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BOARD PRESENT - A.E. L.S.

P12 CONSIDER

1) DEFINITIONS

2) WANT TO REALIGN TIME

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EXPIRE AT THE SAME TIME.

GET LANGUAGE & SEND

IT ALONG W/ BILL TO FINANC

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: An Act extending the termination date BRU: Occupational Licensing
of the State Board of Registration for Architects, Eng.. & LS...
 Sponsor: Senators Kelly and Szymanski Components: _____
 Requestor: _____

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	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Funding for the State Board of Registration for Architects, Engineers and Land Surveyors is included in the department's FY 89 operating budget request.

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 2/8/88

Approved by Commissioner: J. Anthony Smith Date: 2/8/88
 Agency: Commerce and Economic Development

Distribution (by preparer):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

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IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making miscellaneous amendments and extending the termination date of the State Board of Registration for Architects, Engineers and Land Surveyors, and providing for an effective date."

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

*Section 1. AS 08.03.010(c)(15) is amended to read:

(15) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011) - June 30, 1992 [1988].

*Sec. 2. AS 08.48.331 is repealed and reenacted to read:

Sec. 08.48.331. EXEMPTIONS. This chapter does not apply to:

- (1) a contractor of work designed by a professional architect, or engineer, or the supervision of the construction of this work as a foreman or superintendent for a contractor;
- (2) superintendents, foremen, inspectors, or building trades craftsmen in the performance of their customary duties;
- (3) an officer or employee of the United States Government practicing architecture, engineering or land surveying as required by that person's official capacity;

1 (4) an employee or a subordinate of a person legally
2 registered under this chapter, if the work or service is done under the
3 direct supervision of a person legally registered under this chapter;

4 (5) associates, consultants or specialists retained by a
5 registered individual, a partnership of legally registered individuals,
6 or a corporation authorized under this chapter, in the performance of
7 professional services if responsible charge of the work remains with the
8 individual, partnership or designated representative of the corporation;

9 (6) a person preparing plans, drawings, or specifications for

10 (A) farm or ranch buildings, unless the public health,
11 safety, or welfare is involved;

12 (B) a building intended to be used only as a residence
13 by not more than four families and not more than two stories high;

14 (C) a building not intended for public use with a total
15 of not more than 1,000 square feet of floor space, unless the
16 public health safety, or welfare is involved;

17 (7) a specialty contractor licensed under AS 08.18 while
18 engaged in the business of contracting or designing systems for work
19 within the specialty to be performed or supervised by the specialty
20 contractor, or any contractor preparing shop or field drawings for work
21 which the specialty contractor has contracted to perform;

22 (8) a person furnishing plans, drawings, specifications,
23 instruments of service, or other data for any alterations or repairs to
24 a building that do not change or affect the structural system, safety of
25 the building, or the public health, safety, or welfare.
26

1 *Sec. 3. AS 08.48.341 is amended to read:

2 Sec. 08.48.341. DEFINITIONS. In this chapter

3 (1) "architect" means a professional architect;

4 (2) "board" means the State Board of Registration for
5 Architects, Engineers and Land Surveyors;

6 (3) "certificate of authorization" means a certificate issued
7 by the board authorizing a corporation to provide professional services
8 in architecture, engineering or land surveying through individuals
9 legally registered by the board;

10 (4) "certificate of registration" means a certificate issued
11 by the board recognizing the individual named in the certificate as
12 meeting the requirements for registration under this chapter;

13 (5) "engineer" means a professional engineer;

14 (6) "land surveyor" means a professional land surveyor;

15 (7) "practice of architecture" means professional service or
16 creative work in the [FUNCTIONAL AND AESTHETIC] design of buildings
17 [STRUCTURES], the teaching of advanced architectural courses in
18 institutions of higher learning, consultation, investigation,
19 evaluation, planning, design and professional observation of
20 construction of public or private [STRUCTURES,] buildings, works or
21 projects, and architectural review of plans and specifications by
22 regulatory agencies; it may by regulation of the board include
23 mechanical, electrical or structural design of [RELATIVELY] minor
24 importance [TO THE PROJECT AS A WHOLE].

