

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 7, 2013

1:30 p.m.

MEMBERS PRESENT

Senator Mike Dunleavy, Chair
Senator Peter Micciche, Vice Chair
Senator Donald Olson
Senator Bert Stedman

MEMBERS ABSENT

Senator Johnny Ellis

COMMITTEE CALENDAR

SENATE BILL NO. 16

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

- HEARD & HELD

SENATE BILL NO. 38

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 16

SHORT TITLE: BD OF ARCHITECTS, ENGINEERS, SURVEYORS

SPONSOR(s): SENATOR(s) GIESSEL BY REQUEST

01/16/13	(S)	READ THE FIRST TIME - REFERRALS
01/16/13	(S)	L&C, FIN
01/24/13	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
01/24/13	(S)	<Bill Hearing Postponed>
02/07/13	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 38

SHORT TITLE: EXTEND STATE MEDICAL BOARD

SPONSOR(s): SENATOR(s) OLSON

01/25/13 (S) READ THE FIRST TIME - REFERRALS
01/25/13 (S) L&C, FIN
02/07/13 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR CATHY GIESSEL
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 16.

COLIN MAYNARD, licensed engineer
State Board of Registration for Architects, Engineers, and Land
Surveyors
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 16.

DON HABEGER, Director
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
Anchorage, AK

POSITION STATEMENT: Provided information and answered questions
on SB 16 and SB 38.

DALE NELSON, registered professional civil engineer
Legislative Liaison Committee
Alaska Professional Design Council (APDC)
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 16.

JANET MATHESON, registered professional architect
American Institute Architects Alaska Chapter (AIAAC)
Fairbanks, AK

POSITION STATEMENT: Testified in support of SB 16.

DAVID SCOTT, staff
Senator Donny Olson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced SB 38 on behalf of the sponsor.

KRIS CURTIS, legislative auditor
Division of Legislative Audit
Juneau, AK

POSITION STATEMENT: Testified on SB 38 to report the findings
and recommendations of the audit of the State Medical Board.

ED HALL, President/Chair
State Medical Board
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 38.

ACTION NARRATIVE

1:30:40 PM

CHAIR MIKE DUNLEAVY called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Stedman, Olson, Micciche, and Chair Dunleavy.

SB 16-BD OF ARCHITECTS, ENGINEERS, SURVEYORS

1:30:53 PM

CHAIR DUNLEAVY announced the consideration of SB 16.

SENATOR CATHY GIESSEL, sponsor of SB 16, introduced SB 16 speaking to the following sponsor statement: [Original punctuation provided.]

SB 16 revises statutes governing architects, engineers, and land surveyors in Alaska, designating a full-time investigator specifically for the State Board of Registration for Architects, Engineers, and Land Surveyors (AELS).

The AELS Board's mission, as defined in statute, is to protect public health, safety and welfare by ensuring that those entering the practices of architecture, engineering, and land surveying meet minimum standards of competency, and maintain those standards during their practice, by requiring licensure to practice in the state. The Board enforces the licensure and competency requirements and responds to complaints brought by the public.

Currently, the AELS Board shares one part-time investigator with six other boards that oversee a total of 18,095 licensees, of which 6,439 licensees are under the AELS Board.

According to the board, because of the negative economic conditions in various parts of the United

States, a significant number of corporations and individuals are relocating to Alaska and many are practicing without proper licensure or knowledge of applicable statutes and regulations. In 2012 alone, the AELS Board added 490 new licensees to its oversight.

In addition to the already growing workload for the part-time AELS Board investigator, pressure on the investigator to spend time on the other six boards to which he is also assigned is increasing. The efficiency and effectiveness of the State's licensing investigation process is further reduced by only having a single shared investigator who must maintain knowledge of the various statutes and regulations of seven different boards.

SB 16 also removes the constraint that examinations for licensure be written. With advancements in technology, examinations are moving to an electronic format which will further increase efficiency.

