

HB

63

<TARGET><BILL>HB 63</BILL><SUBJECT>HB
63</SUBJECT><COMM>SJUD28</COMM></TARGET>

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 9, 2013

SUBJECT: Legislative power over Board of Governors
(Amendments to SB 51; Work Order No. 28-LS0483\A.1 and A.2)

TO: Senator John Coghill
Attn: Rynnieva Moss

FROM: Hilary Martin 
Legislative Counsel

You have asked a number of questions related to the power of the legislature to statutorily direct the Board of Governors for the Alaska Bar (Board). Specifically, you have asked whether the legislature can statutorily direct the Board to require certain CLEs, require the Board to deposit fees collected into the general fund, and to require all attorney members of the Board to be confirmed by the legislature.

CLE requirements

It is my opinion that the legislature cannot statutorily set a certain number of continuing legal education (CLE) hours for attorney licensure. The Alaska Supreme Court has the power to regulate the practice of law in the state. Article IV, sec. 1, Constitution of the State of Alaska, vests the judicial power of the state in the Supreme Court. The court has consistently held that this provision means that the Supreme Court has the power to regulate the practice of law in the state.¹ Regulation of the practice of law includes the number of CLE hours a lawyer must obtain in order to renew the lawyer's license to practice law. Therefore, a statute prescribing required CLE hours would violate the separation of powers doctrine.

Deposit fees into general fund

As I stated in my February 19, 2013 memo, the Alaska Bar Association (Bar) would likely be viewed as a state agency, and therefore any money collected by the Bar should be deposited first in the general fund and then appropriated to the Bar. I have drafted an amendment that deletes the power of the Board of Governors to "establish, collect, deposit, invest, and disburse membership and admission fees, penalties, and other funds," and that also adds the receipts of the Board of Governors into AS 37.05.146(c), the list of program receipts that are to be accounted for separately as non-general fund program

¹ See, e.g., *Citizens Coalition for Tort Reform v. McAlpine*, 810 P.2d 162, 165 (Alaska 1991); *In re Stephenson*, 511 P.2d 136, 140 (Alaska 1973).

receipts. AS 37.05.146(c) states: "The program receipts of the following are accounted for separately, and appropriations from these program receipts are not made from the unrestricted general fund."² Another option, instead of placing language regarding the program receipts into the statutes, is to simply add the Bar's program receipts to the operating budget and appropriate them back to the Bar through the normal operating budget process.

Require attorney members to be confirmed by the legislature

I have drafted an amendment requiring the attorney members of the Board of Governors to be confirmed by the legislature. However, the attorney board members likely cannot be subject to legislative confirmation.

The legislature does not have the power to require legislative confirmation of executive appointments beyond the authority conferred by art. III, secs. 25 and 26.³ Executive appointments and subsequent legislative confirmation is required under art. III, sec. 26 when a "board or commission is at the head of a principal department or a regulatory or quasi-judicial agency. . . ." The Alaska Bar Association is not a principal department, but is governed by a board, the Board of Governors of the Alaska Bar.⁴ It is unlikely that the Alaska Bar Association is either regulatory or quasi-judicial for purposes of art. III, sec. 26.

AS 08.08.010 confers powers on the Alaska Bar Association, but there is no direct grant of regulatory or quasi-judicial powers to the association. AS 08.08.080 grants additional powers to the Board of Governors of the Alaska Bar Association, but the powers granted, other than for internal organizational matters, are only to make recommendations to the supreme court for the court to consider under the court's rule making powers under art. IV, section 15. AS 08.08.010(a) states:

Except as may be otherwise provided in this chapter or the Alaska Bar Rules, the board may approve and *recommend to the state supreme court* rules (1) concerning admission, discipline, licensing, continuing legal education, and defining the practice of law; (2) providing for continuing legal education and for certification of a continuing legal education

² Arguably, these fees should be included under AS 37.05.146(c)(24), which are receipts collected from the Department of Commerce, Community, and Economic Development under AS 08.01.065 and from fines and penalties collected in licensing and disciplinary actions for occupations under AS 08.01.010. However, as the Bar could be considered within the Judicial branch and not a part of the Department of Commerce, Community, and Economic Development, it is unclear if AS 37.05.146(c)(24) applies.