25 (8) "practice of engineering" means professional service or
26 creative work, the adequate performance of which requires the

1 [APPLICATION OF] specialized knowledge of applied mathematics and
2 sciences, dealing with the [FUNCTIONAL AND ECONOMIC] design of
3 [BUILDINGS,] structures, machines, equipment, utilities systems,
4 materials, processes, works or projects, public or private; the teaching
5 of advanced engineering courses in institutions of higher learning; [,]
6 the direction of or the performance of engineering surveys,
7 consultation, investigation, evaluation, planning, [DESIGN,] and
8 professional observation of construction of public and private
9 structures, [BUILDINGS,] works or projects and engineering review of
10 plans and specifications by regulatory agencies; it may by regulation of
11 the board include architectural building design of [RELATIVELY] minor
12 importance [TO THE PROJECT AS A WHOLE], but it does not include
13 comprehensive architectural services;

14 (9) "practice of land surveying" means any service or work
15 the adequate performance of which involves the application of special
16 knowledge of the principles of mathematics, the related sciences, and
17 the relevant requirements of law for adequate evidence of the act of
18 measuring and locating land, geodetic and cadastral surveys for the
19 location and monumentation of property boundaries, for the platting and
20 planning of land and subdivisions, and for the preparation and
21 perpetuation of maps, record plats, field note records and property
22 descriptions that represent these surveys;

23 (10) "professional architect" means a person who has been
24 legally registered as a professional architect by the board;

25 (11) "professional engineer" means a person who has been
26 legally registered as a professional engineer by the board;

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(12) "professional land surveyor" means a person who has been legally registered as a professional land surveyor by the board;

(13) "responsible charge" means the direct control and personal supervision of work;

(14) "building" means a structure used or intended for human occupancy;

(15) "structure" means a system of materials and components that resist horizontal and vertical loads.

*Sec. 4. AS 08.48.081 is repealed.

*Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

SB 365: "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors and providing for an effective date."

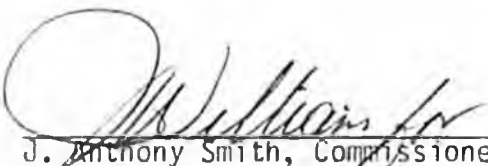
SB 365 proposes the continuation of the Board of Registration for Architects, Engineers, and Land Surveyors (hereinafter "AELS Board") for an additional four (4) years.

There are currently some 3,500 registered architects, engineers, and land surveyors in Alaska, with an additional 200 applicants seeking admission by examination or comity each year.

The Department of Commerce and Economic Development strongly endorses passage of this legislation.

The Legislative Budget and Audit Committee's performance report on the AELS Board, while not yet formally public, found no significant audit exceptions concerning the board, and has recommended that the board be continued. The AELS Board has clearly performed professionally on behalf of the public's health, safety, and welfare, and the department is unaware of any serious complaint concerning the board's operations. Indeed, the board recently adopted a system of voluntary disciplinary enforcement for consumers and members of the profession in Alaska which, if successful, will do much to further the public trust in the ability of AELS professionals to discipline themselves effectively and with due speed.

The department and the Division of Occupational Licensing ask the Legislature's support of SB 365 and the continuation of the State Board of Registration for Architects, Engineers, and Land Surveyors.



J. Anthony Smith, Commissioner
Department of Commerce and Economic
Development
2/8/88

Date

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ENFORCEMENT ADVISORY COMMITTEE

* * * PROCEDURES MANUAL * * *

A SYSTEM OF VOLUNTARY DISCIPLINE

FOR ALASKA-LICENSED

ARCHITECTS, ENGINEERS & LAND SURVEYORS

Adopted by the State Board of Registration for
Architects, Engineers and Land Surveyors

Wayne K. Jensen (Architect), President
Gordon S. Best (Land Surveyor)
Rajeev Bhargava (Mechanical Engineer)
Robert B. Boswell (Electrical Engineer)
Jacquelyn Luke (Public Member)
Malcolm A. Menzies (Civil Engineer & Land Surveyor)
Robert A. Perkins (Civil Engineer)
Sandra L. Sampson-Jones (Architect)
E. Odin Strandberg (Mining Engineer)

Published February, 1988
in Juneau, Alaska
By the Division of Occupational Licensing,
Department of Commerce and Economic Development

J. Anthony Smith, Commissioner
Randall P. Burns, Director

P. O. Box D-LIC
Juneau, Alaska 99811

907-465-2540

THE ENFORCEMENT ADVISORY COMMITTEE PROCEDURES

AN INTRODUCTION

Background

In the State of Alaska there are approximately 3,800 registered architects, engineers and land surveyors (AELS). These professionals are regulated by the state through the Board of Registration for Architects, Engineers, and Land Surveyors (hereinafter "Board") in conjunction with the Division of Occupational Licensing (hereinafter "Division") in the Department of Commerce and Economic Development. It is the responsibility of the Board to set minimum qualifications for persons applying to be registered in the profession and to discipline practitioners in order to safeguard the life, property, and welfare of the public.