SB 16 will better equip the AELS Board to maintain proper oversight of its licensees, thereby uphold the reputation and integrity of the disciplines within its purview, and ultimately ensure its ability to protect public health, safety, and welfare.

SENATOR GIESSEL noted that in the last 18 months the AELS Board opened 116 cases alleging unprofessional conduct, unlicensed practice or violation of licensing regulations. She referenced the fiscal note and reminded the committee that regulatory boards have to be self-supporting. Therefore, the costs of operation including per diem, travel expenses, and the investigator, have to be covered by the licensees. The AELS Board has some carry-forward funds to cover initial costs so passage of the bill will not increase licensee fees this year. Current license fees are \$125 every two years and the estimated increase, when enacted in two years, will be minimal as the costs will be spread over those 6,439 licensees.

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SENATOR OLSON asked how she could justify adding two more state employees when there is a push to reduce the state's budget.

SENATOR GIESSEL explained that while the bill talks about two persons, one is currently employed as executive secretary and

the board already has a part-time investigator. All the costs will be distributed among the licensees under the jurisdiction of the various boards. This will not increase the state's budget.

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SENATOR OLSON pointed out that the fiscal note reflects costs of \$115,500 in FY14 and \$110,500 each year thereafter until FY19. He asked if he was misreading the note.

SENATOR GIESSEL responded that the fiscal note includes costs for supplies, one-time start up fees, and a computer but the cost for personnel will be covered by boards. She deferred technical questions to Mr. Habeger, the director of the Division of Corporations, Business and Professional Licensing.

SENATOR MICCICHE how many individuals are licensed.

SENATOR GIESSEL replied there are slightly more than 6,400 in the AELS Board. She added that 18,000 licensees right now are covered by just one investigator.

SENATOR MICCICHE calculated that this would add approximately \$20 per person with much better service and less liability to the department.

SENATOR GIESSEL agreed and added that it's for two years.

SENATOR OLSON asked how many violations the half-time investigator had encountered and how many resulted in fines.

SENATOR GIESSEL replied that 116 cases were opened in the last 18 months.

[1:40:22 PM](#)

COLIN MAYNARD, licensed engineer representing the State Board of Registration for Architects, Engineers, and Land Surveyors, explained the conditions that led to the bill. About four or five years ago there were two and one-half persons to investigate cases for six boards. Through attrition that has been reduced to the equivalent of one-sixth of one investigator for the AELS Board. The workload is heavy; 13 cases have been opened in the last quarter and the investigator now oversees requirements for nine new engineering disciplines. With the economic downturn in the Lower 48, unlicensed practices have increased in the state but the workload generally keeps the investigator attached to the Anchorage office with occasional

trips to the Mat-Su Valley and Kenai Peninsula. The positive impact of having one investigator assigned to the AELS Board is that all areas of the state will see investigations. He highlighted that the cost of the investigator would be borne by licensee fees and that he hadn't heard from any professional societies that were unwilling to pay the additional \$20 over two years to ensure that licensing laws are enforced.

MR. MAYNARD said the bill also amends the statute to remove reference to a "written examination" to reflect that examinations are moving to electronic format. The architects have not had a written examination for several years and the fundamentals of engineering exam will be electronic starting in April 2014. He noted that one person complained that he failed the licensing test because he was not given the opportunity to take a written test.

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DON HABEGER, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), offered to answer questions.

SENATOR OLSON asked how he justified the recurring six-digit cost of the bill when state revenues were declining.

MR. HABEGER said the sponsor's testimony was correct; licensee fees cover the cost of the services. By statute, the division is required to annually review the programs and look at revenues and expenses before adjusting the fees. He noted that the correct terminology was fee-supported services.

SENATOR OLSON pointed out that the licensee fees would not cover the [\$115,500 first year cost and \$110,500 out-year estimated costs].

MR. HABEGER responded that the fees would be adjusted at the next licensing cycle to capture the additional expenses.

SENATOR OLSON asked how many fines were levied compared to the number of cases filed.

