

SB

274

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

F. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

DATE: May 6, 1987

TO: Senate Labor and Commerce Committee
Senator Tim Kelley, Chairman
Senator Dick Eliason, Vice Chairman
Senator Rick Uehling
Senator Bettye Fahrenkamp
Senator Mike Szymanski

FROM: *KM* Kathy Marshall, Director
Division of Occupational Licensing
Department of Commerce & Economic
Development

SUBJECT: Budget and Fees for the Licensing of Nurses

The attached information provides a response to questions raised at the May 1, 1987 committee hearing on CSHB 178 (L&C) regarding the budget and licensing fees for nurses. In particular, the questions presented by Senator Fahrenkamp are also addressed.

Response to questions asked by Senator Fahrenkamp:

1. Are you aware of the report by the Governor's Transition Team on the Division of Occupational Licensing, which states that, to the extent possible, boards should collect fees which cover their own costs, and where it is not possible (for example, when there are very small numbers of licensees), that the additional funds needed should come from the general fund, not from the licensing fees of other professions?
A: Yes. In fact the division presented this statement to the Governor's Transition Team. In many of the licensed occupations where there are smaller numbers of licensees, it would be unreasonable to expect the licensees to pay an incredible amount in licensing fees to support the licensing function. In this case, those occupations would require general funds to supplement its operations. Because of the large number of licensees, the regulation of nurses in Alaska has the potential of being supported by license fees.
2. Why did the budget upon which the decision to raise nurse's license fees:
 - a. Include a position which has not been funded for over a year (PCN #2031, \$25,775 annually).

A: This statement is partially inaccurate. PCN 2031 was funded at the start of FY 87 in the division's administration component. Mid way through the year, the incumbent was promoted to a vacant position, PCN 2015 in the investigations component. Because the need for clerical support was greater in the investigations component, PCN 2031 was also transferred to the investigations component. Consequently in FY 88, funding for PCN 2031 has been eliminated and funding for PCN 2015 reinstated. The nursing budget was prepared based on the current level of services to reflect actual costs to the extent possible. Attached is Budget Form C4 which indicates the transfer of the position from the administrative component to the investigative component.

b. Not reflect the Governor's proposed 10% pay cut?

A: The budget and fee proposal were prepared prior to the Governor's proposed 10% pay cut. Attached is a current scenario which includes the Governor's 10% cut.

c. Why was it not reduced to reflect the lower number of licensees? 25% less nurses were licensed this year, yet the budget was not reduced 25%. Licensees in other fields have shown declines as high as 47%. Rather than raising fees to fund the current operating costs of the division, I would like to see the division's budget reduced to reflect the lowered number of licensees and the consequent lesser demands on staff.

A: The division could not justify reducing the budget by 25% even if the number of licensees were reduced by 25% for two reasons. First of all, the division is already understaffed. The division regulates 25 occupations and provides staff support to 18 boards. Over the past year, the budget has been cut 13% or \$251,000 in spite of the fact that two new occupations have been added.

FY 86	FY 87 Rev.	FY 88 (Gov.)
2,037.2	1,877.8	1,786.3

Secondly, the division's work load is not directly related to the number of licensees. Licensing Examiners, for example, do more than license individuals. They also staff the 18 boards, public notice and prepare minutes for mandated meetings, answer thousands of requests for information, and conduct examinations. In addition, the number of investigations and hearings associated with an occupation, particularly a large occupation such as nursing, do not necessarily decrease as the number of licensees decrease. In FY 86, there were 38 complaints against nurses and seven cases in litigation. To date, there have been 40 complaints and 10 cases in litigation.

3. What efforts are made by the division to solicit comment from the nurses regulated when regulation changes are proposed?

A: All regulation projects follow the Administrative Procedure Act and follow the guidelines of the drafting manual for Administrative Regulations written by the Department of Law. Basically, the procedures are:

- a. The proposed changes or requests by the board are drafted into regulation form.
- b. The board concurs with a rough draft version of the proposal.
- c. Public noticing of the proposal is made to newspapers, legislators, and interested persons.
- d. An opportunity for public comment is provided through holding hearings and written comments.
- e. Final editing and adoption of the proposed regulations by the board (if overwhelming public response is negative, the project goes back to step 1).
- f. Final review and approval by the Attorney General's office.
- g. The project is filed with the Lt. Governor's office with an effective date.

