

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

February 28, 2022

1:32 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Joshua Revak, Vice Chair
Senator Gary Stevens
Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Peter Micciche

COMMITTEE CALENDAR

SENATE BILL NO. 174

"An Act relating to dress codes and natural hairstyles."

- HEARD & HELD

SENATE BILL NO. 190

"An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 193

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

- HEARD & HELD

SENATE BILL NO. 185

"An Act relating to exemptions from minimum wage."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 174

SHORT TITLE: ALLOW NATURAL HAIRSTYLES

SPONSOR(S): SENATOR(S) WILSON

02/01/22 (S) READ THE FIRST TIME - REFERRALS
02/01/22 (S) EDC, L&C
02/16/22 (S) EDC AT 9:00 AM BUTROVICH 205
02/16/22 (S) Heard & Held
02/16/22 (S) MINUTE(EDC)
02/23/22 (S) EDC AT 9:00 AM BUTROVICH 205
02/23/22 (S) Moved CSSB 174(EDC) Out of Committee
02/23/22 (S) MINUTE(EDC)
02/25/22 (S) EDC RPT CS 1DP 4NR SAME TITLE
02/25/22 (S) DP: HOLLAND
02/25/22 (S) NR: HUGHES, STEVENS, BEGICH, MICCICHE
02/28/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 190

SHORT TITLE: EXTEND REGULATORY COMMISSION OF ALASKA
SPONSOR(s): SENATOR(s) MYERS

02/15/22 (S) READ THE FIRST TIME - REFERRALS
02/15/22 (S) L&C, FIN
02/28/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 193

SHORT TITLE: EXTEND BOARD OF CHIROPRACTIC EXAMINERS
SPONSOR(s): SENATOR(s) MICCICHE

02/15/22 (S) READ THE FIRST TIME - REFERRALS
02/15/22 (S) L&C, FIN
02/28/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR DAVID WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 174.

JASMINE MARTIN, Staff
Senator David Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 174 on behalf of the sponsor.

ROSALYN WYCHE, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony in support of SB 174.

ALYSSA QUINTYNE, Interior Community Organizing Manager
The Alaska Center
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 174.

HANNAH FLOR, representing self
Petersburg, Alaska

POSITION STATEMENT: Provided invited testimony in support of SB 174.

SENATOR ROBERT MYERS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 190

DAWSON MANN, Staff
Senator Robert Meyers
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 190 on behalf of the sponsor.

KRIS CURTIS, Legislative Auditor
Legislative Audit Division
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sunset audit report for the Regulatory Commission of Alaska during the hearing on SB 190.

BOB PICKETT, Chair
Regulatory Commission of Alaska
Department of Commerce, Community and Economic Development
Palmer, Alaska

POSITION STATEMENT: Provided information and answered questions about the Regulatory Commission of Alaska during the hearing on SB 190.

KEITH KURBER, Commissioner
Regulatory Commission of Alaska
Department of Commerce, Community and Economic Development
Palmer, Alaska

POSITION STATEMENT: Commented on the Regulatory Commission of Alaska workload during the hearing on SB 190.

KONRAD JACKSON, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided introductory comments on SB 193 on behalf of the sponsor.

MADISON GOVIN, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 193 on behalf of the sponsor.

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

POSITION STATEMENT: Presented the sunset audit report during the hearing on SB 193.

BRIAN LARSON, Chair
Board of Chiropractic Examiners
Department of Commerce, Community and Economic Development
Palmer, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 193.

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

POSITION STATEMENT: Answered questions and provided information during the hearing on SB 193.

ACTION NARRATIVE

[1:32:36 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Gray-Jackson, Stevens, and Chair Costello. Senator Revak arrived soon thereafter.

SB 174-ALLOW NATURAL HAIRSTYLES

[1:33:03 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 174 "An Act relating to dress codes and natural hairstyles."

1:33:34 PM

SENATOR DAVID WILSON, Alaska State Legislature, Juneau, Alaska, sponsor of SB 174, introduced the legislation with a summary of the sponsor statement that read as follows:

[Original punctuation provided.]

Senate Bill 174 prohibits schools and employers from adopting dress codes which disallow students or employees from wearing their hair in styles that are commonly associated with race, are a natural or protective style, or require a student to permanently or semi-permanently alter their natural hair.

