

**HB**

**327**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/14/94

FURTHER:

DATE TURNED INTO OFFICE: 4-20-94

The Finance Committee considered HOUSE BILL NO. 327

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

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
DCREED	11/28/94	<input checked="" type="checkbox"/>	

Appropriation No Fiscal Note

DO PASS:

*Alma Ni*  
*[Signature]*  
*Bob Sharp*

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

1. *Alma Ni*  
 Co-Chair: Signature/Recommendation

2. \_\_\_\_\_  
 Co-Chair: Signature/Recommendation

# FISCAL NOTE

No. 1

Bill Version: HB 327

BILL: (H) Publish Date: 2/3/94

**STATE OF ALASKA  
1994 LEGISLATIVE SESSION**

Revision Date: 1/28/94  
 Title: An Act extending the termination date of the Board of Veterinary Examiners;....  
 Sponsor: Reps. Toohy and Bunde  
 Requestor: Rep. Toohy

Department: Commerce and Economic Dev.  
 BRU: Occupational Licensing  
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUNDS SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the termination date of the Board of Veterinary Examiners to June 30, 1997. Funding for the board is included in the FY 95 operating budget request; therefore, new funds are not required.

Average Annual Cost: \$28.1  
 Average Annual Revenue: \$33.9

Prepared by: Jennifer Strickler, Administrative Office  
 Division: Occupational Licensing  
 Approved by Commissioner: Paul Fuhs  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: 1/28/94  
 Date: \_\_\_\_\_

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information, call the Governor's Legislative Office

COMMITTEE COPY

Back-up



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY  
DISTRICT 13

State Capitol  
Juneau, AK 99801-1182

Interim:  
Suite 330  
716 W. 4th Ave.  
Anchorage, AK 99501  
Phone: 907-258-8195

### MEMORANDUM.

TO: Senators Frank and Pearce, Co-chairs  
Senate Finance Committee

FROM: Representative Toohey *CT*

RE: scheduling request for HB 327

DATE: March 3, 1994

Please schedule House Bill 327, "An Act Extending the Termination Date of the Board of Veterinary Examiners" for a hearing before the Finance Committee, pending referral from the Labor & Commerce Committee. HB 327 will be heard in Labor & Commerce at 1.30 pm on Tuesday, March 8th, and I am hopeful it will pass out that day without any problems.

If possible, I would appreciate a hearing as soon as is possible when it is convenient for you and the Finance Committee.

Attached are a current fiscal note, my 'sponsor statement', a letter of support, and a list of the current Board members. Please contact my office at 465-4919 if there are any questions I may answer, or if you require additional information.

Thank you for your consideration of this request.



Official Business

# Alaska State Legislature

REPRESENTATIVE CYNTHIA TOOHEY  
DISTRICT 13

State Capitol

Juneau, Alaska 99801-1182

## SPONSOR STATEMENT

*House Bill 327: An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date.*

This bill will amend Alaska Statute 08.03.010 (c)(24) in order to extend the 'sunset date' of the State Board of Veterinary Examiners until June 30th, 1997. The 'sunset date' currently on the books is June 30th of this year, which means the Board is only a few months from ceasing to exist legally. At the request of several members of the veterinary medical community, I introduced HB 327 to extend the life of the Board of Veterinary Examiners for four more years.

Please note that the Division of Occupational Licensing has indicated that the Board operates from revenues generated through professional licensing fees, and not monies from the General Fund. I believe that the Board of Veterinary Examiners is necessary to support the health, safety, and welfare of the people of Alaska (and their pets), and I hope to see HB 327 speedily passed.

INTERIM ADDRESS: 716 West 4th Avenue, Suite 330, Anchorage, 99501-2133



BIG LAKE SUSITNA VETERINARY HOSPITAL

PO. BOX 520682  
MILE 51 PARKS HIGHWAY  
BIG LAKE, ALASKA 99652  
TELEPHONE: (907) 892-9292

December 1, 1993

Representative Cynthia Toohey  
Health and Social Services  
Co-chair  
716 West 4th Avenue  
Suite 330  
Anchorage, Alaska 99501

Dear Representative Toohey;

This letter is to request your consideration for legislative extension of the sunset date for the Board of Veterinary Examiners.

