issue more cases rather than raising the bar on investigations, such as only addressing the cases with the highest health and safety issues.

[4:11:16 PM](#)

REPRESENTATIVE SADDLER questioned whether one investigator is sufficient and if licensees will agree to bear the cost.

MR. HABEGER recalled the AELS Board underwent a fee increase in fall and the division picked a price point and experienced significant kickback. He pointed out the difficulty in predicting an investigation's outcome, whether it will result in a consent agreement and voluntary compliance or due to unresolved legitimate issues will require a hearing process or be resolved by the courts. Thus investigative outcomes are unpredictable. He acknowledged that at some point licensees resist any cost increases. He described this process as reaching a balance and he was not certain.

[4:12:40 PM](#)

ERIC ERICKSEN, P.E., Electrical Engineer; Member, Board of Architects, Engineers, and Land Surveyors (AELS Board) testified in support of HB 337. He stated that he is an Alaska resident, an electrical engineer, and has served on the AELS board for three years. During this time, he said he has had the opportunity gain knowledge on the investigative process and the growing concern over increases in investigations and the investigator's ability to conduct them. He reiterated that when an investigator cannot get through all the cases, that cases are prioritized. This results in cases that do not get reviewed. He referred to position papers in members' packets, in particular, from the Chair of the AELS board. He agreed with his recommendations. He concluded with his support for HB 337 and the health and safety of the public.

[4:14:21 PM](#)

REPRESENTATIVE SADDLER related his understanding that the licensing fees will be adjusted upward to cover the additional fees for the additional half-time position. He inquired as to

whether the engineering profession was willing to cover the cost.

MR. ERICKSEN answered that the fees will be evaluated. He was unsure of whether the fees would change, but if they do he would personally support the change. He offered his belief that the professional license fees are typically lower than many other states. He predicted an increase in fees would be supported.

[4:15:16 PM](#)

MR. HABEGER stated that state law requires the division to analyze the program to determine if the revenue stream meets the board's expenses. If the revenue does not meet the next biennial license cycle, which is a two-year cycle, the division must adjust the fees and pass the cost on to the professions, which in this instance are architects, engineers, land surveyors, and landscape architects. He offered his belief that the fees would likely have to adjust upward to cover the investigator position.

[4:16:24 PM](#)

REPRESENTATIVE JOHNSON recalled complaints about the Real Estate Licensing Board since their fees doubled when the board expanded its powers. He questioned whether any checks and balances exist since government will grow to fill the void. He expressed concern that there do not seem to be controls on the boards. He noted he was making a general statement. He pointed again to the real estate licensing fees which increased considerably. He said he has talked to real estate agents that indicate the board is doing things the agents do not really want them to do, but they must pay for it. He reiterated his question about the current checks and balances to ensure that the boards do not get out of control and pass through to their membership.

MR. HABEGER responded that the law requires him to pass through the costs. He thinks the check and balance is the public comment process, which worked relatively effectively with respect to the real estate fee.

[4:18:40 PM](#)

REPRESENTATIVE JOHNSON asked whether the statute should be changed and deposit license fees into the general fund, but to figure a better way to handle this process.

MR. HABEGER responded with a comment. One of the things he has heard given Real Estate Commission fee issues is how to nab perpetrators, or those that do not want to abide by statutes and regulations. He said he does not see a great mechanism to do this, but he views this as a great discussion point. He recapped that the short answer is the discussion needs to continue.

[4:20:15 PM](#)

REPRESENTATIVE JOHNSON offered his view that professionals are doing their jobs and it is tough enough to do business in the state. He said he wants to protect entrepreneurs and he would like to hold that discussion. He commented that government will expand to fill the void and if ten investigators were hired they would find work to accomplish. He related that he would like to be cautious about pass through of costs to membership without checks and balances. He wanted to be sure that the legislature is not saddling businesses with more state bureaucracy.

[4:21:48 PM](#)

CHAIR OLSON related his understanding with respect to real estate issues that two large ongoing investigations expended a substantial amount. He thought one investigation went off in different direction and is still ongoing.

MR. HABEGER offered his belief that the case in question is currently in Superior Court.

CHAIR OLSON offered that the attorney fees were substantial.

MR. HABEGER answered yes, noting the expenses are charged back to licensees.

[4:23:07 PM](#)

REPRESENTATIVE SADDLER referred to page 2, lines 1-2, which read, "(2) shall, at the request of the board, conduct investigations...." He asked whether an investigator can conduct investigations in opposition to the will of the board.