No employee or student should be prohibited from participating in work or attending a public school because they will not alter their natural hair. People of color and ethnic descent are deprived of educational and work opportunities because they are adorned with natural or protective hairstyles. Workplace dress code and grooming policies that prohibit natural hair, including afros, braids, twists, and locks, have a disparate impact on people of color; these policies are more likely to burden or punish them. People of color, especially Black women, are targeted disproportionately by workplace and school dress codes.

People choose to wear their hair as they do for a variety of intertwined reasons, including cultural connectedness and tradition, protection of hair texture and growth, or simply preference. Whatever the reason, hairstyles have absolutely no correlation to professionalism or work performance.

Senate Bill 174 defines what standards are unacceptable for school districts and employers to place on hair. This legislation still allows for the restriction of hairstyles based on health and safety laws and regulation. Thank you for your consideration. I respectfully ask for your support of this legislation.

SENATOR WILSON noted a question from the previous committee and explained that the bill does not change any workplace standards. It simply prohibits discrimination based on a person's style of

hair. He deferred to his staff to provide the sectional analysis.

[1:34:44 PM](#)

JASMINE MARTIN, Staff, Senator David Wilson, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for SB 174:

[Original punctuation provided.]

Section 1: Adds a new section (.135. Dress code; natural hairstyles) to AS 14.03 (Title 14. Education, Libraries, and Museums, 03. Public Schools Generally)

This section disallows a school district from adopting a school dress code that prohibits a student from wearing a hairstyle that is commonly or historically associated with race, wearing a natural hairstyle regardless of the student's hair texture or type, or that requires a student to permanently or semi-permanently alter their natural hair.

This bill makes an exception to allow school districts to restrict hairstyles in any way necessary to comply with health or safety laws.

Section 2: Adds a new section (.450. Dress code; natural hairstyles) to AS 23.10 (Title 23. Labor and Workers Compensation 10. Employment Practices and Working Conditions)

This section is identical to section 1, except it deals with an employee and employer relationship rather than school and students.

[1:35:42 PM](#)

SENATOR REVAK joined the committee.

SENATOR STEVENS said he liked the bill and then commented on pant fashions.

SENATOR WILSON noted that the bill had nothing to do with pant fashions and agreed that some were foolish.

[1:36:41 PM](#)

CHAIR COSTELLO asked for the genesis of the bill.

SENATOR WILSON explained that it addresses one of the unspoken issues that people of color have had to endure in silence.

Policies and dress codes have been established that discriminate against natural hairstyles. He noted that 14 states had passed similar legislation outlawing this sort of discrimination. He related that his office had heard from a broad range of people affected by such discriminatory policies. He cited examples of parents being told they should straighten the hair of their children of color because it looked "nappy," unkempt, or unclean. He suggested that the invited testifiers could probably provide real life examples.

CHAIR COSTELLO referenced the language on page 1, lines 9-10 that outlines the definition of "natural hairstyle." She asked how that definition came about and whether it included everything that might need to be included.

SENATOR WILSON replied the language does not include all examples, although the definition was amended in the previous committee to include additional examples from the Colorado legislation.

[1:39:17 PM](#)

MS. MARTIN highlighted that the bill includes examples but they are not all-inclusive.

[1:39:37 PM](#)

CHAIR COSTELLO turned to invited testimony.

[1:39:51 PM](#)

ROSALYN WYCHE, representing self, Anchorage, Alaska, stated that she has been doing hair professionally since 1980. She owns a salon and beauty school. "Teaching is my passion and in my blood," she said. She related that a number of her clients have adopted children of color and have asked for help with their kids hair because they didn't know how to style it.

MS. WYCHE recounted that authority figures in Anchorage schools told her sons that corn rows were not the right fit for participation on some teams and they needed to cut it, whereas the boy with a mullet hair cut wasn't questioned. When her daughters wore corn rows they were told their hair was not girly. She also recalled the time that her daughter wore a pink bandana on a "bad hair day" and was told to remove it. She complied and then was told to call her mother to take her home because her hair was unacceptable. Ms. Wyche related that she was talking to the counselor about the situation when she noticed three boys wearing cowboy hats and trench coats walk by.

When she noted the discriminatory irony, he shrugged and said he didn't make the rules.

MS. WYCHE said that sort of discrimination continues into the third generation in some Anchorage schools. Just recently her granddaughter was told she could not wear anything on her head unless it had a religious affiliation. She said this is upsetting because it is a double standard. She stressed that there should not be blanket prohibitions against cultural hairstyles. She expressed her extreme appreciation that Senator Wilson introduced the bill that will help to end discrimination based on natural hair styles. She concluded her comments by relaying the story of a parent calling to thank a teacher for telling her daughter that her short very curly hair was beautiful.