There is apparently a bill introduced by the Division of Occupational Licensing to blanket cover a number of boards. We are concerned regarding the outcome of that bill and respectfully request a separate bill for the Board of Veterinary Examiners.

Thank you for your consideration regarding this matter and for your efforts on behalf of the Board of Veterinary Examiners.

Respectfully,

James B. Leach III, DVM  
Board of Veterinary Examiners  
Chairman

JBL/psk

STATE OF ALASKA  
Boards and Commissions

---

VETERINARY EXAMINERS

BOARD: Board of Veterinary Examiners

BOARD IDENTIFICATION NUMBER: 102

DEPARTMENT: Department of Commerce and Economic Development

AUTHORITY: AS 08.98.010

STATUS: Active

SUNSET DATE: June 30, 1993

REQUIREMENTS: Legislative Confirmation

PROHIBITIONS: Cannot serve more than all or part of two consecutive terms.

TERM: 4 years

DESCRIPTION: 5 members appointed by Governor – 4 licensed veterinarians in active practice in Alaska for 5 years; plus 1 public member; no person may serve who is, or was during the two years immediately preceding appointment, a member of a faculty, board of trustees, or advisory board of a veterinary school.

FUNCTION: Regulates and controls applications, licenses, and permits of veterinarians and veterinarian technicians.

CHAIR: No provision.

SPECIAL FACTS: Serve at the pleasure of the Governor. Members serve until a successor is appointed. An appointment to fill a vacancy is for the remainder of the unexpired term. A member who has served all or part of two successive terms may not be reappointed unless four years have elapsed since the person has last served.

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: At least 3 annually; normally 3 times per year, 3 days maximum, plus 2-4 work sessions.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt West, Division of Occupational Licensing, DCED, P.O. Box 110806 M/S 0800, Juneau, AK, 99811 0806, Phone: 907 465 3035

STATE OF ALASKA  
Boards and Commissions

---

Membership Roster  
VETERINARY EXAMINERS (102)

Member	Appointed	Reappointed	Term Exp.
Jonathan P. Bettridge Veterinarian 2320 Old Glenn Highway Eagle River, AK 99577	09/20/93		01/31/97
Paul O. Frith Veterinarian 4273 Birch Lane Fairbanks, AK 99709	10/20/89	12/12/89	01/31/94
Virginia M. Johnson Veterinarian 12531 Old Seward Highway Anchorage, AK 99515	03/10/89	05/12/92	01/31/95
James Leach, III Veterinarian -- Chair P.O. Box 520682 Big Lake, AK 99652	02/01/88	05/12/92	01/31/96
Barbara J. Marcisak Public HC04 Box 9563 Palmer, AK 99645	06/11/92		01/31/96

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The legislature should reestablish the Board of Veterinary Examiners (the board) with a termination date of June 30, 2001.

The regulation and licensing of qualified professionals is necessary to protect the public's interest. The board has performed its statutory duties and appears to be licensing qualified individuals to serve the public. Assurance that licensed professionals act in a competent manner is provided by investigation of complaints and revocation or suspension of licenses when appropriate.

Alaska currently has the most restrictive time period for sunset reviews, with sunsets scheduled for every four years. In the 24 states with sunset laws, agency reestablishment has ranged from 4 to 13 years. The average review cycle is eight years with many states going to review cycles of ten years or longer.

The board is well established and has consistently been found to satisfy a public purpose. The board has demonstrated an ability to conduct business in an adequate manner and deficiencies have been relatively minor. Though the sunset review this year does reveal a few areas to be addressed (see following recommendations), there does not appear to be any need to review the board every four years.

### Recommendation No. 2

The board should pursue legislation that stipulates the penalty for unlicensed activity.

