

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 27, 2019

3:18 p.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Co-Chair
Representative Adam Wool, Co-Chair
Representative Zack Fields
Representative Sara Hannan
Representative Josh Revak
Representative Dave Talerico

MEMBERS ABSENT

Representative Louise Stutes

COMMITTEE CALENDAR

HOUSE BILL NO. 45

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

- HEARD & HELD

HOUSE BILL NO. 68

"An Act relating to the division of labor standards and safety; relating to the division of workers' compensation; establishing the division of workers' safety and compensation; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 45

SHORT TITLE: EXTEND BOARD OF DENTAL EXAMINERS

SPONSOR(S): REPRESENTATIVE(S) ORTIZ

02/20/19	(H)	READ THE FIRST TIME - REFERRALS
02/20/19	(H)	L&C, FIN
03/27/19	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 68

SHORT TITLE: LABOR STDRS/SAFETY; WORKER COMPENSATION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) L&C, FIN
03/27/19 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE DAN ORTIZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 45.

DAVID NIELSON, Chair
Board of Dental Examiners
Department of Commerce, Community & Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 45 and answered questions from the committee.

KRIS CURTIS, Legislative Auditor
Division of Legislative Audit
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 45.

FRED PARADY, Legislative Liaison
Department of Commerce, Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 45.

CATHY MUNOZ, Deputy Commissioner
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Presented HB 68 and answered questions from the committee.

GRAY MITCHELL, Director
Division of Workers' Compensation
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for HB 68 and answered questions from the committee.

TERRE GALES, Director
Division of Labor Standards and Safety
Department of Labor & Workforce Development

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 68.

DON ETHERIDGE

Alaska American Federation of Labor and Congress of Industrial Organizations
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 68.

ACTION NARRATIVE

[3:18:29 PM](#)

CO-CHAIR GABRIELLE LEDOUX called the House Labor and Commerce Standing Committee meeting to order at 3:18 p.m. Representatives Fields, Revak, Talerico, Hannan, Wool, and LeDoux were present at the call to order.

HB 45-EXTEND BOARD OF DENTAL EXAMINERS

[3:19:43 PM](#)

CO-CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 45, "An Act extending the termination date of the Board of Dental Examiners; and providing for an effective date."

[3:20:31 PM](#)

REPRESENTATIVE DAN ORTIZ, Alaska State Legislature, as prime sponsor of HB 45, introduced the bill and read the following sponsor statement [original punctuation provided]:

House Bill 45 extends the termination date for the Board of Dental Examiners until June 30th, 2027. The Board of Dental Examiners is composed of nine members: six dentists, two dental hygienists, and one public member.

Legislative Audit conducted their review of this board and determined that "the audit concludes that the board operated in the public's interest by effectively licensing and regulating dentists, dental hygienists, and dental assistants. The board monitored licensees and worked to ensure only qualified individuals practiced in Alaska. Furthermore, the board was active

in amending regulations to improve the industry. In accordance with AS 08.03.010(c)(7), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination date eight years to June 30, 2027."

The Board of Dental Examiners serves an important role in adopting regulations to carry out the laws governing the practice of dentistry and dental hygiene in Alaska, and the continuation of this board will ensure that high standards of dental care are offered throughout the state.

[3:22:21 PM](#)

REPRESENTATIVE FIELDS recalled that when the Alaska Tribal Health System (ATHS) implemented and expanded the Dental Health Aide Therapist (DHAT) program there was some debate within the dental community about the right way to regulate the program. He asked if that was something the Board of Dental Examiners oversees. He sought to clarify the board's current take the DHAT program and the provision of dental care in tribal settings.

[3:23:02 PM](#)

REPRESENTATIVE ORTIZ admitted that he was unable to answer that question and deferred to David Nielson.

[3:24:03 PM](#)

DAVID NIELSON, Chair, Board of Dental Examiners, Department of Commerce, Community & Economic Development, noted that he can't speak for the entire board on the DHAT program; however, he opined that the model seems to be working well in its current form. He addressed an issue that had arisen about the DHAT members not being licensed by the state, explaining that although that's true, their education includes supervision by a licensed dentist. He said that because they are not licensed by the state it allows them to stay in the villages and clinics where they are serving their population the best, adding that the aforementioned tension in the dental community has dissipated.

