

HB

182

HB 182 FILE

STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

P.O. BOX D-LIC
JUNEAU, ALASKA 99811-0800
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DIVISION OF OCCUPATIONAL LICENSING

BOARD OF ARCHITECTS, ENGINEERS AND LAND SURVEYORS

March 6, 1989

The Honorable Dave Donley
Chairman, House Committee on
Labor and Commerce
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Donley:

Re: Proposed Changes to HB 182 as Drafted by the AELS
Board and Discussed at HL&C Meeting March 2, 1989

Change AS 08.48.331. EXEMPTIONS. (Page 2) to read:

- (6)(a) A person preparing drawings or specifications for garages, buildings, workshops, and similar buildings for private noncommercial applications.

Change Sec. 9. The following new section shall be added:

AS 08.48.332. UNIVERSITY PROFESSORS.

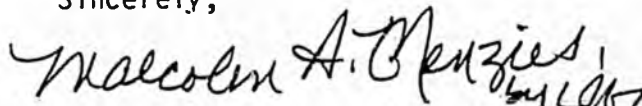
- (a) An out-of-state resident who is hired by an institution of higher learning to teach advanced architectural, engineering or land surveying courses shall have eighteen (18) months from their date of hire to fulfill the registration requirements of this chapter; provided nothing herein shall authorize such a person to perform architectural, engineering or land surveying services other than teaching until such time as such person is registered under this chapter.
- (b) An out-of-state resident not registered under this chapter who is hired by an institution of higher learning as a visiting professor for a period not to exceed one (1)

March 6, 1989

year shall not be in violation of the registration requirements of this chapter for teaching advanced architectural, engineering or land surveying courses at such institution; provided, nothing herein shall authorize such visiting professor to perform architectural, engineering or land surveying services in the state without registration.

Change existing Sec. 9 to Sec. 10

Sincerely,

Handwritten signature of Malcolm A. Menzies in cursive script. The signature includes a date "by LJB 3/6/89" written in smaller cursive below the main name.

Malcolm A. Menzies, P.E., L.S.
Chairman

MAM/djd9763W
030689a

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 17, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: _____

The LABOR & COMMERCE Committee considered:

HB 182

HOUSE BILL NO. 182 [ARCHITECTS/ENGINEERS/SURVEYORS BOARD]
"An Act relating to, and eliminating certain exemptions from, the regulation of architects, engineers, and land surveyors; extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

RECOMMENDS:

- [] replacing with _____ [] the same title
[] the 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
[] zero fiscal note
[] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published: _____
[] zero fiscal notes(s) published: _____

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS: (Do Not Pass, No Recommendation, Amend)

Handwritten signatures: Karen A. Leman, Paul Holt, C. J. ...

Handwritten signatures: Mark Boyer, Dave Donley, NO REC, Dave Donley (Chairman's signature)

HB 182: An act relating to, and eliminating certain exemptions from, the regulation of architects, engineers, and land surveyors.

In Section 1, HB 182 continues the Board of Registration for Architects, Engineers, and Land Surveyors (hereinafter "AELS Board") through 1992.

In Section 2, the bill makes a number of housekeeping changes, plus eliminates the requirement that the AELS Board publish its code of ethics with its roster of registrants.

Section 3 of HB 182 substantially rewrites the exemption section of the AELS statute (Chapter 48 of Title 8) to clarify the intent of exemptions provided.

Sections 4-6 of the bill amend the definition section to more adequately distinguish between the practice and scope of architecture and engineering. The changes clarify that architects design buildings and engineers apply math and science to the design of structures and define the terms "building" and "structure."

Section 7 repeals the exemption presently available for state employees from the requirement that persons performing professional architectural, engineering, or land surveying services must be licensed before engaging in that service. In addition, this section repeals the requirement that a roster of AELS registrants must be provided to every registrant on an annual basis.

Section 8 sets out a transitional period of four years for state employees who must, as a result of the repeal of the state employee exemption, become licensed. It also provides a similar length of transition for persons to seek licensure who were previously exempt from licensure as an employee of a company for which they were employed and for whom the employees provided architecture, engineering or land surveying services.

Section 9 provides for an immediate effective date.