MR. HABEGER responded that the division's centralized statutes allow the division to also do some work, such as conduct investigations. He offered his belief that this works in tandem with the board. He said the board can direct the investigator,

but the department would have a duty to investigate a complaint in violation to the AELS statutes and regulations.

[4:24:32 PM](#)

REPRESENTATIVE SADDLER asked for clarification that the board or department can direct an investigation. He questioned whether the board could block an investigation.

MR. HABEGER answered that it has not happened.

[4:24:52 PM](#)

COLIN MAYNARD, Structural Engineer; Member, Alaska Professional Design Council (APDC) stated he has served several terms on the board of the APDC, an organization that represents architects, engineers, landscape architects, interior designers, and land surveyors. He highlighted one of his roles as a board member was chair of the AELS task force to assess industry on board actions. He pointed out that one thing the APDC task force found the AELS board did not conduct enough investigations, that it was taking too long to conduct the investigation, and some activity was ignored since it fell out of the most important level or the attorney general's office declined prosecution. He reiterated that the industry supports the additional investigator and will pay additional fees so long as the investigations happen. He commented that AELS license renewal fees have gone from \$125 to \$175 and back to \$125. He offered his belief that the fewer investigations will happen during the biennial timeframe and more are conducted in the next. Thus the fluctuations in the investigations affect license fees. Additionally the division has suffered budget cuts even though the licensure fees pay for the costs of the division. He said, "We're willing to pay what it takes to get the job done."

[4:27:07 PM](#)

REPRESENTATIVE JOHNSON responded that is a dangerous statement. He asked for clarification on whether the AELS board is willing to pay anything to get the job done.

MR. MAYNARD said, "Within reason." He also said he has found the AELS board is comprised of licensees and one public member, who have worked with the APDC to ensure public safety.

[4:27:41 PM](#)

REPRESENTATIVE JOHNSON remarked that his concerns are bigger than this one board.

MR. MAYNARD suggested that the legislature could increase the fines. He pointed out that the attorney general's office has larger cases to prosecute so the AELS cases languish. Thus a larger civil penalty could help.

CHAIR OLSON offered to work on the larger issue during the interim.

[4:28:28 PM](#)

BRIAN HANSON, Civil and Mining Engineer; Member, Board of Architects, Engineers, and Land Surveyors (AELS Board), testified in support of HB 337. He said the investigator has a significant backlog of cases, noting the sheer number of cases the investigator currently has plus the one awaiting review. The investigator has approximately 50 open cases, with about double the amount for review that is a significant backlog. He covers five other boards so the investigator's travel is limited. Current the investigator focuses time on cases in the Anchorage and Matanuska-Susitna area, with an occasional trip to the Kenai Peninsula Borough and Fairbanks. He surmised that half the state receives coverage with a half-time investigator. He pointed out that lots more engineering and other design work is happening throughout the state. Additionally, the board investigator cannot use training opportunities offered nationally as well as network, due to time and travel constraints. He offered his belief that adding this half-time position will help AELS meet its responsibilities by protecting the public's health, safety, and welfare. He was not willing to say the registrants are willing to pay whatever it costs but the additional cost would result in a fee increase of \$10 per registrant per year, and not \$200 per registrant biennial license fee. He stated that he is in support of HB 337.

[4:31:42 PM](#)

DALE NELSON, Civil Engineer; Legislative Liaison Committee, Alaska Professional Design Council, LLC (APDC), stated he is a professional civil engineer and has been registered in the state since 1973. He serves as the chair of the legislative liaison committee for the Alaska Professional Design Council, LLC (APDC). He related that Mr. Maynard is also an active member of APDC, which is a professional organization comprised of member societies including The Alaska Society of Professional Engineers

(ASPE), the Alaska Society of Professional Land Surveyors, the American Congress of Surveying and Mapping - Alaska Section, the American Institute of Architects - Alaska Chapter, the American Society of Civil Engineers - Alaska Section, the American Society of Landscape Architects - Alaska Chapter, the American Council of Engineering Companies of Alaska, and the American Society of Interior Designers, and the Structural Engineer Association. This organization has a membership of over 1,500 members representing over 5,000 licensed professionals in the state. The APDC LLC is in very much in favor of this bill and views it as a move in right direction as it will increase the investigator of the design professionals to a fulltime position.

