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HOUSE COMMITTEE REPORT

(11)

Date referred: 4/22/88

FURTHER REFERRALS:

DATE: 5-3-88

The Finance Committee has considered SB 329

"An Act relating to the transfer of business licensing functions of the Department of Revenue to the Department of Commerce and Economic Development; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 1/11/88 (SENATE)
- zero with analysis

SIGNING DO PASS:

Adams Cel Adams

Duvichet Ed Duvichet

Larsen Ron Larsen

Swack CE Swack

Boyer Mark Boyer

Rieger Steve Rieger

Frank Frank

Wallis Kay Wallis

Brown Jas Brown

Davis Albe Davis

SIGNING OTHER RECOMMENDATIONS:

Cel Adams
Chairman's signature

567
3/32/87

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: _____
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Executive Order
Sponsor: Rules Committee
Requestor: Governor's Office

Agency Affected: Com. & Econ. Dev./Revenue
BRU: Business Licensing
Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS		-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS		-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING		-0-*	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

*The Governor's FY 89 budget currently includes \$269,088 in general funds in the Department of Revenue. The appropriation will be transferred along with 5.5 positions to the Department of Commerce & Economic Development, Division of Occupational Licensing by budget amendment.

Prepared by: _____ Phone: 465-2505
Division: Administrative Services Date: 1/8/88

Approved by Commissioner: Larry Richardson Date: 1/8/88
Agency: Department of Commerce & Economic Development

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 329

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the transfer of business licens-
7 ing functions of the Department of Revenue to the
8 Department of Commerce and Economic Development; and
9 providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:
12 (28) regulation of business licenses under AS 43.70.

13 * Sec. 2. AS 08.01.050(a) is amended by adding a new paragraph to read:
14 (21) issue business licenses under AS 43.70.

15 * Sec. 3. AS 08.01.065 is amended to read:

16 Sec. 08.01.065. FEES ESTABLISHED BY REGULATION. (a) Except for
17 business licenses, the [THE] department shall adopt regulations that
18 establish the amount and manner of payment of application fees, exam-
19 ination fees, license fees, registration fees, permit fees, inves-
20 tigation fees, and all other fees as appropriate for the occupations
21 covered by this chapter.

22 (b) The department may not adopt a regulation under (a) of this
23 section unless the board responsible for regulating the affected
24 occupation concurs.

25 (c) A fee established under (a) of this section should reflect,
26 but should not exceed, the actual costs to the department of the
27 activity for which the fee is charged except that the department may
28 establish a fee that is less than the cost of the activity for which
29 the fee is charged if the department determines that it is not

1 reasonable to impose the full cost of the activity on the applicant or
2 licensee. [THE ACTUAL OR ANTICIPATED COSTS TO THE DEPARTMENT OF
3 SERVICES PROVIDED TO OR ON BEHALF OF A BOARD MUST REFLECT, TO THE
4 EXTENT POSSIBLE, THE AMOUNT OF FEES THE DEPARTMENT COLLECTS FROM
5 PERSONS IN OCCUPATIONS REGULATED BY THE BOARD.]

6 (d) The license fee for a business license is set by
7 AS 43.70.030(a). The department shall adopt regulations that estab-
8 lish the manner of payment of the license fee.

9 (e) The commissioner of administration shall separately account
10 for business license and occupational licensing fees deposited in the
11 general fund by the department. The annual estimated balance in the
12 account may be used by the legislature to make appropriations to the
13 department to carry out the activities of the division of occupational
14 licensing.

15 * Sec. 4. AS 08.01.087 is amended to read:

16 Sec. 08.01.087. POWERS AND DUTIES OF DEPARTMENT. (a) The
17 department may, upon its own motion, conduct investigations (1) to
18 determine whether a person has violated a provision of this chapter or
19 a regulation adopted under it, or a provision of AS 43.70, or a
20 provision of this title or regulation adopted under this title dealing
21 with an occupation or board listed in AS 08.01.010_i[,] or (2) to
22 secure information useful in the administration of this chapter.

23 (b) If it appears to the commissioner that a person has engaged
24 in or is about to engage in an act or practice in violation of a
25 provision of this chapter or a regulation adopted under it, or a
26 provision of AS 43.70, or a provision of this title or regulation
27 adopted under this title dealing with an occupation or board listed in
28 AS 08.01.010, the commissioner may, if the commissioner considers it
29 in the public interest, and after notification of a proposed order or

1 action by telephone or telegraph to all board members, if a board
2 regulates the act or practice involved, unless a majority of the
3 members of the board object within 10 days,

4 (1) issue an order directing the person to stop the act or
5 practice; however, reasonable notice of and an opportunity for a
6 hearing must first be given to the person, except that the commis-
7 sioner may issue a temporary order before a hearing is held; a tempo-
8 rary order remains in effect until a final order affirming, modifying,
9 or reversing the temporary order is issued or until 15 days after the
10 person receives the notice and has not requested a hearing by that
11 time; a temporary order becomes final if the person to whom the notice
12 is addressed does not request a hearing within 15 days after receiving
13 the notice; the commissioner or the commissioner's designee shall be
14 the hearing officer at the hearing and shall issue a final order
15 within 10 days after the hearing;

16 (2) bring an action in the superior court to enjoin the
17 acts or practices and to enforce compliance with this chapter, a
18 regulation adopted under it, an order issued under it, or with a
19 provision of this title or regulation adopted under this title dealing
20 with business licenses or an occupation or board listed in
21 AS 08.01.010;

22 (3) examine or have examined the books and records of a
23 person whose business activities require a business license or licen-
24 sure by a board listed in AS 08.01.010, or whose occupation is listed
25 in AS 08.01.010; the commissioner may require the person to pay the
26 reasonable costs of the examination; and

27 (4) issue subpoenas for the attendance of witnesses, and
28 the production of books, records and other documents.