Because the substantive changes to the exemption section proposed by Section 3 of this bill require repeal and reenactment

rather than simple amendment, a brief analysis of the proposed changes to AS 08.48.331 follows:

Paragraph Number in Current Statute	Proposed Paragraph Number in HB 182	Brief Description of Change
(1)	(1)	No change in intent. Wording changed to reflect nongender specific language and to refer exemptions to persons rather than acts.
(2)	(2)	No change in intent. Changes made reflect removal of gender specific language.
(3)	(3)	No change.
(4)		Exemptions for state employees deleted. We believe that the state should be required to hire licensed architects, engineers, and land surveyors to design its public works projects.
(5)	(4)	No change in intent.
(6)		Deleted as unnecessary.
(7)		Deleted as unnecessary.
(8)	(5)	No change in intent.
(9)(A)	(6)(A)	No change.
(9)(B)	(6)(B)	Deleted word "substantially," as it is too difficult to define.
(9)(C)	(6)(C)	No change.
(9)(D)	(6)(D)	Increased the exemption from 500 sq. feet to 1,000 sq. feet, as present footage is too restrictive.
(10)	(7)	No change in intent.

(11)

(8)

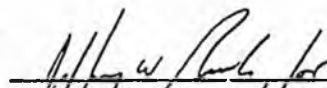
No change in intent.

(12)

Deleted. We believe that any building that is open to or used by the general public must be designed by demonstrably qualified individuals. We believe licensure provides the necessary protection. This exemption is frequently used by a person who builds and owns his own building without utilizing the expertise of licensed architects and engineers. The exemption has been abused and, because of the ambiguity, the Attorney General will not pursue cases against individuals whom the division alleges to have violated this section through risk to the public safety and welfare.

The department has been advised that design professionals affected by this bill are in concurrence with the changes proposed and support its passage.

The department supports the amendments to the AELS Board's statutes and urges passage of the bill.


Larry Mercurieff
Commissioner

3/8/89
Date

RPB/djd9767W
030789b

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to, and eliminating certain exemptions from, the reg. of architects, eng., and LS... BRU: Occupational Licensing
 Sponsor: Representatives Koponen & Leman Components: All
 Requestor: House Labor and Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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						
FEDERAL FUNDS						
OTHER						
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)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: March 6, 1989
 Approved by Commissioner: Larry Mercurieff Date: 3/6/89
 Agency: Commerce and Economic Development

Distribution (by preparer):

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 13, 1989

SUBJECT: Coverage of transitional provisions
in draft CSHB 182 (L&C)
(Work Order No. 6-0405E)

TO: Representative Dave Donley, Chair
House Labor and Commerce Committee

FROM: Terry Bannister *TB*
Legislative Counsel

This memo accompanies the draft of CSHB 182 (L&C) that you requested relating to the regulation of architects, engineers, and land surveyors.

Please note that I changed the reference to "professors" to "teachers", since "professor" can denote a specific hiring category that might not include all of the persons that you wanted to cover.

Please also note that I changed "plans" to "drawings" in AS 08.48.241(h) in order to be consistent with the other changes to "drawings" that had been requested. Please examine to determine if the change is appropriate.

Finally, please note that the transitional provisions are presently limited to only two deleted exemptions, those in the present AS 08.48.331(4) and (12), although other exemptions have been affected by the bill. Limiting the transition provisions in this way may not satisfy state constitutional equal protection requirements, unless there is a reasonable basis for doing so. You may wish to consider establishing transitional provisions that would cover every person affected by the exemption changes. The transitional provisions are particularly important in this bill, since it has an immediate effective date.

If I may be of further assistance, please advise.

TB:gc
WKG9/055

Enclosure

SEC. 3

HB
182

Sec. 08.48.331. Exemptions. This chapter does not apply to
(1) the execution as 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;

(4) an officer or employee of the state practicing architecture, engineering or land surveying as required by that person's official capacity if registration is not required by that person's job description or by AS 38.95.150 or 38.95.160;

(5) the work of an employee or a subordinate of a person legally registered under this chapter, if the work or service does not include final designs or decisions or surveys, and is done under the direct supervision of and verified by a person legally registered under this chapter;

6 * Sec. 3. AS 08.48.331 is repealed and reenacted to read:

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

8 (1) a contractor performing work designed by a professional
9 architect or engineer or the supervision of the construction of the
10 work as a supervisor or superintendent for a contractor;

11 (2) workers in building trades crafts, superintendents,
12 supervisors, or inspectors in the performance of their customary
13 duties;

14 (3) an officer or employee of the United States government
15 practicing architecture, engineering, or land surveying as required by
16 the person's official capacity;

17 (4) an employee or a subordinate of a person registered
18 under this chapter if the work or service is done under the direct
19 supervision of a person registered under this chapter;

(6) the services ordinarily performed by locomotive, stationary and marine engine men, power plant operators, and manufacturers who supervise the operation of or operate machinery or equipment, or supervise construction within their own plant which affect only the property or interest of the manufacturer, unless the public health or safety is involved;

(7) the practice of any other lawfully recognized profession;

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

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

(A) a building for that person's own use and occupancy unless the public health, safety, or welfare is substantially involved;

(B) farm or ranch buildings unless the public health, safety, or welfare is substantially involved;