Each year the Investigations Section of the Division receives approximately fifty complaints from consumers or members of the AELS profession itself concerning the work or conduct of Alaska's licensed AELS professionals. Each complaint is investigated to determine whether the allegations can be substantiated. The status of these investigations is reported to the Board at each of its meetings.

If an investigation provides the Division with sufficient evidence to substantiate the allegations contained in the complaint, the case is referred to the Attorney General's Office for its review. If the Attorney General's Office concurs with the findings of the Division, an accusation is filed against the AELS licensee, listing the allegations of illegal or unethical conduct.

If the licensee contests the charges, a hearing is scheduled at which the Division (represented by the Attorney General's Office) and the licensee (with or without counsel) appear before a hearing officer and present their cases. A decision in the matter is then written by the hearing officer and the officer's findings, conclusions, and recommendations are presented to the Board for its final determination.

The procedures governing the filing of an accusation and any subsequent administrative hearing or other related legal proceeding are found in AS 44.62, the Alaska Administrative Procedure Act (APA).

Findings of the Board

The Board finds that the present discipline system, from complaint and investigation through accusation, hearing, and the imposition of appropriate discipline, if any, is a very formal, lengthy, and expensive process for all concerned.

Currently, the person who files a complaint (hereinafter "Complainant") is not likely to see final action on the complaint for at least six months to a year, often even longer. Equally, the complaint and allegations against the AELS professional (hereinafter "Respondent") must be investigated, often resulting in protracted, expensive litigation. The Board finds that the present administrative procedures frequently benefit neither the Complainant nor the Respondent and that the public interest is not well-served by such a cumbersome and time-consuming disciplinary process.

Purpose of the Enforcement Advisory Committee System

The Board has therefore adopted the procedures detailed in this manual, which it believes will both considerably simplify and speed-up the hearing process on complaints filed, thereby increasing the credibility of the complaint process. These procedures involve and require the participation of a Respondent, a Complainant, and a newly created, community-based "Enforcement Advisory Committee" in a system of voluntary discipline.

The purpose of a voluntary discipline program is to provide for an expeditious handling of complaints involving less serious offenses by AELS professionals. If both the Complainant and the Respondent in a particular case agree to submit to these procedures, the Board believes that justice will no longer be delayed or denied.

GENERAL PRINCIPLES AND JURISDICTION

The license to practice architecture, engineering, or land surveying in Alaska is a continuing proclamation by the State of Alaska that the holder is fit to be entrusted with matters involving the practice of architecture, engineering, or land surveying. A certificate of registration sealed by the Board entitles the holder to all rights and privileges of a professional architect, professional engineer, or professional land surveyor, so long as the certificate remains unrevoked, unexpired, or unsuspended.

As a condition of the privilege to practice, it is the duty of every person duly registered under AS 08.48 to act at all times in conformity with the law and with the standards imposed by the Architects, Engineers, and Land Surveyors Registration Act in AS 08.48; the Code of Professional Conduct in 12 AAC 36.200 through 12 AAC 36.245; and the Disciplinary Guidelines in 12 AAC 36.300 through 12 AAC 36.330.

VOLUNTARY DISCIPLINE PROCEDURES

A. Complaint/Investigation/Referral to EAC

Complaints against architects, engineers, and land surveyors are made to the Investigations Section of the Division. If an investigation by the Division substantiates the allegations contained in the complaint, the Division will evaluate whether the matter should be referred to the Attorney General's Office or the Enforcement Advisory Committee (EAC). In making this determination, the division will evaluate the seriousness of the allegations contained in the complaint. Generally, the Division will not recommend a matter to the EAC if the conduct of a Respondent appears serious enough to justify revocation or a lengthy suspension of the Respondent's registration.