[4:34:08 PM](#)

BOYD BROWNFIELD, Civil Engineer; Member, Board of Architects, Engineers, and Land Surveyors (AELS Board) stated that he has been a registered civil engineer in Alaska since 1975. He has most recently served on the AELS Board for eight years. He supports the bill. He has served as the AELS Board chair for two years and as vice chair for four years. When he began service in 2004, the board had two fulltime investigators, but due to workload the investigator was increased to two and one-half investigator positions. Although the workload has increased, the investigator position has been reduced to one part-time investigator position. The investigator position has effectively been reduced to 15 percent of one investigator since the position's responsibility is spread over five boards. He offered his belief that the AELS's investigator is one of the most dedicated and efficient investigators in the division. The investigator serves the third largest board, with the Board of Nursing, Barbers & Hairdressers as larger boards, but the AELS Board is larger than the Medical Board, yet the medical board has a designated investigator. He emphasized that the AELS Board needs the investigator position since the board serves four distinct professions and the six engineering branches will soon to expand to 15 branches. He further emphasized the need to have an investigator solely assigned to the AELS Board. He urged members to support the bill. He referred to a letter from Mr. Harley Hightower, AELS Board chair in members' packets. This letter covers the important issues surrounding the need for a full-time investigator. He offered his support for HB 337.

[4:37:44 PM](#)

HARLEY HIGHTOWER, Architect; Chair, Board of Architects, Engineers and Land Surveyor (AELS Board) stated that he has been

registered as an architect in the state since 1964. He has served as a principal architect since 1974. He currently serves as AELS Board chair. He agreed with the prior testimony. He spoke in support of HB 337 for numerous reasons. He related that it is difficult for an inspector to stay current on statutes for one board, but very difficult to cover five boards. He pointed out that the AELS Board serves 5,600 registrants and 580 corporations. In 2008 and 2009 the AELS Board added 220 new licenses each year. In 2010 and 2011, the board increased by 350 new licensees each year. He anticipated the licensees to grow due to expansion of engineering disciplines. He acknowledged that Alaska is a small population state and the investigator likely covers about 15 percent of the state. The AELS Board cannot adequately ensure public health, safety and welfare without investigator support. He highlighted that this translates into liability exposure to the state. The costs will be covered by registration fees. He has been registered in other states and finds the licensure reasonable fees in Alaska, probably falling in the low average of the fee structure.

[4:40:49 PM](#)

RICHARD HEIEREN, Land Surveyor; Member, Board of Architects, Engineers, and Land Surveyors (AELS Board), stated that he is speaking in support of HB 337. He has served as an AELS Board member since 2005 and also endorses previous comments. He added that a perception of lack of enforcement exists within the professions. He noted that in vehicle enforcement writing one speeding violation may impact the number of speeders. He suggested that HB 337 will go long way in alleviating the perception of a lack of enforcement. He offered his belief that the cost is minimal, about \$8-10 per licensee per year. He did not think that was too much money to protect the professions, but public health, safety, and welfare. He asked members to please support HB 337.

[4:43:25 PM](#)

REPRESENTATIVE THOMPSON said that the committee heard from Mr. Hightower that the lack of a full-time investigator has limited the cases. He asked whether any instances of this have happened in Fairbanks.

MR. HEIEREN said he has heard through the grapevine from some who were cited that enforcement was laughable. He did not want to disparage the enforcement; however, the perception is a low level of enforcement occurs.

[4:44:44 PM](#)

BURT LENT, Landscape Architect Member, Board of Architects, Engineers, and Land Surveyors (AELS Board), stated that he is the sole landscape architect member. He has been serving on the board for 6.5 years and has been practicing landscape architecture since 1975. The profession was initially licensed in the state in 2000. The landscape architects now have 12 years as registrants and more people are coming along. He pointed out that licensure requires examination in arctic engineering or Northern Design, which is unique and excellent way to introduce people to problems in Alaska. He explained that Alaska has lots of major land and environmental issues in the design work. He emphasized the importance for landscape architect's licensure. He highlighted that the number of licensees is small in number, but they cover a lot of territory. He related that it is important to have good licensure. He has had concerns about enforcement since the investigator is being spread so thin. He expressed concern that some work is not done. He further expressed concern in terms of enforcement for all building professions. He pointed out that the state needs to ensure that the professions are not subject to those practicing without a license, false advertising construction and other issues that investigators are familiar with so it is important to fully staff the position. He offered his support for HB 337 and urged members to approve the bill.

[4:48:42 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 337.

CHAIR OLSON commented that it's tough to argue with professions who want to pay more for licensing fees to self-police.

[4:49:16 PM](#)

REPRESENTATIVE JOHNSON moved to report HB 337 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 337 was reported out of the House Labor and Commerce Standing Committee.

[4:49:46 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:49 p.m.