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(5) associates, consultants, or specialists retained by a registered individual, a partnership of registered individuals, or a corporation authorized to practice architecture, engineering, or land surveying under this chapter, in the performance of professional services if responsible charge of the work remains with the individual, the partnership, or a designated representative of the corporation;

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

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~~(A) a building for the person's own use and occupancy unless the public health, safety, or welfare is substantially involved;~~

delete

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~~(B)~~ farm or ranch buildings, unless the public health, safety, or welfare is involved;

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

(D) a building with a total of not more than 500 square feet of floor space;

(10) a specialty contractor licensed under appropriate Alaska Statutes, while engaged in the business of contracting, designing systems or facilities as otherwise permitted by law for work within the specialty for which the specialty contractor's license was issued to be performed or supervised by the contractor, or any licensed contractor preparing shop or field drawings for work which the specialty contractor has contracted to perform;

(11) a person furnishing, either alone or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data covering the labor and materials to be used for any of the following:

(A) storefronts (facades), interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment;

(B) work necessary to provide for installation of an item listed in (A) of this paragraph;

(C) alterations or additions to a building necessary to or attendant upon installation of an item listed in (A) of this paragraph, if the alteration or addition does not change or affect the structural system or safety of the building;

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

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(R) a building that is not ^{used by the} ~~intended for public use~~ and that consists of not more than 1,000 square feet of floor space; ~~unless the public health, safety, or welfare is involved;~~

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

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

(12) an officer or employee of an individual, firm, partnership, association or corporation which officer or employee practices architecture, engineering or land surveying when required by that person's official capacity or work duties connected with that person's employment if the individual firm, partnership, association or corporation is not engaged in the business of offering architectural, engineering or land surveying services to the public. (§ 3 ch 179 SLA 1972; am § 2 ch 85 SLA 1981)

Original sponsors: Koponen, Leman,
and Collins

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 182 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to, and eliminating certain exemp-
7 tions from, the regulation of architects, engineers,
8 and land surveyors; extending the termination date of
9 the State Board of Registration for Architects,
10 Engineers, and Land Surveyors; and providing for an
11 effective date."

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

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

14 (15) State Board of Registration for Architects, Engineers,
15 and Land Surveyors (AS 08.48.011) -- June 30, 1993 [1991].

16 * Sec. 2. AS 08.48.111 is amended to read:

17 Sec. 08.48.111. POWER TO REVOKE, SUSPEND, OR REISSUE CERTIFI-
18 CATE. The board may suspend, refuse to renew, or revoke the certifi-
19 cate of or reprimand a registrant or corporation who is found guilty
20 of (1) fraud or deceit in obtaining a certificate; (2) gross negli-
21 gence, incompetence, or misconduct in the practice of architecture,
22 engineering, or land surveying; or (3) a violation of this chapter, a
23 regulation adopted under this chapter [IT], or the code of ethics or
24 professional conduct as adopted by the board. The code of ethics or
25 professional conduct shall be distributed [MADE KNOWN] in writing to
26 every registrant and applicant for registration under this chapter[,
27 AND SHALL BE PUBLISHED WITH THE ROSTER PROVIDED FOR IN AS 08.48.081].
28 This publication and distribution of the code of ethics or profession-
29 al conduct constitutes due notice to all registrants. The board may

1 revise and amend its code and, upon doing so, shall immediately notify
2 each registrant in writing of the revisions or amendments. The board
3 may, upon petition of the registrant or corporation, reissue a certifi-
4 cate if a majority of the members of the board vote in favor of the
5 reissuance.

6 * Sec. 3. AS 08.48.241(h) is amended to read:

7 (h) Drawings [PLANS], specifications, designs and reports, when
8 issued in connection with work performed by a corporation under its
9 certificate of authorization, shall be prepared by or under the
10 responsible charge of and shall be signed by and shall be stamped with
11 the official seal of a person holding a certificate of registration
12 under this chapter.

13 * Sec. 4. AS 08.48 is amended by adding a new section to read:

14 Sec. 08.48.255. TEACHERS. (a) A person who is hired by a post-
15 secondary educational institution for a permanent position to teach
16 advanced architectural, engineering, or land surveying courses has 18
17 months from the date of hire to fulfill the registration requirements
18 of this chapter and may teach the courses during the 18-month period.

19 (b) A person who is not registered under this chapter and who is
20 hired by a postsecondary educational institution as a visiting teacher
21 for a period of up to one year does not violate the registration
22 requirements of this chapter by teaching advanced architectural,
23 engineering, or land surveying courses at the institution during that
24 year.

25 (c) This section does not authorize a person to perform archi-
26 tectural, engineering, or land surveying services other than teaching
27 without being registered under this chapter.