SENATOR REVAK said he did not want to hinder efforts to prevent gang activity, but he would like more information on current dress codes in Anchorage schools regarding headdress and bandanas.

[1:46:45 PM](#)

MS. MARTIN explained that every school in the state adopts dress codes that are unique to the school. Many reference bandanas and some specifically mention the colors red or blue, but not pink. She said she did not believe the bill would prevent a school from prohibiting certain colors from being worn, but it does prevent a blanket prohibition against wearing a head wrap.

SENATOR REVAK said that helps. He reiterated that he did not want to hinder schools from protecting students from gang activity.

CHAIR COSTELLO said the committee could invite school officials to testify if the members were interested in that.

[1:47:59 PM](#)

ALYSSA QUINTYNE, Interior Community Organizing Manager, The Alaska Center, Fairbanks, Alaska shared that because of her natural hair style she has been harassed, teased, had her hair pulled, burned and cut. She has also been the recipient of inappropriate questions and comments from students, teachers, coworkers, supervisors, and employers. It is what the sponsor said, we suffer in silence because there is nobody to talk to about this inappropriate behavior, she said.

MS. QUINTYNE related that The Alaska Center is the only workplace where she has not experienced hair discrimination. By contrast, two places in the Interior instituted policies that banned her hairstyles after she started to work. Things typically started with inappropriate and uninformed questions from coworkers about the hair of people of color. Supervisors followed up with the same type of questions and she was eventually pulled into the office where people tried to measure her braids or touch her hair. As things escalated, she maintained the attitude that this was inappropriate behavior and that she would continue to wear her natural hairstyles unless corporate had a policy against it. In another work place, human resources got involved and wrote a policy that required her to straighten her hair or leave.

MS. QUINTYNE stated that when she was on the diversity committee for the Fairbanks North Star Borough School District, she specifically worked to rephrase parts of the dress code to clarify that associating what students wear on their head, including a bonnet, durag, head scarf, or head wrap, has nothing to do with gang activity. Rather, it demonstrates a misunderstanding of gangs in this country and it stereotypes children of color.

MS. QUINTYNE concluded her testimony stating that dress codes and safety protocols exist for a reason and Black people and people of color have never had an issue complying. The issue is when employers make assumptions about employees of color based on stereotypes and discern hostility, gang activity, and a lack of professionalism. SB 174 protects people of color from these microaggressions.

[1:56:31 PM](#)

CHAIR COSTELLO thanked her for the heartfelt and illuminating testimony.

SENATOR REVAK expressed appreciation for the testimony.

[1:57:34 PM](#)

CHAIR COSTELLO opened public testimony on SB 174.

[1:57:49 PM](#)

HANNAH FLOR, representing self, Petersburg, Alaska, stated that she is White and the adoptive mother of a Black preschool age daughter. She absolutely wants her daughter to have the freedom to wear her hair in whatever way makes her feel good about herself, just like her White classmates. Speaking to the utility

of natural hairstyles, she admitted she initially did not know how to care for her daughter's hair or understand how Black hairstyles protect the hair. Ms. Flor said her efforts to learn about Black hairstyles helped forge a better mother-daughter bond and helped her daughter feel better about herself.

[2:00:11 PM](#)

CHAIR COSTELLO discerned that nobody else wished to comment and closed public testimony on SB 174.

She held SB 174 in committee for further consideration.

[2:00:33 PM](#)

At ease

SB 190-EXTEND REGULATORY COMMISSION OF ALASKA

[2:01:44 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SENATE BILL NO. 174 "An Act relating to dress codes and natural hairstyles."

[2:02:16 PM](#)

SENATOR ROBERT MYERS, Alaska State Legislature, Juneau, Alaska, sponsor of SB 190 introduced the legislation by paraphrasing the sponsor statement that read as follows:

[Original punctuation provided.]

The Senate Bill 190 extends the termination date of the Regulatory Commission of Alaska (RCA) until June 30, 2030, in accordance with the recommendation of the Legislative Auditor.

The Regulatory Commission of Alaska is an independent, quasi-judicial regulatory body that was formed by the legislature in 1999 to replace the Alaska Public Utilities Commission. The RCA is charged with regulating public utilities and pipeline services. Regulation is accomplished by certifying qualified providers and ensuring they provide safe and adequate services and facilities at just and reasonable rates, terms, and conditions.