4. What effect would elimination of the Board of Nursing have on the license fees of nurses?

A: Elimination of the board would save approximately \$20.0 in travel and per diem costs for board meetings and travel to exams. However, in order to use the examinations, the state board is required to pay a \$3.0 membership fee to the National Council for State Boards of Nursing. The Board of Nursing participates in the development of the exam including nominating delegates to write examination questions. If the board were eliminated, it is doubtful that the National Council would allow the state to use the exams. In addition, there would not be a body of experts to develop regulations in response to changes in nursing practice or to discipline licensees who have violated the statute.

5. What effect would a 25% reduction in division funding have on the license fees of nurses? Precisely what services would be lost? Why would there be any reduction in level of service, there being at least 25% less licensees to regulate in all professions?

May 6, 1987

A: The division's FY 88 budget is \$1,786.3. A reduction of 25% represents a loss of \$446.6. Since licensing and board meetings are mandated, the enforcement of the statutes and investigations would be eliminated. Complaints would not be investigated and hearings would not be scheduled. The budget for the Board of Nursing would be reduced by \$84.8, from \$339.2 to \$254.4. Since the current revenue generated by nursing fees is \$202.0, fees would still have to be increased in order for them to be self-supporting. However, in the absence of enforcement, regulation of the occupation would appear to be meaningless.

KM/1t7212t
Attachments
050687b

TRANSFERS FROM/DELETIONS:		FUNDING INFORMATION		TRANSFERS TO/ADDITIONS:		
AGENCY	<u>Commerce and Economic Development</u>			AGENCY	<u>Commerce and Economic Development</u>	
BRU	<u>Occupational Licensing</u>			BRU	<u>Occupational Licensing</u>	
COMPONENT	<u>Administration</u>			COMPONENT	<u>Investigations</u>	
PROJECT	_____			PROJECT	_____	
What is being transferred from or deleted from this unit? Why? Include PCN and position title. PCN 2031 (Clerk I) is being held vacant to realize vacancy savings in FY 87. The position is transferred to the investigations component to supplant the FY 87 revised budget deletion of PCN 2015 (Clerk III). In addition, \$2.0 in personal services is transferred to help fund the personal services shortfall in investigations.		AMOUNT	EXPEND. BY OBJECT	AMOUNT	What is being transferred to or added to this unit? Why? Include PCN and position title. The FY 87 revised budget included the deletion of two positions, PCN 2015 (Clerk III) and PCN 2041 (Investigator I). PCN 2031 is transferred from the administration component and is deleted in place of PCN 2015.	
		2.0	100 Pers. Service	2.0		
			200 Travel			
			300 Contractual			
			400 Supplies			
			500 Equipment			
			600 Lands/Bldgs.			
			700 Grants, Claims			
			800 Miscellaneous			
		2.0	TOTAL	2.0		
			1-A Transfer			
			1002 Fed. Receipts			
			1003 CF Match			
		2.0	1004 General Fund	2.0		
			1006 I-A Receipts			
			Other			
		1	15 PFT	1		
			16 PPT			
			17 Non Permanent			
		12	18 Staff Months	1		

C4 TRANSFER WITHIN ADJUSTED BASE

AGENCY Commerce and Economic Development
 BRU Occupational Licensing
 COMPONENT Administration

FY 88

Page 1 of 1
 Revised Date: _____

2050

DETAIL 10P
 REVISED 5/4/87
 REDUCTION--25 PERCENT
 REDUCTION--50 PERCENT CONTRACTORS

OCCUPATIONAL LICENSING
 FY88 Projected Budget--REDUCTION
 Ten % Personal Service Reduction