MR. HABEGER offered to follow up with the information.

[1:47:36 PM](#)

SENATOR OLSON asked if he would agree that adding an investigator would increase the number of filings and add to the costs that licensees would have to shoulder.

MR. HABEGER agreed and then noted that the line item for "services" in the fiscal note anticipated additional expenditures for expert witnesses and use of the Department of Law. He established that the investigators are experts in the statutes and regulations; they are not necessarily experts in the subject matter.

SENATOR OLSON asked if he anticipated that more people would fail the computerized tests.

MR. HABEGER explained that the AELS board belongs to a number of national associations that develop tests with expertise from various license practices across the nation. These national tests, which are contracted through state boards, are tailored for the specific jurisdiction. The tests are administered by computer at designated testing sites.

SENATOR OLSON asked if someone in Nome could take the test at a hub site.

MR. HABEGER offered to follow up with an answer.

SENATOR MICCICHE asked to have Mr. Maynard return to the witness table to answer Senator Olson's questions.

[1:51:21 PM](#)

MR. MAYNARD explained that the AELS Board is a member of three national licensing associations that write national tests for engineers and surveyors, architects, and landscape architects. These tests are given twice a year in Anchorage and Fairbanks at secure testing sites. This will not change when all the tests are computerized because there are too few registrants in other locations. He confirmed that somebody from Nome who wanted to take the test would have to go to either Anchorage or Fairbanks. He reiterated that these are national tests and the computer exam is not more difficult than the written exam, they're written by the same people.

SENATOR OLSON asked for clarification that both written and computerized tests were administered only in Anchorage or Fairbanks.

MR. MAYNARD said yes.

[1:53:22 PM](#)

DALE NELSON, registered professional civil engineer, Legislative Liaison Committee, Alaska Professional Design Council (APDC), Anchorage, AK, testified in support of SB 16. He said this legislation has been discussed in the committees and the APDC newsletter. He confirmed that the members understand that license fees would increase if this bill were to pass.

SENATOR OLSON asked how many of the 6,500 licensees were opposed to this legislation.

MR. NELSON replied he had heard no opposition.

[1:55:59 PM](#)

JANET MATHESON, registered professional architect, American Institute Architects Alaska Chapter (AIAAC), Fairbanks, AK, testified in support of SB 16. She said AIAAC feels there is need for a full-time investigator. People come to Alaska and want comity registration only to find that they have to know Arctic and seismic engineering. She highlighted that when someone chooses to work outside their discipline there are issues of public safety. Another problem is that outside firms sometimes acquire projects in the state but do not have people who are registered in Alaska. She continued that it's also a problem that the investigator is only concentrating on the Anchorage Bowl, which leaves other areas of the state without an investigator. She maintained that Alaska should stay up to date on its examinations, and pointed out that all the professional architect tests were electronic.

[1:58:06 PM](#)

CHAIR DUNLEAVY announced that he would hold SB 16 in committee and keep public testimony open.

SB 38-EXTEND STATE MEDICAL BOARD

[1:58:22 PM](#)

CHAIR DUNLEAVY announced the consideration of SB 38.

[1:58:47 PM](#)

DAVID SCOTT, staff to Senator Donny Olson, sponsor of SB 38, said this bill extends the termination date of the State Medical Board until June 30, 2020. This is an eight-member board appointed by the governor and approved by the legislature. Five members are physicians, one is a physician assistant, and two are public members. This regulatory board licenses and regulates osteopaths, paramedics, physicians, physician assistants, and podiatrists.

He noted that, board president Ed Hall, a representative from Legislative Budget and Audit, and Mr. Habeger from the commerce department were available to answer questions.

[2:00:04 PM](#)

SENATOR MICCICHE noted that the fiscal note referenced both an eight-member board and a five-member board. He asked which number was correct.

MR. SCOTT answered that the statute says the board has eight members. He deferred further explanation to Mr. Habeger who prepared the fiscal note.