Alaska Statute 08.98.120 states that a person may not practice veterinary medicine, surgery, or dentistry without a license. However, statutes are silent as to the penalty for unlicensed activity.

This is inconsistent with several other professions regulated by boards associated with the Department of Commerce and Economic Development (DCED), Division of Occupational Licensing (OL). For example, AS 08.13.190 states that the unlicensed practice of barbers and hairdressers is a class B misdemeanor. Alaska Statute 08.48.291 makes unlicensed practice for architects, engineers, and land surveyors a class A misdemeanor. The unlicensed practice of chiropractors is defined in AS 08.20.200 as a misdemeanor.

At its February 1993 meeting the board proposed changing the statute to include a civil penalty for unlicensed activity of up to \$5,000. The board should contact the Department of Law to determine whether a criminal or civil penalty would be most effective and pursue appropriate legislation.

Recommendation No. 3

DCED should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

OL's methodology for determining FY 93 fees allocates costs to a board or occupation in one of two ways. Some costs, termed direct costs by OL, are directly distributed to a specific licensing program. Direct costs include personnel assigned to one specific occupation, travel associated with board business, public notices of board proceedings, and printing of board applications and statute booklets. Other costs, termed indirect costs, are allocated based upon the percentage of licensees in each occupation compared to the total number of occupational licensees. These costs include the expenditures associated with licensing examiners', investigators', hearing officers', management's, and clerical staff's time.

Effective August 24, 1992, DCED was required to establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation (AS 08.01.065(c)). Prior to FY 93, DCED could establish fees that reflected, but did not exceed, the actual costs of the activity for which the fee was charged and could establish a fee at less than full cost if they deemed it unreasonable to impose the full cost of the activity on the licensee.

Our office and OMB have both reviewed OL's cost allocation methodology to determine if it is sufficient to meet the requirements of AS 08.01.065(c). Both our office and OMB do not believe that OL's cost allocation methodology distributes costs reflective of the actual effort spent. The primary disparity involves the classification of licensing examiners', investigators', and hearing officers' time. The manner in which these three categories of employees' cost have been allocated prior to FY 94 can cause occupations with a large number of licensees to absorb costs that are not associated with the actual effort spent regulating their profession.

In addition to our concerns with OL's cost allocation methodology, we found problems in how they distributed costs in their calculation of a two-year average of expenditures used in determining FY 93 license fees. The percentages applied to allocate indirect costs were not always correct. These inconsistencies were caused by formula errors on spreadsheets prepared by OL staff. Also, documentation supporting some expenditures on the spreadsheets has not been retained. Review of selected current information available does not confirm these numbers. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distribution of costs.

In their September 1993, *Occupational Licensing Fee-Setting Policy Assessment* report OMB made seven recommendations to OL on how to allocate costs so that the intent of AS 08.01.065(c) is met. According to OMB's report, "A follow-up review for this project will be scheduled for March 1994." DCED has recently indicated that, for the determination of the FY 94 fees, they will allocate costs for licensing examiners, investigators, and hearing

officers based on estimated time spent by those employees, with periodic adjustments to actual time spent in accordance with our office and OMB's recommendations. As of October 1993, the allocation of direct and indirect costs using FY 93 expenditures has not been performed.

DCED should continue to work with OMB in establishing fee levels for occupational licensees that are more reflective of actual regulatory cost of the occupation.

#### Recommendation No. 4

OL should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

Alaska Statute 08.01.050 establishes DCED's administrative duties for professional licensing boards. Alaska Statute 08.01.070 identifies the administrative duties of the boards. Included in the board's responsibilities are the taking of minutes and records of all proceedings, forwarding of a draft of the minutes of proceedings to the department within 20 days after the proceedings, and submission of an annual performance report to the department before the end of the fiscal year. However, we found that OL rather than the board performed these duties.