LICENSING AREAS	ANNUAL FEES	FY 88 LICENSEES	FY 88 BUDGET	AVERAGE REVENUE	DIFFERENCE
ARCHITECTS, ENGINEERS, LS	50	3,550	267,301	275,940	8,639
ATHLETIC COMMISSION	50	17	4,760	330	(4,430)
AUDIOLOGY	30	15	2,481	615	(1,866)
BARBERS & HAIRDRESSERS	50	2,129	136,964	134,665	(2,299)
CHIROPRACTORS	50	97	29,955	6,750	(23,205)
COLLECTION AGENCY	50	73	8,743	4,240	(4,503)
CONCERT PROMOTERS	30	13	2,303	428	(1,875)
CONTRACTORS @ 75%	90	3,996	224,144	388,730	164,586
DENTAL	90	497	95,394	64,774	(30,620)
DISPENSING OPTICIANS	50	54	9,054	4,065	(4,989)
ELECTRICAL EXAMINERS	125	395	50,941	62,601	11,660
GEOLOGISTS	20	25	2,775	300	(2,275)
GLIDES	120	1,255	142,779	87,051	(55,728)
MARINE PILOTS	150 *	68	32,990	10,475	(22,515)
MEDICAL	150	856	167,448	147,050	(20,398)
MORTUARY SCIENCE	30	87	9,744	2,880	(6,864)
NATUROPATHY	50	2	1,869	273	(1,596)
NURSING	32.50	5,218	339,242	201,999	(137,243)
NURSING HOME ADMIN.	30	41	5,855	1,534	(4,321)
OPTOMETRY	50	67	16,507	3,863	(12,644)
PHARMACY	90	348	50,972	37,699	(13,273)
PHYSICAL THERAPY	100 *	150	20,166	18,480	(1,686)
PSYCHOLOGISTS	100 *	81	39,046	10,331	(28,715)
PUBLIC ACCOUNTANCY	100 *	527	62,204	85,985	3,781
VETERINARY EXAMINERS	50	129	27,992	8,723	(19,269)
FY 88 TOTALS	Ave= 70	19,690	1,771,631	1,559,981	(211,650)**

* Indicates fees increases pending

**Amount of revenue shortfall

DETAIL 10P
 REVISED 5/4/87
 REDUCTION--25 PERCENT
 REDUCTION--50 PERCENT CONTRACTORS

OCCUPATIONAL LICENSING
 FY88 Projected Budget--REDUCTION
 Ten % Personal Service Reduction
 Including Nursing Fee Increase

LICENSING AREAS	ANNUAL FEES	FY 88 LICENSEES	FY 88 BUDGET	AVERAGE REVENUE	DIFFERENCE
ARCHITECTS, ENGINEERS, LS	50	3,550	267,301	275,940	8,639
ATHLETIC COMMISSION	50	17	4,760	330	(4,430)
AUDIOLOGY	30	15	2,481	615	(1,866)
BARBERS & HAIRDRESSERS	50	2,129	136,964	134,665	(2,299)
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ECOLOGISTS	20	25	2,775	500	(2,275)
GUIDES	120	1,255	142,779	87,051	(55,728)
MARINE PILOTS	150 *	68	32,990	10,475	(22,515)
MEDICAL	150	856	167,448	147,050	(20,398)
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VETERINARY EXAMINERS	50	129	27,992	8,723	(19,269)
FY 88 TOTALS	Ave= 71	19,690	1,771,631	1,707,650	(63,981)**

* Indicates fees increases pending

**Amount of revenue shortfall

SB 274 An act relating to access to employment security records by Senator Bettye Fahrenkamp

Senate Labor & Commerce Committee 5/1/87

Background

Under certain private pension plans established under the Employee Retirement Income Security Act, the administrator of the plan may discontinue benefits if a recipient returns to employment in the same line of work for more than 39 hours per month. However, the administrators often have great difficulty in demonstrating a recipient is no longer eligible to draw retirement benefits.

This bill would allow the Employment Security Division to provide to administrators the name and address of a person's current employer and the current occupation if known.

Without this legislation, there will continue to be instances when younger workers, who have not yet retired, will be displaced by supposedly retired older workers and the benefit fund drawn down unnecessarily.

Sectional Analysis

Section 1. AS 23.20.110(a) Information obtained by department

Adds a new subsection (h) to allow the department to make available upon request to an employee pension benefit plan, the name, address, and if available, the person's current occupation. The information must be kept confidential by the plan, unless it is relevant to a legal proceeding in which the plan is a party. The department may also require the requesting party for reimbursement of the cost of furnishing the information.