[2:03:20 PM](#)

DAWSON MANN, Staff, Senator Robert Meyers, Alaska State Legislature, Juneau, Alaska, presented the following sectional analysis for SB 190:

[Original punctuation provided.]

Section 1: AS 44.66.010(a)(3) Page 1, Lines 4-6

This section extends the termination date for the Regulatory Commission of Alaska (RCA) until June 30, 2030.

Section 2: Page 1, Line 7

This section establishes an immediate effective date.

CHAIR COSTELLO invited Kris Curtis to walk through the sunset audit for the RCA.

[2:04:25 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Agencies and Offices, Legislative Audit Division, Alaska State Legislature, Juneau, Alaska, directed attention to the 9/21/2021 sunset audit summary of the Regulatory Commission of Alaska in members' packets. She stated that the audit concluded that the RCA operated in an effective manner and served the public's interest by:

- assessing the capabilities of utility and pipeline companies to safely serve the public;
- evaluating tariffs and charges made by regulated entities;
- verifying the pass-through charges to consumers from electric and natural gas utilities;
- adjudicating disputes between ratepayers and regulated entities;
- providing consumer protection services; and
- performing financial reviews of utilities for the State's power cost equalization program.

MS. CURTIS stated that the audit recommended the legislature extend the termination date of the commission for eight years, which is the maximum allowed in statute.

She directed attention to page 19 that shows the responses to the survey the division sent to 188 individuals who were a party to a docket or tariff from July 2017 through February 2021. The division received 59 responses.

2:05:40 PM

At ease

2:05:52 PM

CHAIR COSTELLO reconvened the meeting.

MS. CURTIS recounted the following from Appendix B: 49 percent of survey respondents reported being satisfied or very satisfied with RCA's services, while 14 percent disagreed or strongly disagreed; 67 percent of respondents believe the commission often or always meets its statutory timelines when carrying out its duties while 7 percent believe the commission rarely or never met its statutory timelines; and 66 percent of respondents agreed or strongly agreed the commission effectively communicated when providing services while 13 percent disagreed or strongly disagreed. She highlighted that the color coded bar graph clearly shows that a majority of respondents viewed the RCA in either a positive or neutral light.

MS. CURTIS directed attention to the last paragraph on page 4 of the report that says the audit concluded that the Regulatory Commission of Alaska resolved most consumer complaints within 30 days. She noted that while there is no statutory timeline for resolving consumer complaints, it is an internal performance measure. She noted that on page 5, Exhibit 3 summarizes the types of consumer complaints filed with RCA from July 1, 2020 through February 28, 2021. She also noted the conclusion on page 4 that says RCA processed tariff filings and dockets within statutory/regulatory timelines.

2:07:34 PM

MS. CURTIS stated that the audit made one recommendation regarding the RCA regulation that requires the commission to hold meetings twice a month. When there are no agenda items, the meetings may be canceled by management. During the audit, 25 of 88 scheduled meetings were canceled, and there were six instances when consecutive meetings were canceled. According to RCA management, regulations allow the commission to modify or waive a regulatory requirement with a motion. The caveat is that it must be an official motion and the audit determined that meetings were being canceled without an official motion. The audit encouraged clarification of the regulation. She said it is a simple administrative fix and not significant in terms of the extension.

MS. CURTIS reported that the responses to the audit begin on page 23. Both the commissioner of the Department of Commerce, Community and Economic Development (DCCED) and the chair of the Regulatory Commission of Alaska supported the maximum eight-year extension.

[2:08:45 PM](#)

CHAIR COSTELLO asked if there was a written response to the division's recommendation.

MS. CURTIS answered yes, RCA agreed to clarify the regulation and that response appears on page 25.

CHAIR COSTELLO asked her to mention the number of individuals on the board, the length of their terms, and their salaries. She offered her understanding that this is a fulltime board.

[2:09:26 PM](#)

MS. CURTIS stated that the organization of the board is discussed on pages 1 and 2 of the audit. She suggested the board chair could discuss compensation because that is not discussed. She paraphrased the second paragraph on page 2 that delineates the makeup of the board.

RCA consists of five commissioners. The commissioners are appointed by the governor, confirmed by the legislature for six-year terms, and must either be a member of the Alaska Bar Association or have a degree in engineering, finance, economics, accounting, business administration, or public administration from an accredited university. RCA commissioners as of March 2021 are listed in Exhibit 2.