For example, the licensing examiner is responsible for tape recording the board proceedings, recording votes, taking notes, and preparing the minutes. OL also compiles much of the information in the board's annual report. OL has the records needed to determine statistics such as the number of licenses issued and examinations given and passed.

We recommend that OL review the statutes and request changes that reflect actual responsibilities and timelines that are both practical and timely.

#### Recommendation No. 5

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (Law).

The Alaska Executive Branch Ethics Act (AS 39.52) requires members of boards and commissions to disclose potential violations of that Act to their designated supervisor. The designated supervisor for members of a board is the chair or acting chair of the board. Functionally, OL staff advise the professional licensing boards as to the reporting necessary for compliance with the Ethics Act, as does Law. Disclosures by board members are compiled by OL for submission to Law. These reports are required to be submitted on a quarterly basis. Law reviews these submissions and makes available to the public a summary of the reports received with sufficient deletions to prevent disclosure of a person's identity.

These reports have not been submitted in a timely manner. In 1991, no reports were submitted to Law. In 1992, reports were submitted three to six months after the end of the quarter. In 1993, the first two quarters' reports were submitted in July. In addition, division personnel have indicated that there is some confusion as to what should be reported. While staff at Law believe that OL understands what should be reported, written policies and procedures governing the reporting of potential ethical violations would benefit OL as well as board members. There would be clear criteria for OL staff to follow as to what should be reported as well as when it should be reported.

#### Recommendation No. 6

OL should, in conjunction with the Equal Employment Opportunity Office (EEO), review the Board of Veterinary Examiners licensure application forms to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

The veterinary application requires a photo of the candidate. EEO within the Department of Administration, Division of Personnel discourages agencies from asking applicants information on sex, height, weight, and hair and eye color. If an applicant were denied a license, the board or OL may find it difficult to prove that there was no discrimination involved if this type of information had been provided to the board members reviewing the application for licensure.

The veterinarian application forms should be reviewed with EEO to make sure that a photo is pertinent to licensure of veterinary candidates. OL indicated that one of the reasons photos are required is to prevent fraud when a licensee moves from one state to another. If a photograph is considered necessary for identification, to prevent fraud or for other reasons, it should be separated from the application prior to review of the application for licensure.

#### Recommendation No. 7

OL should investigate complaints regarding the competency of veterinarians in a timely manner.

OL has not been following up on investigative cases regarding the competency of veterinarians in a timely manner. In our test of four cases, two errors were noted. One case opened in July 1991 alleging a veterinarian's negligence had no investigative action until March 1992. When the board decided in October 1992 to close this case with a warning letter to the respondent, the letter was not mailed until February 1993. Another case, opened September 1992, regarding alleged fraud and/or misrepresentation by a veterinarian is still open at the date of this report. Documentation in the file indicates no investigative action was undertaken during a four month period.

OL staff indicate that the reason for the delays is that these cases were not a priority. The division has established priorities for responding to cases among the different license or

certification categories they are charged with investigating. The most egregious cases which represent an immediate danger to public health and safety are responded to immediately. Other cases which are not immediately life threatening may be delayed.

While we understand OL's need to prioritize investigations, monitoring compliance with statutory and regulatory requirements is very important to any licensing or certification program. When complaints are not addressed in a timely manner, the public's perception of the reliability of state licensing or certification may be diminished. OL should work cases on a timely basis to ensure that the support and respect of the public for its enforcement duties is maintained.

Recommendation No. 8

OL should establish a record tracking system for license files to provide for improved file security and accountability.

In our test of five applicants for licensure by examination and four applicants for temporary permits, several errors were noted. One licensed veterinarian's file did not have documentation of verification of board approval for licensure. Neither was approval indicated in the board minutes. In addition, one applicant's file could not be found by OL staff.

After giving OL the opportunity to locate the missing file, the staff again was unable to find the missing record. Nonavailability of the supporting records may raise concern that the permit/license was not issued in accordance with Alaska statutes and regulations.

OL should establish a record tracking system that will provide an audit trail of files or document(s) removed from files.