If, after review, the Division Director (hereinafter "Director") determines that the matter could appropriately and efficiently be handled by the Enforcement Advisory Committee, then the Director shall, with the concurrence of the Complainant, recommend to the Board that the case be referred to a local Enforcement Advisory Committee for its review and recommendation to the Board. (If a Complainant insists that the matter be referred to the Attorney General's Office, it will not be submitted to an EAC.)

On an annual basis, a member of the Board (hereinafter "designated Board member") shall be assigned by the full Board the responsibility of evaluating the cases recommended by the Director for referral to a local EAC. If the designated Board member agrees with the Director's recommendation that the case should be referred to the profession's voluntary discipline system, the Respondent will be notified of the complaint by the designated Board member and of the Board's desire to refer the matter to a local Enforcement Advisory Committee. Upon receipt of this notice, the architect, engineer, or land surveyor against whom the complaint has been filed must then decide whether he or she shall agree to participate in the Board's voluntary discipline procedures.

B. Consent to Participation

If, after due consideration, the Respondent consents to participate in the Board's voluntary discipline program, the Respondent shall so notify the designated Board member of his or her decision to participate. The Respondent must also complete a formal agreement provided by the designated Board member, consenting to the voluntary procedures, and stating his/her willingness to abide by the final decision of the Board in this matter.

C. Participation Declined

If the Respondent declines to participate in the voluntary discipline, the designated Board member shall return the case to the Division, where it will be referred to the Attorney General's Office for its review and appropriate action (including the possibility of a formal hearing under the Administrative Procedure Act).

D. Local Enforcement Advisory Committees

Upon receipt of a signed consent agreement, the designated Board member shall assign the case to the appropriate local Enforcement Advisory Committee. Committees are presently located in three communities: Fairbanks, Anchorage, and Juneau.

Appointed by the Board President (but with the concurrence of the full Board), each local EAC is made up of licensed architects, engineers, and land surveyors from the community, as well as members of the public who reside in the area. At least three engineers, architects, land surveyors, and public members serve on the Fairbanks and Juneau committees; at least four licensees from each profession and four public members serve on the committee in the Anchorage area. The term of appointment is three years.

E. EAC Hearing Panels

The members of these local EAC's serve as a "pool" from which the designated Board member will appoint a three-person panel to hear the referred complaint.

Two of the three EAC panelists appointed to hear a matter may come from the same professional discipline as the Respondent. The third member will be a public member. The designated Board member will name one of the three appointed panelists to serve as chair of the panel. The panel chair will contact the Respondent and the Complainant (or the Division) to set a mutually agreeable time and place for the hearing, but not later than thirty days from the date on which the Respondent signed the agreement to participate. The Complainant or Respondent may challenge for cause any panelist appointed to hear his or her matter; the designated Board member will rule on such challenges. If a panelist is removed for cause, the designated Board member will appoint another local EAC member to serve on the panel.

F. The Hearing

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence will be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence will be excluded. The panel chair will preside at the hearing, and will rule on all matters related to procedure or evidence.

The Respondent may be represented by counsel. The Complainant may appear on his or her own behalf, or may request to be represented by the Division.

During the hearing, the Complainant (or the Division on behalf of the Complainant) and the Respondent, are entitled to:

- (1) present and examine witnesses;
- (2) cross-examine opposing witnesses;
- (3) present documentary evidence; and
- (4) rebut the evidence presented.

If the panel itself finds it needs additional expertise in order to render a proper judgment in a particular case, the panel, through its chair, may seek the testimony or review of such other professionals as it considers necessary.

G. Record of Proceedings

A complete electronic record of the hearing and any additional proceedings held before the hearing panel will be made and preserved for one year following the hearing. Either the Respondent or the Complainant may ask for a copy of the tape recording, which will be duplicated at their expense.

H. The Report of the Hearing Panel

The panel will make its report within 30 days of the close of the hearing. The findings and recommendations contained in the report will be based upon the standards imposed by the Architects, Engineers and Land Surveyors Registration Act (AS 08 48), the administrative regulations adopted under the Act, the Code of Professional Conduct (12 AAC 36.200 through 12 AAC 36.245), and the Disciplinary Guidelines (12 AAC 36.300 through 12 AAC 36.330).