[3:26:27 PM](#)

CO-CHAIR WOOL commented that "it's nice to hear the programs working and it's also nice to hear him say that the lack of a state license is actually helped it work and maybe even added to its success." He asked if that is correct.

MR. NIELSON clarified that it would be best to speak with the tribal entities to determine the true impact of their program. Nonetheless, he offered his understanding that if they were licensed, [the DHAT members] would probably move to a higher populated area where their work isn't needed as much.

[3:27:51 PM](#)

REPRESENTATIVE HANNAN referred the committee to page 7 of the sunset review on the Board of Dental Examiners [included in the committee packet] performed by the Division of Legislative Audit (DLA). The page displayed an unaudited schedule of the board's revenue and expenditures from FY 14 through March 31, 2018. She noted that every other year they had a deficit and asked if that was because licensures are two years at a time.

[3:28:40 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, Answered yes. She said that with biannual licensing cycles it's common to see revenues fluctuate every other year.

[3:28:54 PM](#)

REPRESENTATIVE HANNAN said she presumed that at the end of the fiscal year any excess money that was accrued through licensures rolls into the general fund and the following year they run a deficit. She asked if that happens regularly with the state boards.

[3:29:29 PM](#)

MS. CURTIS referenced a statute that states board fees must be set at a level that covers board costs. She explained it's reviewed every other year rather than on an annual basis. She alleged hearing testimony that claimed a statute exists which allows boards to carry balances forward; however, they do track their deficits and surpluses and either one can last years. She further noted that boards try to "tweak" those fees every other year to approximate the cost of the occupation.

[3:30:12 PM](#)

REPRESENTATIVE HANNAN directed attention to the audit's second recommendation: to implement controls to ensure the appropriate entities are notified when a licensee's prescription authority is suspended or revoked. She asked if action had been taken to meet that recommendation.

[3:31:11 PM](#)

MS. CURTIS explained that there are two recommendations in the audit. The first one is a recommendation to the board president to correct regulation error. The second one is that the DCBPL's chief investigator, in consultation with the board, should implement controls to ensure the appropriate entities are notified when a licensee's prescription authority is suspended or revoked. She noted that, in response, the department stated that they have implemented a policy to ensure those entities are notified. She further noted that the board responded in agreement to both recommendations and to taking corrective action.

MS. CURTIS turned attention to the schedule of licensing activity on page 6 of the audit. She noted that as of January 2018, the board had 2,399 active licensees.

[3:33:26 PM](#)

CO-CHAIR WOOL asked if a hygienist can get additional licensing for local anesthetic.

[3:33:50 PM](#)

MS. CURTIS said that is her understanding and deferred the question to Mr. Nielson.

[3:34:04 PM](#)

MR. NIELSON said that is correct. He explained that a hygienist can have a local anesthetic permit or endorsement on their license. He added that it is a separate permitting process.

[3:35:41 PM](#)

REPRESENTATIVE HANNAN, referencing the attached fiscal, asked if this was a 50 percent reduction in the travel for the board to conduct its work.

[3:36:04 PM](#)

FRED PARADY, Legislative Liaison, Department of Commerce, Community & Economic Development, answered no, the 50 percent reduction has not been taken. He said that cut is given to them as a general cut across the department, which they can balance at their discretion.

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CO-CHAIR LEDOUX opened public testimony.

[3:37:09 PM](#)

MR. NIELSON stated that the dental board serves as a vital role in the regulation of dentistry while always keeping the health and welfare of the Alaskan citizens in mind. Licensing, permitting, certification, and disciplinary action when appropriate, is a cornerstone of what the public should expect from the state government if they are to have confidence in their healthcare providers. He shared that personally, he has enjoyed the challenge to serve and appreciated the opportunity to continue fulfilling the board's purpose, adding that he was in full support of moving HB 45.

[3:38:15 PM](#)

REPRESENTATIVE HANNAN mentioned that the previous board president, Paul S, wrote a letter in response to the audit regarding the finding about dentists who lost their pharmacy rights, noting that it was to be discussed at the December 7, 2018 board meeting. She asked if Mr. Nielson was at that board meeting and whether that topic was addressed by the board.

[3:38:52 PM](#)

MR. NIELSON replied that he was at the December meeting and could not recall whether it was discussed.