CHAIR COSTELLO asked her to repeat the number of meetings that were canceled during the audit period.

MS. CURTIS restated that 88 meetings were scheduled from July 2017 through February 2021; 25 of those meetings were canceled and in six instances the cancelations were consecutive. The argument was that there were no agenda items to address. While this was reasonable, the regulation technically requires the meeting to be held. The audit suggested clarifying the regulation.

SENATOR STEVENS asked if the commission had a history of receiving the maximum eight year renewals.

MS. CURTIS replied that the commission received an eight-year extension in the prior 2013 sunset audit. Before that the commission received several shorter extensions. She noted that the division is also required to audit RCA's annual report every other year, which means the division has quite a lot of contact with the agency looking at compliance with the statutory regulatory timelines.

SENATOR STEVENS commented on the value of the legislature keeping abreast and wondered whether an eight-year extension was too long. He pointed out that a legislator could conceivably serve two terms in the Senate or [four] terms in the House and never consider an RCA sunset audit. He asked for her thoughts.

[2:12:24 PM](#)

MS. CURTIS agreed that a legislator could serve for eight years and never have the opportunity to consider a sunset audit for RCA, then pointed out that the commission sends an annual report to the legislature. She noted that over the years, the greatest interest has been whether the agency is complying timely with its statutory timelines. She said compliance has been good over the last two sunsets, but acknowledged that the length of the extension was a policy call for the legislature.

SENATOR STEVENS asked what the disadvantage would be to RCA to have a shorter extension.

MS. CURTIS replied there would be no negative connotation and a shorter extension would be warranted if legislators were interested in keeping a closer eye on the organization. She offered her perspective as the auditor that a shorter extension is recommended when the structure or the laws governing the organization have changed.

SENATOR STEVENS asked her to confirm that a shorter extension would not add to the division's workload.

MS. CURTIS clarified that it would increase the division's workload to conduct audits more frequently. More resources would be used and there would be an associated cost.

[2:14:51 PM](#)

CHAIR COSTELLO noted that three RCA commissioners were listening to the meeting online. She asked whether the infrastructure bill and the forthcoming federal funding would affect the Regulatory Commission of Alaska, particularly related to telecommunications.

MS. CURTIS deferred the question to an RCA commissioner.

CHAIR COSTELLO asked Bob Pickett to respond to her question about the impact of the infrastructure bill and Senator Steven's question about a shorter extension.

2:16:02 PM

BOB PICKETT, Chair, Regulatory Commission of Alaska, Department of Commerce, Community and Economic Development, Palmer, Alaska, stated that he had been a commissioner since 2008 and chair for the last nine years. Regarding the question about the infrastructure bill and the potential federal funding, he said the commission will be affected depending on what the recipient organization does with the funding. In response to Senator Stevens' question, he said he had been through three sunset audits for the commission. The one in about 2010 recommended reducing the extension from four years to two years and that did impact the agency. To the observation that many legislators would not have much interaction with the commission, he pointed out that the commission had actively communicated with legislators, answered questions, and provided answers over the last few years during the deregulation of telecommunications.

MR. PICKETT added that in 2014, the legislature directed the commission to evaluate the status of the Railbelt electric system and provide recommendations about the appropriate course forward. The commission consulted extensively with the affected utilities and the Alaska Energy Authority (AEA) and submitted a report to the legislature in January 2020 that led to passage of SB 123 and the establishment of an Electric Reliability Organization. He noted that because Alaska is not under the jurisdiction of either FERC or NERC, the state essentially had no enforceable reliability standard, including cybersecurity and fiscal security. He said the regulations for the ERO go into effect on March 11, 2022, and the commission will continue to provide the legislature with status reports.

2:19:08 PM

MR. PICKETT also reminded the committee that RCA works closely with AEA on the Power Cost Equalization (PCE) program and looks forward to making positive changes in the administration of that program.

CHAIR COSTELLO asked him to respond to her earlier question about the salary for RCA commissioners and the fact that this is

fulltime work as opposed to the voluntary or parttime nature of most of Alaska's boards and commissions.

MR. PICKETT described the work as more than a full time job. He said he was not comfortable reporting the salaries of other commissioners but his salary is about \$153,000 a year.