SENATOR OLSON clarified that the State Medical Board has eight members.

SENATOR MICCICHE said the fiscal note should be corrected; the analysis describes travel expenses and per diem for a five-member board and staff.

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At ease

[2:02:08 PM](#)

SENATOR OLSON suggested that Mr. Harbinger could address Senator Micciche's question.

SENATOR MICCICHE asked if State Medical Board members were paid.

MR. SCOTT answered no; they receive a travel and per diem allowance.

[2:03:18 PM](#)

DON HABEGER, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), agreed to correct the error in the fiscal note.

SENATOR MICCICHE asked if member costs in the \$40,000 range were typical, because it seemed high.

MR. HABEGER said the State Medical Board is unique from the standpoint that it doesn't choose to centralize in one of the major communities. The Medical Board twice a year meets in Anchorage, Fairbanks, and Juneau and twice a year meets in rural communities like Nome. He relayed that the only time he asked

the board to rethink their travel plans was when they asked to go to Dutch Harbor.

2:05:25 PM

KRIS CURTIS, legislative auditor, Division of Legislative Audit, informed the committee that the agency conducted a sunset audit of the State Medical Board during 2012. The audit concluded that the board was serving the public's interest by effectively licensing and regulating osteopaths, paramedics, physicians, physician assistants, and podiatrists, and recommended extending the board's termination date to June 30, 2020. This is one year less than the statutory maximum in recognition of a new finding that the Division of Corporations, Business and Professional Licensing (DCPBL) staff failed to review continuing medical education requirements in accordance with regulation, which require review of five percent of licensees during each biannual licensing cycle. DCPBL reviewed only four percent of licensees and the audit therefore recommended the division meet the minimum required by regulation.

The audit also made two continuing recommendations to the board. The first was associated with deficiencies in DCPBL's investigative case management system. Key information was missing such as priority codes, case open dates, and resolution codes. She noted that DCPBL had taken steps to address the issue by forming a task force to identify necessary corrective action.

The final ongoing recommendation was to implement procedures to ensure reporting of board disciplinary actions to national data banks within 30 days, in accordance with state and federal law. The 2012 audit found improvement in overall reporting of disciplinary actions, but timeliness continued to be an issue. The Department of Commerce, Community and Economic Development (DCCED) and State Medical Board concurred with all the recommendations.

2:08:40 PM

SENATOR OLSON asked how Alaska's license renewal requirements for physicians compared to other states.

MS. CURTIS said there were no findings on continuing education but it had not been a problem in the past for the Medical Board. She noted that some other boards had problems with their continuing education not meeting national standards.

SENATOR OLSON commented that it was an issue that only four percent of licensees were reviewed when regulation required five percent.

MS. CURTIS clarified that it was a DCBPL staff issue, not a Medical Board issue.

SENATOR OLSON asked if the audit found that the case management deficiencies compromised patient care.

MS. CURTIS answered that the audit did not find any instance of that.

SENATOR OLSON asked if the disciplinary actions were reported after the 30-day deadline or if the national data banks failed to post the reports in a timely manner.

MS. CURTIS replied that the audit found that DCBPL staff did not submit the reports within the timeframe.

[2:11:19 PM](#)

ED HALL, President/Chair and physician assistant, State Medical Board, Anchorage, AK, testified in support of SB 38 to extend the sunset date of the State Medical Board to 2020.

SENATOR OLSON asked if he agreed with the seven-year extension as opposed to the eight years allowed under statute.

MR. HALL responded that he agreed with the seven-year extension in light of the findings in the sunset audit. He noted that the executive administrator had primary oversight of reporting so the board would be in compliance.

SENATOR OLSON thanked Mr. Hall and the other members of the board for their service.

[2:13:49 PM](#)

CHAIR DUNLEAVY announced he would hold SB 38 and keep public testimony open.

[2:14:18 PM](#)

There being no further business to come before the committee, Chair Dunleavy adjourned the meeting at 2:14 p.m.