

**ALASKA STATE LEGISLATURE  
ADMINISTRATIVE REGULATION REVIEW COMMITTEE**

February 25, 2014

8:01 a.m.

**MEMBERS PRESENT**

Representative Lora Reinbold, Chair  
Senator Cathy Giessel, Vice Chair  
Representative Mike Hawker  
Senator Gary Stevens

**MEMBERS ABSENT**

Representative Geran Tarr  
Senator Hollis French

**COMMITTEE CALENDAR**

PROPOSED REGULATIONS FOR DCCED: BOARD OF ARCHITECTS~ ENGINEERS~  
& LAND SURVEYORS~ 12 AAC 02.110

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

SARA CHAMBERS, Professional Licensing Operations Manager  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community & Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Presented proposed regulation 12 AAC  
02.110.

ERIC ERIKSEN

State Board of Registration for Architects, Engineers, and Land  
Surveyors

Department of Commerce, Community & Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** During review of the proposed regulations,  
12 AAC 02.110, answered questions.

**ACTION NARRATIVE**

[8:01:42 AM](#)

**CHAIR LORA REINBOLD** called the Administrative Regulation Review Committee meeting to order at 8:01 a.m. Representatives Hawker and Reinbold and Senators Giessel and Stevens were present at the call to order.

[8:02:33 AM](#)

CHAIR REINBOLD explained that the Administrative Regulation Review Committee has the power to hold public hearings and examine all regulations, including proposed regulations, amendments, and orders of repeal, to determine if properly implemented per legislative intent. The committee also provides comments to the governor and state agencies in order to promote needed revisions or repeal of regulations that have been adopted. When the committee determines a regulation should be repealed or amended, the committee can introduce legislation that supersedes or nullifies the regulation.

**Proposed Regulations for DCCED: Board of Architects, Engineers,  
& Land Surveyors, 12 AAC 02.110**

[8:03:16 AM](#)

CHAIR REINBOLD then announced that the only order of business would be the proposed regulation 12 AAC 02.110 for the Board of Architects, Engineers, & Land Surveyors, Department of Commerce, Community & Economic Development (DCCED).

[8:03:50 AM](#)

SARA CHAMBERS, Professional Licensing Operations Manager, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development, explained that the State Board of Registration for Architects, Engineers, and Land Surveyors ("Board") has initiated the public process for proposed regulations that would allow the Board to continue doing business as it does now, but to utilize technological advances available from the examination company. The exam for the engineers and land surveyors has moved from a process in which the division receives applications and then approves applications to take the exam. Once applicants are approved to take the exam, the division forwards the applicant's information to the examination company. Because many of the testing companies are using new technology to streamline the

process, examinees can now apply directly to the examination company and take the exam electronically, which bypasses the Board and reduces the division's workload. However, bypassing the Board registration results in the Board not knowing who is working in a pre-licensure state within Alaska. Currently, it's known who has applied and who has been approved to apply, and thus the division knows who is practicing in the state in a sort of limited trainee capacity. Therefore, this proposed regulation would provide the Board a low impact method of maintaining awareness of who is practicing in the apprentice/training capacity, such that they can be monitored. There is not a high threshold proposed for application as basically, the applicant has to take the exam, pass the exam, and pay a nominal fee for application as they currently do. The aforementioned would allow the division to know who these individuals are, how they are credentialed, and be able to provide that service as they move toward licensure.

[8:08:34 AM](#)

CHAIR REINBOLD directed attention to a memorandum dated February 17, 2014, from Legislative Legal Services, which says "... the proposed regulations are beyond the authority granted under existing statutes, which do not appear to authorize -- explicitly or implicitly -- the Board to regulate 'in training' engineers or surveyors."

MS. CHAMBERS acknowledged that concern, but related her belief that the Board intends to continue to accomplish the same business practice they currently have. Because the Board would be relieved of one of the tools through the new exam application process, the mechanism is a certification process that wouldn't place any additional burden on the in training applicant. Since the Board proposes to achieve the same goal with a term that would normally exist in statute clearly delineated as a certification process, the department is not proposing any change in the ultimate result. The department merely wants an opportunity to maintain that business practice. She suggested that perhaps some of the language is the stumbling block.

[8:10:16 AM](#)

SENATOR GIESSEL inquired as to the authority under which [the State Board of Registration for Architects, Engineers, and Land Surveyors] operates currently.