CHAIR COSTELLO said she wanted the public to know that RCA is not a parttime board and the docket is robust. She asked him to describe some of the work the commission does and the amount of time that is devoted to each case.

MR. PICKETT said it varies. The two largest dockets in the last two years were the transfer of British Petroleum assets to Harvest, and the acquisition of Anchorage Municipal Light and Power assets by Chugach Electric. The former included the Trans Alaska Pipeline and several North Slope pipelines and the latter included a share of the Beluga River gas field. The transfer of each of those certificates took more than a year because they involved lots of research and discussion among commissioners about the right course. The process to develop the Electric Reliability Organization took seven years and developing the regulations in a truncated one-year was very challenging for the commission. He predicted that implementing the regulations and getting the ERO running would also present challenges this next year.

CHAIR COSTELLO asked if all the members of the commission were located in Anchorage.

MR. PICKETT replied that he lives in the MatSu Valley, commissioner Kurber lives in Fairbanks, and the other three commissioners live in Anchorage.

CHAIR COSTELLO asked Kristin Schubert, Commission Section Manager for the Regulatory Commission of Alaska if she wanted to respond to any of the questions the committee articulated.

[2:23:40 PM](#)

KRISTIN SCHUBERT said she was available to answer specific questions about the Regulatory Commission of Alaska.

CHAIR COSTELLO asked Commissioner Keith Kurber if he wanted to respond to any of the questions the committee articulated.

[2:24:00 PM](#)

KEITH KURBER, Commissioner, Regulatory Commission of Alaska, Department of Commerce, Community and Economic Development, Palmer, Alaska, stated that Chair Pickett very adequately addressed the questions. He continued to say that he had been on the commission for a year and had found the workload demanding but possible to accomplish because of outstanding staff. He agreed with the chair's comments about the ERO.

[2:25:28 PM](#)

CHAIR COSTELLO opened public testimony on SB 190; finding none, she closed public testimony.

CHAIR COSTELLO held SB 190 in committee for further consideration.

SB 193-EXTEND BOARD OF CHIROPRACTIC EXAMINERS

[2:25:57 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 193 "An Act extending the termination date of the Board of Chiropractic Examiners; and providing for an effective date."

[2:26:25 PM](#)

KONRAD JACKSON, Staff, Senator Peter Micciche, Alaska State Legislature, Juneau, Alaska, stated that SB 193 extends the Board of Chiropractic Examiners for five years, as recommended by the Division of Legislative Audit. He noted that sunset audits were the legislature's opportunity to review how boards are operating in the public interest and their statutory capacity.

[2:27:29 PM](#)

MADISON GOVIN, Staff, Senator Peter Micciche, Alaska State Legislature, Juneau, Alaska, introduced SB 193 paraphrasing the following sponsor statement:

The Division of Legislative Audit reviewed the Board of Chiropractic Examiners (BCE). The purpose of this audit was to determine whether or not there is a demonstrated public need for BCE's continued existence and whether it has been operating in an effective manner. As a result of this audit, our auditors concluded that the board's termination date should be extended until June 30, 2027.

Legislative Audit makes two new recommendations:

- a. The Office of the Governor should appoint board members in accordance with statute. Currently, one public board member does not meet the statutory requirements for appointment
- b. The Department should continue efforts to improve the investigative case management system's integrity and confidentiality.

Additionally, they determined that the recommendations from the prior sunset audit have been addressed.

I urge your support on this legislation to allow the Board of Chiropractic Examiners to continue to carry out their duties of effectively licensing and regulating Chiropractors and to protect and promote the public health, welfare, and safety of Alaskans.

CHAIR COSTELLO asked if the full extension allowed in statute was five years.

MS. GOVIN answered no.

[2:28:41 PM](#)

CHAIR COSTELLO invited Kris Curtis to present the sunset audit.

[2:28:51 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, Juneau, Alaska, directed attention to the June 22, 2021 sunset audit summary of the Board of Chiropractic Examiners in members' packets. She read the first paragraph of the Report Conclusions found on page i of the summary. It read:

Overall, the audit concluded that the board served the public's interest by conducting meetings in accordance with State laws, amending certain regulations to improve the chiropractic profession, and effectively licensing and regulating chiropractic physicians. Additionally, the audit found one board member did not meet statutory requirements for appointment and additional resources were needed to investigate cases in a timely manner.

MS. CURTIS stated that the audit recommends a five year extension, which is three years less than the eight-year maximum allowed in statute. She related that the shorter extension is due to an issue the audit identified that may affect the board's

ability to protect the public. The audit has no details about this issue because the investigation is ongoing.