The report of the hearing panel is the responsibility of the panel chair. The report must be in writing and need not be in any particular form; however, the report will include:

- (1) a brief statement of the dispute;
- (2) a statement indicating that the hearing was held with proper notice to all parties and that the parties were given the opportunity to testify, cross-examine witnesses, and present evidence;
- (3) the findings of the panel on all issues and questions which are necessary to resolve the dispute; and

- (4) a recommendation for appropriate discipline, if any, or a recommendation that the matter be returned to the Division for referral to the Attorney General's Office for its review and action.

The report must be signed by the members of the hearing panel. The panel chair will forward the report to the Director, together with the file, tapes, and any documents presented in evidence, who will then serve a copy of the signed report on the Complainant, the Respondent, and the Board. A separate dissent may be filed by a panel member and should be included with the majority report when it is forwarded to the Director.

I. Appropriate Discipline

A hearing panel may recommend to the Board any of the following disciplinary actions, singly or in combination:

- (1) dismissal of the complaint;
- (2) submission to peer review, in accordance with AS 08.01.075(a)(5);
- (3) the imposition of remedial professional education requirements, in accordance with AS 08.01.075(a)(6);
- (4) the imposition of a fine, in accordance with AS 08.01.075(a)(8);
- (5) the imposition of limitations or conditions on a licensee's practice, in accordance with AS 08.01.075(a)(4);
- (6) censure or a reprimand, in accordance with AS 08.01.075(a)(3);
- (7) the imposition of probation, in accordance with AS 08.01.075(a)(7) and (b); or
- (8) the suspension of a license, in accordance with AS 08.01.75(a)(2).

J. Confidentiality

Except for the Board's final decision in this matter, which shall be made public, the investigatory file and all records, tapes, documents, and files, as well as the proceedings, hearings, and deliberations pertaining to a voluntary discipline matter heard by an Enforcement Advisory Panel will be confidential and closed to the public.

K. Board Action

After receipt of the hearing panel's report, the Board shall consider imposition of the appropriate discipline in the case at its next regularly scheduled meeting. The designated board member is disqualified from the deliberations and vote on any case before the Board in which he or she concurred in a referral to voluntary discipline and appointed the hearing panel which heard the case. The panel's confidential report will be discussed by the Board in executive session, unless the Respondent requests that the deliberations be open to the public.

The Board may either accept or modify the panel's recommendation. The Board, in open session, must formally adopt its decision in the case. The Board's reported decision, in accordance with the consent agreement signed by the Respondent, is final and binding upon the Respondent. The decision must be in writing and include:

- (1) a brief statement of the dispute;
- (2) the findings of the Board; and
- (3) the decision of the Board as to the appropriate discipline, if any.

The Board's decision is a public document and will be kept in the Respondent's permanent file. The Respondent may petition the Board after one year to remove the report from his or her permanent file.

QUESTIONS AND INFORMATION

Persons seeking information regarding these voluntary discipline procedures or who have questions about any matter discussed above should address their requests to:

Division of Occupational Licensing
Department of Commerce and Economic Development
P.O. Box D-LIC
Juneau, AK 99811
Attention: AELS Board Licensing Examiner
(907) 465-2540

Please note: these procedures were adopted December 4, 1987.
Revision dates, as applicable, are listed below:

(None to-date)

5-1678A ✓

Utermohle
1/20/88

1 IN THE SENATE

BY KELLY

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act extending the termination date of the State
7 Board of Registration for Architects, Engineers, and
8 Land Surveyors; and providing for an effective date."

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

10 * Section 1. AS 08.03.010(c)(15) is amended to read:

11 (15) State Board of Registration for Architects, Engineers,
12 and Land Surveyors (AS 08.48.011) -- June 30, 1992 [1988].

13 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).
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WORK ORDER REQUEST FORM

W.O. 15- 1678

Keywords: boards and commissions
professions

Assigned To: Sternobla

Request For: Bill Resolution Research Other

Subject Board of Professional Engineers

Requested For 1/17 By [Signature] Phone _____

Deliver To [Signature] Taken By [Signature]

Instructions. Explanations _____

Obtain

Special Drafting Instructions Attached

Authorized to Confer With _____

Return _____

_____ To Requester

Approved: _____ Director, Legal Services

Special Instructions to Typist/Proofreader

Reviewed _____

In 1/17 Due _____

Typed: Draft _____ Date _____

Final _____ Date _____

Proofed _____ Delivered _____

Draft

Final