³ *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

⁴ AS 44.17.005; AS 08.08.030.

program; (3) establishing a program for the certification of attorneys as specialists.^{5]}

The Board may adopt bylaws and certain regulations, but only those consistent with the Alaska Bar Rules, and only to the extent that the regulations or bylaws affect internal operation of the Alaska Bar Association.⁶ Therefore, when considering the relevant statutes, the Board of Governors is likely not to be viewed as an art. III entity and, under *Bradner*, holding that the legislative confirmation power is to be narrowly construed, its members could not be constitutionally subject to confirmation. This is particularly true of the attorney members, who are not appointed by the governor, but are instead elected by the active members of the Alaska Bar Association.

The matter is somewhat complicated by the fact that the Alaska Bar Rules, promulgated by the Supreme Court, do confer some regulatory and quasi-judicial powers on the Board of Governors, though not on the Alaska Bar Association itself. It might be argued that this grant of authority to the Board of Governors by the Supreme Court makes it the type of regulatory or quasi-judicial board that is subject to confirmation under art. III, sec. 26. However, that argument is unlikely to succeed because art. III appears to apply to the executive branch rather than to the judicial branch. The court would probably not view a delegation of its own authority to "administer the operations of the judicial system" under art. IV, sec. 16 as anything other than the exercise of a judicial power. The legislature has been granted no authority to confirm boards in the judicial branch outside of art. IV, sec. 8 (judicial council) and sec. 10 (commission on judicial conduct).⁷

There is not a clear answer as to whether the attorney members can be subject to legislative confirmation, but it seems likely that the court would hold that appointees to the Board of Governors of the Alaska Bar Association are not subject to confirmation.

If I may be of further assistance, please advise.

HVM:ljw
13-271.ljw

Enclosures

⁵ AS 08.08.080(a) (emphasis added).

⁶ AS 08.08.080(b) and (c).

⁷ The public members of the Bar are currently subject to legislative confirmation under AS 08.08.050(a). The analysis regarding confirmation of the attorney members applies equally to the non-attorney members.

SENATE COMMITTEE REPORT

DATE: 4/11/13

FURTHER: Rules

DATE TURNED
IN TO OFFICE: 4/12/13

Judiciary Committee considered CS FOR HOUSE BILL NO. 63(FIN)

HB 63-EXTEND BAR ASS'N BOARD OF GOVERNORS

"An Act relating to the Board of Governors of the Alaska Bar Association; and providing for an effective date."

and recommends:



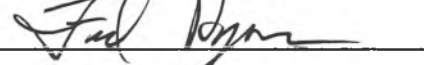
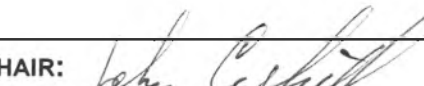
- [] be replaced with SCS _____ (_____) [] Same Title [] Technical Title Change
[] New Title/SCR No. _____
- [] adopt previous SCS _____ (_____) [] Same Title [] Technical Title Change
[] New Title/SCR No. _____
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
ADM			✓	2

[] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Wielechowski				✓
	McIvor	✓			
	Dyson				
CHAIR: 	Coghill	✓			

AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 63(FIN)

BY SENATOR COGHILL

1 Page 1, line 1, following "Association;":

2 Insert "**making members of the Board of Governors of the Alaska Bar Association**
3 **chosen by the members of the Alaska Bar Association subject to confirmation;**"

4

5 Page 1, line 14, following "state.":

6 Insert "**The nine members chosen by the active members of the association are**
7 **subject to confirmation by the legislature in joint session.**"

8

9 Page 2, following line 7:

10 Insert a new bill section to read:

11 "*** Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 APPLICABILITY. AS 08.08.050(a), as amended by sec. 2 of this Act, applies to a
14 person elected to the Board of Governors of the Alaska Bar Association by the active
15 members of the Alaska Bar on or after the effective date of this Act."