[3:40:49 PM](#)

CO-CHAIR LEDOUX closed public testimony

[HB 45 was held over.]

HB 68-LABOR STDRS/SAFETY; WORKER COMPENSATION

[3:41:17 PM](#)

CO-CHAIR LEDOUX announced that the next order of business would be HOUSE BILL NO. 68, "An Act relating to the division of labor standards and safety; relating to the division of workers' compensation; establishing the division of workers' safety and compensation; and providing for an effective date."

[3:42:11 PM](#)

CATHY MUNOZ, Deputy Commissioner, Department of Labor & Workforce Development, presented HB 68. She stated that this bill combines two divisions within the Department of Labor & Workforce Development (DLWD), the Division of Workers Compensation (DWC) and the Division of Labor Standards and Safety (DLSS). The DLSS is primarily focused on workplace accidents and enforcing laws related to workplace safety. They oversee wage and hour issues, mechanical inspections, and the Alaska Occupational Safety and Health (AKOSH) program. The DWC is focused on the efficient administration of benefits to injured workers and enforcing laws related to the Alaska Workers' Compensation Act [AS 23.30]. The missions of both divisions are complementary, they have even worked together historically. She reported that HB 68 will further increase their opportunities to remove silos and capitalize on efficiencies through a unified management structure. She further noted that when Dr. Tamika Ledbetter was first appointed as the department's commissioner her first directive was to increase collaboration between divisions.

[3:44:20 PM](#)

CO-CHAIR LEDOUX asked for the meaning of "removing silos."

[3:44:32 PM](#)

MS. MUNOZ indicated that "removing silos" signifies collaborating across divisions to enhance the services provided to the Alaska public. An example, she said, is when [Commissioner Ledbetter] directed the Job Center network to work closely with Alaska Vocational Technical Center (AVTEC). She stated that the department is cognizant of the responsibilities of each division and there is no intent on changing either of their missions.

[3:47:02 PM](#)

GRAY MITCHELL, Director, Division of Workers' Compensation, Department of Labor & Workforce Development, began the sectional analysis of HB 68. He addressed sections 1 through 6, which he explained are name changes from the DLSS to the new division's name, the Division of Workers' Safety and Compensation. Section 7 would repeal and reenact AS 23.05.067, service fees for administration of workers' safety and compensation programs, to reflect that the new division would receive reports of certain workers' compensation payments. Section 8 would amend AS 23.10.080, powers and duties of the division, by adding a paragraph to incorporate the workers' compensation duties that would be administered by the new division. Section 9 through 14 are name changes from the DWC to the new division's name. Section 15 repeals AS 23.30.002, Division of Workers' Compensation; director. Section 16 is a transitional provision to account for pending matters. Section 17 establishes a July 1, 2019 effective date.

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CO-CHAIR LEDOUX inquired as to the purpose of the current bill.

[3:53:53 PM](#)

MS. MUNOZ replied that the fiscal note speaks to the specific changes.

[3:54:02 PM](#)

MR. MITCHELL explained that the main purpose of the current bill is to combine two divisions that are currently under separate administrations and integrating them so that enforcement actions are better coordinated. He expressed hope that their integration would produce a more efficient delivery of service to the public.

[3:55:20 PM](#)

REPRESENTATIVE HANNAN directed attention to section 15, which dissolved the director of the division of workers' compensation. She asked if that position is currently filled and if that is the only position that would be terminated.

[3:56:24 PM](#)

MR. MITCHELL stated section 15 repeals the authority to appoint a director and moves those provisions under section 7 in the

current bill. He added that there is no current plan to eliminate either director.

[3:57:48 PM](#)

MS. MUNOZ noted the director of labor standards and safety is an unfilled position and the deputy director is the manager of labor standards and safety and does all of the day to day authority decision making that happens in that division, adding that it is not their intent to change that.

[3:59:10 PM](#)

MR. MITCHELL explained the fiscal notes; Fiscal note 1; fiscal note 2 is the labor standards and safety division fiscal note; not laying any positions off but deleting 2

[4:00:31 PM](#)

CO-CHAIR LEDOUX asked where the savings come from if no one will be laid off.

[4:00:43 PM](#)

MS. MUNOZ explained that it would result as a reduction to the general fund support to the department.