28 (d) In this section, "postsecondary educational institution" has
29 the meaning given in AS 14.48.210.

1 * Sec. 5. AS 08.48.331 is repealed and reenacted to read:

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

3 (1) a contractor performing work designed by a professional
4 architect or engineer or the supervision of the construction of the
5 work as a supervisor or superintendent for a contractor;

6 (2) workers in building trades crafts, superintendents,
7 supervisors, or inspectors in the performance of their customary
8 duties;

9 (3) an officer or employee of the United States government
10 practicing architecture, engineering, or land surveying as required by
11 the person's official capacity;

12 (4) an employee or a subordinate of a person registered
13 under this chapter if the work or service is done under the direct
14 supervision of a person registered under this chapter;

15 (5) associates, consultants, or specialists retained by a
16 registered individual, a partnership of registered individuals, or a
17 corporation authorized to practice architecture, engineering, or land
18 surveying under this chapter, in the performance of professional
19 services if responsible charge of the work remains with the indi-
20 vidual, the partnership, or a designated representative of the corpo-
21 ration;

22 (6) a person preparing drawings or specifications for

23 (A) a building for the person's own use and occupancy
24 as a single family residence;

25 (B) farm or ranch buildings, unless the public health,
26 safety, or welfare is involved;

27 (C) a building that is intended to be used only as a
28 residence by not more than four families and that is not more
29 than two stories high;

1 (D) a garage, workshop, or similar building that
2 contains less than 2,000 square feet of floor space to be used
3 for a private noncommercial purpose;

4 (7) a specialty contractor licensed under AS 08.18 while
5 engaged in the business of construction contracting or designing
6 systems for work within the specialty to be performed or supervised by
7 the specialty contractor, or a contractor preparing shop or field
8 drawings for work that the specialty contractor has contracted to
9 perform;

10 (8) a person furnishing drawings, specifications, instru-
11 ments of service, or other data for alterations or repairs to a build-
12 ing that do not change or affect the structural system or the safety
13 of the building, or that do not affect the public health, safety, or
14 welfare.

15 * Sec. 6. AS 08.48.341(7) is amended to read:

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

26 * Sec. 7. AS 08.48.341(8) is amended to read:

27 (8) "practice of engineering" means professional service or
28 creative work, the adequate performance of which requires the [APPLI-
29 CATION OF] specialized knowledge of applied mathematics and sciences,

1 dealing with the [FUNCTIONAL AND ECONOMIC] design of [BUILDINGS,]
2 structures, machines, equipment, utilities systems, materials, pro-
3 cesses, works, or projects, public or private; the teaching of ad-
4 vanced engineering courses in institutions of higher learning; [,] the
5 direction of or the performance of engineering surveys, consultation,
6 investigation, evaluation, planning, [DESIGN,] and professional obser-
7 vation of construction of public and private structures, [BUILDINGS,]
8 works, or projects and engineering review of drawings [PLANS] and
9 specifications by regulatory agencies; "practice of engineering" [IT]
10 may by regulation of the board include architectural building design
11 of [RELATIVELY] minor importance [TO THE PROJECT AS A WHOLE], but it
12 does not include comprehensive architectural services;

13 * Sec. 8. AS 08.48.341 is amended by adding new paragraphs to read:

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

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

18 * Sec. 9. AS 08.48.081 and 08.48.261 are repealed.

19 * Sec. 10. TRANSITIONAL PROVISIONS. (a) If, on the effective date of
20 this Act, a person is an officer or employee of the state, a political
21 subdivision of the state, or a public corporation of the state, and is
22 practicing architecture, engineering, or land surveying as required by the
23 person's official capacity or work duties connected with the employment,
24 and if the person was in the same position on the day before the effective
25 date of this Act and exempt under AS 08.48.331(4) or (12) as those sections
26 read on the day before the effective date of this Act, the person has
27 through December 31, 1993, to satisfy the registration requirements of
28 AS 08.48. In this subsection, "practicing architecture, engineering, or
29 land surveying" has the meaning given in AS 08.48.341 as that section

1 (1) provided the day before the effective date of this Act, when
2 applied to determine the person's position before the effective date of
3 this Act;

4 (2) provides on the effective date of this Act, when applied to
5 determine the person's position on the effective date of this Act.

6 (b) The State Board of Registration for Architects, Engineers, and
7 Land Surveyors may extend the deadline established in (a) of this section
8 for up to one year for a specific person if the person applies to the board
9 for the extension and demonstrates that circumstances beyond the person's
10 control prevent the person from registering before the deadline, and if the
11 board finds that the extension will not pose a significant threat of harm
12 to public health, welfare, or safety.

13 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).
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