16

17 Renumber the following bill section accordingly.

AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 63(FIN)

BY SENATOR COGHILL

1 Page 1, line 1, following "**Association;**"

2 Insert "**classifying the receipts of the Alaska Bar Association as non-general fund**
3 **program receipts; relating to the powers of the Board of Governors of the Alaska Bar**
4 **Association;**"

5

6 Page 2, following line 7:

7 Insert new bill sections to read:

8 "* **Sec. 4.** AS 37.05.146(c) is amended by adding a new paragraph to read:

9 (87) receipts of the Alaska Bar Association under AS 08.08.080.

10 * **Sec. 5.** AS 08.08.080(c)(2) is repealed."

11

12 Renumber the following bill section accordingly.

AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 63(FIN)

BY SENATOR COGHILL

1 Page 1, line 2, following "Association;":

2 Insert "relating to the membership of the Board of Governors;"

3

4 Page 1, line 7, through page 2, line 2:

5 Delete all material and insert:

6 "* **Sec. 2.** AS 08.08.050(a) is repealed and reenacted to read:

7 (a) The board consists of 12 members appointed by the governor and subject
8 to confirmation of the legislature sitting in joint session. The members shall be
9 appointed as follows:

10 (1) two members of the association residing in the first judicial district;

11 (2) four members of the association residing in the third judicial
12 district;

13 (3) two member of the association residing in the combined area of the
14 second and fourth judicial districts;

15 (4) one member of the association at large residing in the state; and

16 (5) three public members.

17 * **Sec. 3.** AS 08.08.050(c) is amended to read:

18 (c) Four board members shall be selected on the following triennial rotation:

19 (1) in the first year, one member from the first judicial district, one
20 member from the combined area of the second and fourth judicial districts, one
21 member from the third judicial district, and one **public** [APPOINTED] member;

22 (2) in the second year, one member at large, two members from the
23 third judicial district, and one **public** [APPOINTED] member; and

1 (3) in the third year, one member from the combined area of the
2 second and fourth judicial districts, one member from the third judicial district, one
3 member from the first judicial district, and one public [APPOINTED] member."
4

5 Renumber the following bill sections accordingly.
6

7 Page 2, following line 7:

8 Insert a new bill section to read:

9 "* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **APPLICABILITY.** AS 08.08.050(a), as amended by sec. 2 of this Act, applies to a
12 person appointed to the Board of Governors of the Alaska Bar Association on or after the
13 effective date of this Act."
14

15 Renumber the following bill section accordingly.

Alaska House of Representatives

Rep. Wes Keller, Chair
Alaska State Capitol, Room 118
Juneau, AK 99801



Rep. Bob Lynn
Rep. Max Gruenberg
Rep. Lance Pruitt
Rep. Neal Foster
Rep. Charisse Millett
Rep. Gabrielle LeDoux

House Judiciary Committee

Letter of Intent for House Bill 63

"It is the intent of HOUSE BILL NO. 63 "An Act extending the termination date of the Board of Governors of the Alaska Bar Association; and providing for an effective date" that a critical function of the Alaska Bar Association is the continuing legal education (CLE) of its membership. CLE contributes to lawyer competence and benefits the public and the profession by ensuring that attorneys remain current regarding the law, the profession's obligations and standards, and the management of their law practices.

Accordingly, the Alaska Legislature respectfully recommends that the Alaska Supreme Court increase the number of Mandatory Continuing Legal Education (MCLE) credit hours for active members of the Alaska Bar Association.

A handwritten signature in cursive script, appearing to read "Wes Keller".