[4:00:54 PM](#)

MR. MITCHELL said that the positions that would be eliminated by the current bill would be the AKOSH program chief as well as the assistant chiefs for both the Enforcement Section and the Consultation and Training Section. He noted that this would be an effort to flatten the management structure by eliminating a position in middle management and having the deputy director take a greater role in managing the AKOSH program overall.

[4:01:51 PM](#)

REPRESENTATIVE FIELDS asked if the AKOSH chief position is partially exempt or fully exempt.

[4:02:00 PM](#)

MR. MITCHELL stated that it's a classified position.

[4:02:12 PM](#)

MR. MITCHELL stated that the other position that would be affected is a vacant office assistant 2 position. The idea is that an office assistant would be used to assist and assume that position. He noted that there are two other efficiencies that are planned. One is to reclassify the division of labor standards and safety director position to the deputy director position. The director is at a range 27 and the deputy director is a range 25.

[4:05:12 PM](#)

REPRESENTATIVE FIELDS asked about the possibility of effectively cross training the two positions to allow for flexibility.

[4:05:28 PM](#)

MR. MITCHELL replied there's no legal restriction against that possibility; however, it's the silo issue "that crops up." He offered his belief when there's two separate divisions operating under separate leadership there is an automatic resistance.

[4:06:36 PM](#)

REPRESENTATIVE FIELDS sought to clarify the relative size of the different divisions. He asked for the number of staff per division.

[4:07:01 PM](#)

MS. MUNOZ answered approximately 700 positions in the Department of Labor & Workforce Development.

[4:07:18 PM](#)

MR. MITCHELL, in response to Representative Fields, said there is 51 positions in the Workers Compensation Division and approximately 89 in the Labor Standards and Safety Division.

[4:07:32 PM](#)

REPRESENTATIVE FIELDS asked for the number of staff in the Department of Labor & Workforce Development's other divisions.

[4:07:47 PM](#)

MS. MUNOZ replied she did not have those specific numbers at this time and would follow up with the answer.

[4:08:36 PM](#)

REPRESENTATIVE FIELDS inquired as to the current number of subdivisions within the Labor Standards and Safety Division and AKOSH.

[4:08:57 PM](#)

MS. MUNOZ stated within the Labor Standards and Safety Division there is the Alaska Occupational Safety and Health (AKOSH) program, the Mechanical Inspection Section, and the Wage and Hour Administration.

[4:09:35 PM](#)

MR. MITCHELL shared his understanding that the sections within Workers' Compensation include the Adjudications Section, The Fishermen's Fund, the Workers' Compensation Benefits Guaranty Fund, the Second Injury Fund, the Special Investigations Unit, the administrative unit, and the Reemployment Benefits Section.

[4:10:37 PM](#)

REPRESENTATIVE FIELDS restated his question, asking for the number of staff within each section of the Labor Standards and Safety Division.

[4:10:54 PM](#)

TERRE GALES, Director, Division of Labor Standards and Safety, Department of Labor & Workforce Development, replied there are 20 in the Wage and Hour Administration, approximately 20 in the Mechanical Inspection Section, and about 40 in the AKOSH section.

[4:11:12 PM](#)

REPRESENTATIVE FIELDS asked, of the 40 in AKOSH, if they are somewhat evenly divided between consultation and enforcement.

[4:11:18 PM](#)

MR. GALES offered his understanding that it's not exactly an even split. He said there are "a couple more" staff in enforcement than there are in consultation.

[4:12:00 PM](#)

REPRESENTATIVE FIELDS asked Mr. Mitchell how many hours per week he's worked in general as the division director over the years.

[4:12:19 PM](#)

MR. MITCHELL said it varies. He estimated during legislative session he works approximately 60-70 hours per week and during the interim approximately 50 hours per week.

[4:12:42 PM](#)

REPRESENTATIVE FIELDS asked if there has been a similar workload for the Labor Standards and Safety Division director.

[4:12:55 PM](#)

MR. MITCHELL answered yes.

[4:13:00 PM](#)

REPRESENTATIVE FIELDS validated that Mr. Mitchell and the other directors of the effective divisions work "beyond normal" office hours.

[4:13:23 PM](#)

CO-CHAIR LEDOUX opened public testimony on HB 68.

[4:13:53 PM](#)

DON ETHERIDGE, Alaska American Federation of Labor and Congress of Industrial Organizations, on behalf of the Alaska AFL-CIO, expressed concern that when two departments are combined, one gets left behind. He opined that both divisions are very important to Alaskans.