MS. CURTIS directed attention to the standard information about the board on pages 5 and 6. She related that as of January 31, 2021, there were 306 active licenses and permits for this board. The schedule of annual revenues and expenditures on page 6 shows that [from FY18 through January 31, 2021] the board alternated between a deficit and a surplus. She noted that management of the Division of Corporations, Business, and Professional Licensing deemed the deficits within a reasonable range and did not recommend a fee increase. She said the licensing fees are listed on page 7.

[2:30:33 PM](#)

MS. CURTIS reviewed the two recommendations from the audit that begin on page 9. Recommendation No. 1 is for the governor to make board appointments in compliance with statutory requirements. The audit found that the public board member was a licensed (EMT), which violates the statutory requirement that prohibits the public member from having a direct financial interest in the health care field.

Recommendation No. 2, which starts on page 10, calls for the director of the Division of Corporations, Business, and Professional Licensing (DCBPL) to allocate sufficient resources to ensure cases are investigated in a timely manner. The audit reviewed the 11 cases that were open for more than 180 days during the audit period. Seven of those cases were combined into one case because they were related to the same chiropractor. In that combined case, the audit found four periods of inactivity that ranged from 55 days to 208 days. DCBPL investigative staff reported that the inactivity was due to competing priorities and insufficient resources.

[2:31:35 PM](#)

MS. CURTIS reviewed the response to the audit from DCCED that starts on page 21 of the audit report. The commissioner stated that the department hired two additional investigators and she believes that will increase both the quality and timeliness of investigations.

The governor's response appears on page 23. He agreed with Recommendation No. 1 and reported that the board member who was appointed outside the statutes was removed.

The response from the board starts on page 25. The board chair did not agree with the five-year extension. He described the shorter than full extension as an unfair penalty because the issues raised in the findings were outside the board's purview. He countered the audit recommendation and requested the board be granted the full eight-year extension.

[2:32:29 PM](#)

CHAIR COSTELLO asked if she wanted to comment on the chair's view that the less than maximum extension penalized the board.

MS. CURTIS said she had seen the perception by auditees the last two years that the legislative oversight sunset audit was a negative process and anything but a full statutory extension was punitive. She said the division tries to explain that sunset audits are an oversight mechanism to review the state of the board. A shorter than full extension could be due to changes in the law or that the board was reorganized and had new duties that might affect the public. She reiterated that audits are simply a legislative oversight mechanism.

CHAIR COSTELLO asked if there were statutes relating to department oversight of the timeliness of investigations.

MS. CURTIS answered no; DCBPL has policies to encourage timely investigations, but that division has been under a resource crunch the last several years, which has resulted in continual problems in its investigative process.

[2:34:29 PM](#)

SENATOR GRAY-JACKSON asked how long the individual who did not meet the qualifications served on the board before being removed.

MS. CURTIS asked the chair if she could consult the auditor because she did not have that information.

[2:34:52 PM](#)

At ease

[2:35:18 PM](#)

CHAIR COSTELLO reconvened the meeting and explained that the auditor would follow up with the information Senator Gray-Jackson requested.

She asked Ms. Curtis to review the history of the audits for this board, including whether shorter than full statutory extensions had ever been recommended.

MS. CURTIS said the last sunset audit was conducted in 2013 and the board received an eight-year extension that time. She did not have information about earlier audits with her.

CHAIR COSTELLO turned to invited testimony on SB 193.

2:36:20 PM

DR. BRIAN LARSON, Chair, Board of Chiropractic Examiners, Department of Commerce, Community and Economic Development (DCCED), Palmer, Alaska, explained that the public member that did not meet the statutory requirement for the position appropriately resigned his commission when it came to light that he was employed fulltime in the health care industry. Dr. Larson offered his understanding that this was the second time in two consecutive eight-year sunset audits that this had happened. The investigative delays also occurred in that same consecutive eight-year timeframe. He said it is difficult to see this shortened extension as anything other than punitive because the board does not evaluate board applicants and it has no say in the investigative process.

2:40:00 PM

CHAIR COSTELLO said she understands what he is saying, but she views sunset audits as an opportunity for the legislature to review the activities the board conducts on behalf of Alaskans served by the profession. She noted that the audit also included a review of the Division of Corporations, Business, and Professional Licensing and Sara Chambers would be up next to talk about the challenges the division faced with those investigations. She thanked Dr. Larson and his colleagues for the work they do and restated that sunset audits provide an opportunity for the legislature to look at the entire profession on behalf of the public. It is an opportunity to talk about successes and the challenges facing the board.