Representative Wes Keller, Chair
House Judiciary Committee

Representative Mike Hawker
Alaska State Legislature



House Bill 63
Sponsor Statement

Session:

State Capitol
Juneau, AK 99801
907 465-4949 office
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

House District 27:

Anchorage
Glen Alps
Rainbow
Indian
Bird
Girdwood

Short Title: Extend Bar Association Board of Governors

HB 63 extends the termination date of the Board of Governors of the Alaska Bar Association until June 30, 2021, in accordance with the recommendation of the Legislative Auditor.

The Board of Governors serves an important public service by ensuring that persons licensed to practice law are qualified and providing a forum for complaint investigation. The Board also appoints the Bar counsel, which is responsible for oversight and all disciplinary actions taken against licensees.

ALASKA BAR

A S S O C I A T I O N

September 19, 2012

Kris Curtis, CPA, CISA
Legislative Auditor
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Ms. Curtis:

Thank you for the Division's thorough review of the Alaska Bar Association and the opportunity to respond to your preliminary audit report.

Sunset and Fiscal Note

The Board concurs with extending the sunset date of the Alaska Bar Association Board of Governors until June 30, 2021.

There will be no fiscal note attached to any bill filed with the Legislature to extend the sunset date of the Board, as the Board will not be seeking any state funding for its operational costs. The Board obtained state funding only during the limited time frame between 1981 and 1986, and only for the per diem and travel expenses of the three public members who sat on the Board. For the past 26 years, the Board has paid those expenses without state funding.

As noted in the audit, the operations of the Board are funded entirely by Bar members through bar dues, admission fees, Continuing Legal Education (CLE) seminar fees, Lawyer Referral Service charges, convention fees, and interest income. Ironically, a decision to sunset the Board would have a multi-million dollar fiscal impact to the state.

Response to Recommendation No. 1: The Board should recommend to the Alaska Supreme Court that mandatory minimum CLE for attorneys be increased.

The Board takes its responsibility to provide continuing legal education (CLE) programs very seriously. Over the past thirty years, the number and variety of programs have increased substantially.

The Board has worked closely with the Alaska Supreme Court in setting the framework for a mandatory CLE program. But it's important to remember that the Supreme Court, in the exercise of its constitutional rule-making

authority under Article IV, Section 15 of the Alaska Constitution, makes the final determination regarding the size and scope of a mandatory CLE requirement.

Those early efforts culminated in a voluntary CLE program enacted by the Court in September 1999 with the first reporting year in 2000. The Court advised that every active member of the Bar Association should complete at least 12 credit hours of approved CLE, including one hour of ethics CLE each year. The Court wrote in its comment to Rule 65 that it wasn't convinced a mandatory rule was necessary and believed that a CLE program could become successful by using incentives to encourage voluntary participation in CLE rather than sanctions to penalize non-compliance with a mandatory rule. It envisioned a three-year pilot project with an assessment at the end of that period of the project's results.

Then in 2008, following committee and Board meetings as well as meetings with the Court itself, the Court decided that the time had come for a mandatory program. As you've noted, the current program requires three credit hours of approved mandatory ethics CLE and a recommended nine additional hours of voluntary CLE. Again, the Court advised that at the end of three years, it would assess the project's results, including recommendations and statistics provided by the Board and would determine whether an expanded mandatory CLE program was necessary.

Those reports have been submitted to the Court together with a proposal for refinement of the current rule to make it easier for members to determine the procedures for compliance. The Board hopes an administrative rules conference will be scheduled so that this proposal can be discussed and to assist the Court in its review of the program since the 2008 amendment.

In this regard, you can be assured that the Board will continue to work with the Court and make suggestions to the Court about a program that, in the introductory words of Bar Rule 65, "promote[s] competence and professionalism in members of the Association" as they provide fulfill their responsibilities to clients, the courts, and the people of the State of Alaska.

Lawyers' Fund for Client Protection

The Lawyers' Fund for Client Protection program is referenced on page 9. However, claims for reimbursement due to a lawyer's dishonest behavior can arise from any circumstances described in Alaska Bar Rule 45 and are not limited to fee arbitration proceedings.

Financial statements.