29 * Sec. 5. AS 08.01.102 is amended to read:

1 Sec. 08.01.102. CITATION FOR UNLICENSED PRACTICE OR ACTIVITY.
2 The department may issue a citation for a violation of a license
3 requirement under this chapter or AS 43.70 [OF A BOARD OR PROFESSION
4 LISTED IN AS 08.01.010] if there is probable cause to believe a person
5 has practiced a profession or engaged in business for which a license
6 is required without holding the license. Each day a violation contin-
7 ues after a citation for the violation has been issued constitutes a
8 separate violation.

9 * Sec. 6. AS 08.01.110(4) is amended to read:

10 (4) "license" means a business license or a license, cer-
11 tificate, permit, or registration or similar evidence of authority
12 issued for an occupation or by one of the boards listed in
13 AS 08.01.010;

14 * Sec. 7. AS 43.70.020(a) is amended to read:

15 (a) For the privilege of engaging in a business in the state, a
16 person shall first apply, upon forms prescribed by the commissioner,
17 and obtain a license, and pay the license fee provided for in
18 AS 43.70.030. A license issued to a firm for a particular line of
19 business covers all its operations in the state in the line of busi-
20 ness regardless of the number of its establishments. A license issued
21 under this subsection must [SHALL] include

- 22 (1) the name and address of the licensee;
23 (2) the line of business to be conducted; [AND]
24 (3) the dates [YEAR] for which the license is issued; and
25 (4) the business name to be used by the licensee.

26 * Sec. 8. AS 43.70.030(a) is amended to read:

27 (a) The license fee for each business is \$25 per year.

28 * Sec. 9. AS 43.99.950 is amended to read:

29 Sec. 43.99.950. DEFINITIONS [DEFINITION]. Except in AS 43.70,

1 in [IN] this title

2 (1) "commissioner" means the commissioner of revenue [,
3 EXCEPT THAT IN RELATION TO BUSINESS LICENSES "COMMISSIONER" MEANS THE
4 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT]; and

5 (2) "department" means the Department of Revenue [, EXCEPT
6 THAT IN RELATION TO BUSINESS LICENSES "DEPARTMENT" MEANS THE DEPART-
7 MENT OF COMMERCE AND ECONOMIC DEVELOPMENT].

8 * Sec. 10. AS 43.70.020(b) and (c) are repealed.

9 * Sec. 11. This Act takes effect on the effective date of Executive
10 Order No. 68, transferring the Alaska business license program from the
11 Department of Revenue to the Department of Commerce and Economic Develop-
12 ment.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

E068
SB 329

January 11, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, secs. 18 and 23, of the Alaska Constitution, I am transmitting an Executive Order and a companion bill transferring the business license program from the Department of Revenue to the Department of Commerce and Economic Development. At the present time, businesses frequently must obtain licenses from both departments. The Executive Order will consolidate these licensing functions in one agency, making for greater administrative efficiency and, of even greater importance, better service to the public.

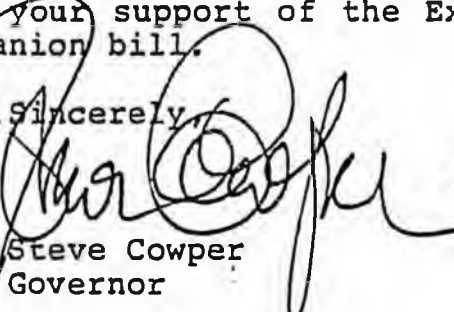
The Order simply transfers the business license program (AS 43.70) from the Department of Revenue to the Department of Commerce and Economic Development, by defining "commissioner" and "department" for purposes of that chapter as the commissioner of commerce and economic development and the Department of Commerce and Economic Development (secs. 5 and 6 of the Order), respectively, adding this authority to the duties of the Department of Commerce and Economic Development (sec. 7 of the Order), and making necessary technical changes to other statutes.

Although the functions of the business license program are reassigned by the Executive Order, I am requesting your support of the accompanying bill in order to make the program fit more easily within the current operations of the Department of Commerce and Economic Development, division of occupational licensing. Under the Order, current procedures and enforcement provisions must remain in effect. The bill will permit the division of occupational licensing to instead use the current procedures and enforcement provisions used for occupational licenses by placing the business license program under AS 08.01. Sections 1 -- 6 of the bill. The department will then issue biennial instead of annual business licenses (AS 08.01.100(a); see secs. 7, 8, and 10 of the bill), coordinated with any other licenses issued to the particular business, and use its own enforcement proce-

dures under AS 08.01.102 -- 08.01.105. Section 5 of the bill. The effective date of the bill is contingent upon the effective date of the Executive Order. Section 3 of the bill also makes an incidental correction, deleting a redundant sentence that appears in AS 08.01.065(c) due to inconsistent amendments made by sec. 1, ch. 87, SLA 1987 and sec. 5, ch. 94, SLA 1987 -- a correction also being proposed in the 1988 general revisor's bill.

The Department of Revenue presently administers a number of licensing and permitting programs in addition to the business license program. Unlike the business license program, however, each of these other programs is administered in conjunction with a particular tax. Used in this manner, licensing activities are an effective tool in tax compliance efforts. Since the 1978 repeal of the business gross receipts tax, this has not been the case for the business license program, and there is no longer any reason to retain the program in the Department of Revenue. To better serve the public and to promote administrative efficiency in operating this program, I urge your support of the Executive Order and passage of the companion bill.

Sincerely,



Steve Cowper
Governor