Provided by Senator Fahrenkamp's office.

U.S. Department of Labor
RECEIVED

Employment and Training Administration
909 First Avenue
Seattle, Washington 98174

MAR 27 1987

Alaska Dept. of Labor
Rec'd by the Attention of:
RECEIVED

OFFICE OF THE COMMISSIONER

MAR 27 1987

March 24, 1987

Employment Security Division
JUNEAU
EXECUTIVE DIRECTOR

Mr. Joseph M. Sitton
Director
Employment Security Division
Department of Labor
P.O. Box 3-7000
Juneau, AK 99802

Dear Mr. Sitton:

We have reviewed the draft legislation which would add the following to Section 23.20.110 of the Alaska Statutes:

The department shall make information obtained from an employing unit or an individual available on request to an employee pension benefit plan established under 29 U.S.C. 1001 - 1461 (Employee Retirement Income Security Act) to assist the plan in verifying whether a person receiving a retirement benefit from the plan is employed.

The new section goes on to state what information may be given, and creates a confidentiality requirement as well as a requirement that the pension plan reimburse the Alaska agency for the cost of furnishing the information.

Section 303(a)(1) of the Social Security Act (SSA) has long been interpreted as requiring State laws to prohibit disclosure of unemployment insurance (UI) information on the grounds that disclosure deters workers from filing claims and employers from giving information to the State agency, and that disclosure impedes the efficient administration of the UI program. However, a State agency may disclose information concerning claimants or employers to a public official in the performance of his public duties or for purposes necessary for the proper administration of the law administered or enforced by him. Because the Alaska proposal permits disclosure of both claimant and wage record information to a private pension plan, we believe it is inconsistent with these requirements.

We note that Sections 303(d), (e) and (f), SSA, require, under certain conditions, disclosure of UI information to certain governmental agencies. These provisions are exceptions to the

11418-2

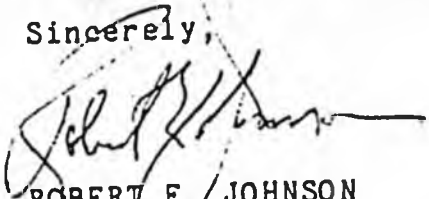
TO:	ACT	INT	HW
DIRECTOR		✓	
DEP DIR		✓	
ADCS			
ADUI		✓	
BUDGET			
ISU			
10700ULLM 8-4			
DP MGR			
ES TECHS			
UR TRNCS			
MAN UNIT			
A & C			
APPEALS			
BENEFITS			
RETIRED			

Done 3-27



restrictions placed on disclosure by Section 303(a)(1). Because private pension plans are not governmental agencies, the proposed amendment does not fall within the required exceptions and therefore would not appear to be consistent with Federal law requirements.

Sincerely,



ROBERT E. JOHNSON
Associate Regional Administrator
for Unemployment Insurance

A M E N D M E N T

By Fahrenkamp

TO: SB 274

Page 2, line 2:

Delete "employee"

Insert "administrator of a joint administered defined"

Page 2, line 4:

Delete "plan"

Insert "administrator"

Page 2, line 7:

Delete "plan"

Insert "administrator"

Page 2, line 9:

Delete "plan"

Insert "administrator"

Page 2, line 10:

Delete "plan"

Insert "administrator"

Page 2, line 11, after "which":

Insert "the administrator or"

SB 274

AMENDMENT BY FAHRENKAMP

Page 2 Line 14

Add a new Section 3.

Notwithstanding AS 23.20.110(h) enacted by Section 2 of this act, the department may not release information to an administrator if the U.S. Secretary of Labor rules that release of the information would be grounds to find that the state is in substantial noncompliance with 42 USC 502(a).

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: SB274
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: "An Act relating to access to employment security records."
Sponsor: Fahrenkamp
Requestor: Senate Labor and Commerce

Agency Affected: Labor
BRU: Employment Security

Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: ^{NB} Joe Sitton, Director Phone: 465-2712
Division: Employment Security Division Date: 5/1/87

Approved by Commissioner: ^{NB} Jim Sampson Date: 5/1/87
Agency: Labor

Distribution (by preparer):

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