Included in the Legislative Audit Report of July 11, 2012 is Appendix A which lists the total liabilities and net assets for the general fund as \$4.1 million. This amount includes accounts receivable funds. The majority of the accounts receivable is bar dues income which is earned each month. These assets will be spent down through the year by the 2012 budgeted expenses of \$2.8 million. If the Bar Association closed its doors midyear, the unearned bar dues funds would have to be paid back to the Bar members.

Concluding comments.

It is also our belief that the present management system of the Bar Association provides a variety of public service, ensuring both accountability and good management. As an instrumentality of the state, the Bar Association is subject to legislative audits. Its meetings are open to the public. Members of the public sit on discipline and fee arbitration panels as well as on the Board of Governors. Its rule-making and discipline functions are overseen by the Supreme Court, which assures a sound investigative and judicial process. The Board provides public service through activities such as its pro bono program, which includes programs such as the Martin Luther King Day of Service and the Elizabeth Peratrovich Legal Clinic at the AFN Conference, and through its Sections and committees work, such as the Law Related Education Committee activities in the schools and website legal guides. Finally, the statewide lawyer membership on the Board also ensures that the Bar Association is both responsive to the needs of its members, and qualified to address such issues as admission standards and peer review.

Thank you for the opportunity to comment on the audit report. We believe that the Board has demonstrated its continuing commitment to improving the legal profession and service to the public.

Sincerely,
Alaska Bar Association

Hanna Sebold
President



Division of Legislative Audit

Report Digest #41-20075-12

SUMMARY OF: A Sunset Review on the Alaska Court System, Board of Governors of the Alaska Bar Association (board), July 11, 2012

PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the board. The purpose of this audit was to determine if there is a demonstrated public need for its continued existence and if it has been operating in an effective manner. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(2), it will terminate on June 30, 2013 and will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

We conclude that the board's termination date should be extended. The board, through the Alaska Supreme Court, protects the public by ensuring that persons licensed to practice law are qualified. It also provides for complaint investigation and has established a disciplinary process designed to promote competence and professionalism in licensed individuals. We recommend that the board's termination date be extended to June 30, 2021.

One recommendation was made to increase continuing legal education (CLE) for attorneys. CLE contributes to lawyer competence and benefits the public and the profession by ensuring that attorneys remain current regarding the law, the profession's obligations and standards, and the management of their practices.

FINDINGS AND RECOMMENDATIONS

1. The board should recommend to the Alaska Supreme Court that mandatory minimum CLE for attorneys be increased.
-

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 63
Fiscal Note Number: 1
(H) Publish Date: 3/1/13

Identifier: HB063-OOG-EO-2-23-13
Title: EXTEND BAR ASS'N BOARD OF GOVERNORS
Sponsor: HAWKER
Requester: House Judiciary
Department: Various
Appropriation: Various
Allocation: Various
OMB Component Number:

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Guy Bell, Director Phone: (907)465-3876
Division: Administrative Services Date: 02/23/2013 01:40 PM
Approved By: Guy Bell, Director Date: 02/23/13
Division of Administrative Services

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 63

Analysis

This legislation extends the sunset date of the Alaska Bar Association.

April 11, 2013

TO: Senate Judiciary Committee

- Senators Coghill, McGuire, Dyson, Olson, Wielechowski

FROM: Thomas S. Obermeyer, Licensed Missouri Attorney, MBA

RE: HB 63 – Extending Termination Date of Alaska Bar Association to June 30, 2021.