MS. CHAMBERS answered that the Board operates under its authority to require applicants to be approved prior to sitting for the exam. In further response to Senator Giessel, Ms. Chambers pointed out that under the proposed regulations 12 AAC 36.062(d) existing language being deleted specifies that "an applicant's education and experience must meet the requirements of this subsection." Therefore, the Board is the authority that determines who meets the requirements and is the approving authority for those to apply for the exam. Ms. Chambers offered to obtain more information.

[8:12:29 AM](#)

SENATOR GIESSEL highlighted that the boards, in terms of their authority, don't operate under Alaska Administrative Code but rather under statute. She clarified that she is interested in the statutory authority that allowed Alaska Administrative Code to be written by the Board.

MS. CHAMBERS stated that statutory authority is specified in the proposed regulations. She informed the committee that the statutory authority for 12 AAC 36.063(a)(1) is AS 08.48.101, AS 08.48.171, and AS 08.48.181.

[8:13:26 AM](#)

CHAIR REINBOLD, according to the Legislative Legal Services memorandum, pointed out that AS 08.48 seems to suggest that in training engineers or surveyors are not covered under AS 08.48.

[8:13:49 AM](#)

MS. CHAMBERS reiterated that this is a proposal to obtain information that the Board has received via the approval process through another administrative tool, both of which allow the Board to know who is practicing in Alaska. The Board's existing tool is the application for examination, which provides the Board the knowledge as to who is practicing in Alaska because it knows who has applied for the exam and who has passed the exam. The [proposed] tool would be [for the applicant] to let the Board and the division know they have passed the exam and plan to practice in Alaska. Ms. Chambers highlighted that the net effect is the same, but the tool to arrive at that net effect is different.

[8:14:32 AM](#)

REPRESENTATIVE HAWKER directed attention to the last paragraph in the Legislative Legal Services memorandum, which says "I raised these concerns with the Assistant Attorney General working with the Board on these regulations and the attorney agreed that AS 08.48 does not appear to authorize the Board to regulate 'in training' surveyors and engineers." Therefore, he suggested the division should seek counsel from the [Department of Law] to draft legislation that expands the authority [for the Board to regulate in training surveyors and engineers] as appropriate.

MS. CHAMBERS noted her appreciation for the suggestion and welcomed the committee's assistance. She then informed the committee that the division's attorney advised the division to continue forward with public comment. However, if [legislation] is the best manner in which to move forward, it will be considered and discussed, she remarked.

[8:16:48 AM](#)

SENATOR STEVENS opined that from an applicant's perspective, the process seems backwards. He asked if an applicant always has to take the exam prior to obtaining approval to take the exam.

MS. CHAMBERS explained that currently an applicant has to receive Board approval prior to taking the exam. The proposal is to remove Board approval from the process such that the applicant would work directly with the examination company and then provide proof of taking the exam in order to receive the in training recognition. In further response to Senator Stevens, Ms. Chambers confirmed that no one would receive approval until after taking the exam.

[8:18:31 AM](#)

REPRESENTATIVE HAWKER asked whether the Board has a problem with the proposed regulations and whether there would be any problem with bringing statutory authority to do so before the legislature.

[8:18:44 AM](#)

ERIC ERIKSEN, State Board of Registration for Architects, Engineers, and Land Surveyors, said he didn't believe there would be any concern with Representative Hawker's suggestion as the intent is to take advantage of technology in order to make the process more efficient for registrants.

[8:19:33 AM](#)

CHAIR REINBOLD, upon determining no one else wished to testify, closed public testimony.

[8:19:52 AM](#)

SENATOR GIESSEL recommended that assistant attorney general who provides services for the Board should be listened to because he/she was trying to guide the Board such that it stays under its statutory authority. The Board is constrained by statute and can't create that authority as it comes through the legislature.

[8:20:35 AM](#)

CHAIR REINBOLD reminded the committee that AS 24.08.036 directs agencies to include in fiscal notes a specific time in which an agency will adopt, amend, or repeal a regulation. If the agency is unable to reach the set deadline, the agency shall set a new deadline and report to this committee the new deadline and the reasons for the new deadline. She informed the committee that from her count there are seven bills that passed last session that have not met this requirement. Therefore, she said she would be reaching out to those agencies in order to ensure the statute is adhered to.

[8:21:36 AM](#)

REPRESENTATIVE HAWKER suggested that the chair send a formal letter on behalf of the Administrative Regulation Review Committee to the agency requesting they formulate statute that makes it clear they have authority to impose this proposed regulation.

CHAIR REINBOLD agreed to do so.

[8:22:04 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the Administrative Regulation Review Committee meeting was adjourned at 8:22 a.m.