CHAIR COSTELLO asked Sara Chambers to talk about the audit with particular focus on investigations.

2:41:52 PM

SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, agreed with Chair

Costello that sunset audits are a necessary process. She offered to talk about the audit findings or answer specific questions.

SENATOR STEVENS said he did not have any questions related to the Board of Chiropractic Examiners, but he would like to discuss the Regulatory Commission of Alaska (RCA) outside of this meeting.

MS. CHAMBERS advised that RCA was outside her professional purview. She deferred questions to Chair Pickett or another commissioner.

CHAIR COSTELLO asked her to talk about what the fees have been for this board historically and whether this investigation is expected to result in a fee increase.

2:44:09 PM

MS. CHAMBERS explained that licensing fees cover all matters the audit looked at, including professional licensing investigations. These costs have risen for all boards and commissions in the last few years and the division asked for a small general fund increment in FY21, FY22, and FY23 to prevent fee increases. She said the department is looking to the legislature for direction on addressing this ongoing challenge.

She explained that Alaska follows the same model and infrastructure for boards and commissions as many other states, but the economy of scale is very different. For all practical purposes it works well, but not when a case involves a complex investigation or a denial of licensure and the licensee or applicant exercises their due process right to appeal. Those cases run upwards of \$100,000 and the licensees, in this case the 300 chiropractors, have to pay for that. She noted that the case in question was an example.

MS. CHAMBERS said the division tries to keep enough money in a board's budget to pay for the average bump in investigation or appeal costs. However, costs keep rising as a result of dramatic cases, and there have been several in this profession in particular. She noted that the largest cost is to pay attorneys in the Office of Administrative Hearings, which is outside the division's control.

CHAIR COSTELLO asked how many investigators were assigned to the [seven] cases that were combined into one, and what accounted for the periods of inactivity of 200 some days.

[2:48:15 PM](#)

MS. CHAMBERS explained that a pool of about 17 investigators work for the division. They conduct the investigations for the 43 professional licensing programs and they are assigned according to need. Life, health, and safety are prioritized to protect Alaskans and make the best use of resources. Investigators are also assigned based on their knowledge. In this situation, the investigator was not only working on chiropractic cases but also on dental, and nursing cases. Some cases were deemed more pressing than the one in question and the attorney gave advice that appeared to substantiate that it was lower in priority.

MS. CHAMBERS said the case is moving forward now, but at the time of the audit it was not deemed high priority.

CHAIR COSTELLO asked when and if the legislature will get information about the case in litigation.

MS. CHAMBERS answered that the details of the case under litigation will be made public as soon as there is a ruling.

CHAIR COSTELLO asked what happens if the division determines a complaint is criminal in nature.

MS. CHAMBERS explained that if there is a criminal element, the division turns the information over to the appropriate criminal unit. That entity moves forward with the investigation. The division is notified of the result and it takes the appropriate licensing action based on the criminal finding. The division worked out this process after an earlier legislative audit found the process could be better. She noted that such improvements were tracked in the case management files.

[2:54:16 PM](#)

SENATOR STEVENS asked when the determination was made that the board member was inappropriately appointed.

MS. CHAMBERS offered her understanding that it was a finding in the audit. As soon as it was brought to the attention of the Governor's Office, the matter was handled appropriately and the board member willingly resigned. She assured the committee that the division has nothing to do with board appointments, the criteria, or who is seated.

[2:55:19 PM](#)

CHAIR COSTELLO opened public testimony on SB 193; finding none, she closed public testimony.

SENATOR REVAK said he had no idea about the intricacies of this board. He continued:

It sounds like the board is backbreaking work.
Board members certainly require a backbone.
It sounds like in many ways, some of their backs are against the wall.
We certainly don't want to send them backward.
We also certainly don't want to turn our backs on them.

He thanked the sponsor for bringing the bill forward.

CHAIR COSTELLO said she appreciated the levity.

CHAIR COSTELLO held SB 193 in committee for further consideration.

[2:56:34 PM](#)

At ease

[2:57:14 PM](#)

CHAIR COSTELLO reconvened the meeting and apologized that there was not time to hear the last bill.

[2:58:01 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:58 p.m.