[4:14:45 PM](#)

REPRESENTATIVE HANNAN asked Mr. Etherdige to elaborate on his concern.

[4:15:38 PM](#)

MR. ETHERIDGE explained the concern is that either department could get left behind. He said there is concern about the Labor Standards and Safety Division not being able to complete inspections because they are already "short-handed." He stated that Workers' Compensation is also an important division to the AFL-CIO.

[4:16:38 PM](#)

REPRESENTATIVE TALERICO reflected on his personal (previous?) experience in the private sector. He said there is probably an opportunity to make incredible improvements to any type of state safety program by having a closer merger with Workers' Compensation and the safety department. He offered his belief that having safety people directly connected to the details and analysis of compensated injuries is the best way to develop a far better safety culture and develop programs that improve the safety of all the workers on site. He opined that combination could make incredible improvements to an entire safety culture, even statewide.

[4:19:02 PM](#)

REPRESENTATIVE FIELDS acknowledged he agrees with the premise that the two divisions are complementary. He expressed concern with the loss of the AKOSH chief, adding that it's more of a technical professional position than the deputy commissioner, which is more managerial and policy. He expressed concern with the idea of permanently losing that ability to insure those AKOSH functions are united.

[4:20:42 PM](#)

CO-CHAIR WOOL said he hopes that the projected savings and efficiencies will be there. He suggested reevaluating this after some time to see if it will be more streamlined and more efficient or more work.

[4:22:25 PM](#)

REPRESENTATIVE HANNAN expressed curiosity as to whether the Alaska DLWD have parallels in the federal government, adding that state agency structures are frequently developed in response to federal bureaucracy. She further noted that if it

is known where the injuries are happening then preventing them is a cheaper and more efficient outcome; however, if it results in a position going from 70 hours per week to 100 hours, it probably isn't more efficient.

[4:24:27 PM](#)

CO-CHAIR LEDOUX sought clarification on the structure of the division. She asked if, previously, there was both a director and a deputy director position, and how long director position had been vacant.

[4:25:07 PM](#)

MR. MITCHELL answered no, the deputy director position that's on the books now is the same position that the director held in the past - there was no deputy director position. He offered his belief that in anticipation for this proposed merger, the person appointed to head the DLSS was appointed as a deputy director to avoid having to make adjustments in the future.

[4:26:04 PM](#)

CO-CHAIR LEDOUX inquired as to whether there would still be the deputy director of Labor Standards and Safety who is now acting as the director doing that work.

[4:26:51 PM](#)

MR. MITCHELL answered that's exactly right. He offered a "sneak peak" into their plan, which is to establish an operational managerial control over all the enforcement functions within the combined divisions; primarily that's currently within Labor Standards and Safety (wage and hour, mechanical inspection, occupational safety and health). Added to that would be the special investigations unit that's currently in Workers' Compensation. He said the deputy director would focus on the operational management of those enforcement inspection type related functions, while the director would focus on the overall administrative issues, the adjudication functions in the division of Workers' compensation, as well as the benefit programs and providing support to the deputy director. He opined that the workload wouldn't necessarily change because there will still be two leaders in place, adding that producing a joint leadership team creates unification that could overall provide better service with the combined divisions.

[4:29:17 PM](#)

CO-CHAIR LEDOUX expressed uncertainty that this would be a good idea. She stated that it looks like there would be savings of 283,000 dollars; however, if there used to be a director instead of the deputy director and the deputy director is functioning as the director does it really save anything by taking away the director position.

[4:30:05 PM](#)

MR. MITCHELL said the savings associated with reclassifying the director position to a deputy position are minimal, adding that makes up approximately 10,000 of the 283,000 dollars. He stated the big savings comes from flattening the management structure in Occupational Safety and Health, noting that almost 200,000 dollars of the total comes from that position alone. He said it depends on the thought process; whether there needs to be a lot of people overseeing a program for efficiency or to streamline things from a management perspective. He noted that there will still be leadership in both main programs within Occupational Safety and Health and if things start to go awry with either of those positions then adjustments can be made.

[4:32:27 PM](#)

CO-CHAIR LEDOUX announced HB 68 was held over.

[4:32:46 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [4:32] p.m.