You are being asked to extend the termination date of the Board of Governors of the Alaska Bar Association EIGHT YEARS to June 30, 2021 under HB 63(FIN). Senator Coghill's companion bill, SB 51, extended the termination date FOUR YEARS. I object for such a long period under either bill for the following reasons:

1. The Legislative Audit last year failed to address the abominably low passage rate on the Alaska Bar Association for the last 29 years I have been sitting for it at 64-68%, hitting a low 52% in 2011.
2. There is no justification or explanation for such low passage rates from qualified graduates of ABA approved law schools except as a restraint of trade. The Alaska Bar Exam is not as alleged a "test of minimal competence" to protect of the public. It is a test of exclusion. The public is adequately protected by disciplinary counsel and fee arbitration. The best protection and service to the public is to license more lawyers living in Alaska that people can afford to pay.
3. Since the standards vary with each examination the Alaska Bar Exam is not a test of "minimal competence." The low passage rates are arbitrarily controlled by the Alaska Bar Association.
4. Many practicing attorneys have told me as the Alaska Sales Rep for Lawyers Cooperative Publishing Company for six years that they could not sit down and pass this exam on both substantive law and form in multiple choice and essay questions without months of preparation over the entire 3 years of law school and Alaska Law. They found the bar exam had very little to do with their practice of law.
5. The audit found that in the last four years 37% of admissions were by reciprocity from other states, not by Alaska Bar Exam. Many have never set foot on our soil.
6. Unlike those reciprocity applicants from out of state, I am denied reciprocity from Missouri because I have failed the Alaska Bar Exam under Bar Rule 2.2(b)3 which was designed to exclude me. No one else has been similarly harmed by the impact of this rule to my knowledge.
7. It is a detriment to live in Alaska and take the bar exam. It is easier to be admitted in Alaska by reciprocity and avoid taking the Alaska Bar Exam which posts the lowest passage rates in the nation.
8. Sen. Lisa Murkowski I am told failed the bar exam 4 times. By contrast, Marla Greenstein, was admitted by reciprocity in 1997 after working for 15 years as Executive Director, Alaska Counsel on Judicial Conduct since 1982. She rushed through an application for reciprocity when reportedly she feared that the Board would redefine the practice law to require full

time practice. She never sat for the Alaska Bar Exam and was sworn in quickly by retired Justice Rabinowitz. I was similarly situated living and working in law in Alaska at the Municipal Attorney's Office for over 10 years, law publishing for six years, contract legal work for two years, and six years for the Legislature. I should likewise have waited 5 years to apply for reciprocity.

9. I have maintained an active Category I law license in Missouri for 23 years and taken 15 hours mandatory CLE annually and 2 hours Ethics. Alaska requires only three hours.
10. Compared to requiring higher passage rates on admission by examination, the amendment to HB63, Section 3, 08.08.082, to address the audit's recommended increase in Alaska CLE hours, is of little importance. Moreover, the amended new section is vague and unwarranted. It places in statute rules which are still undefined until the Board meets with the Supreme Court to set increased mandatory CLE hours, as attested to by Mr. Stephen Van Goor, Disciplinary Counsel, Alaska Bar Association in (H)JUD this week.
11. The only significance of the amended lines 13 and 14 to elect members of the Board from members residing in Alaska is that it brings attention to the fact that only about 2600 attorneys practice in Alaska while the Bar Association touts its membership as 4000 on the top of its web page.

Recommendation:

If you have the power to put in statute a change in mandatory minimum CLE hours, please provide for review of the rule on reciprocity at the same time for approval by the Alaska Supreme Court. Either Alaska has reciprocity with another state or it does not. The Bar Association should not carve out exceptions for taking the exam here while licensed in another state. That could be covered by a separate exam like Missouri, which is now using the national Uniform Bar Exam (UBE) and requiring passage of a separate Missouri Law section. All states using the UBE will still control passage rates, but they will be more reasonable. Missouri passed 90% in July, 2012.

Granting 8 years extension to the same people who have been running the Alaska Bar Association for 30 years defeats public service, convenience, and competence. They likely will be retired before the next audit. The Bar Association should be sunset until it remedies the above, or it should be limited to one or two years extension for the above matters to be revisited while the legislature is not under the pressure to vote in the last few days of session.

Respectfully Submitted,
Thomas S. Obermeyer

Representative Mike Hawker

Alaska State Legislature



House Bill 63 Summary of Changes

Session:

State Capitol
Juneau, AK 99801
907 465-4949 office
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

House District 27:

Anchorage
Glen Alps
Rainbow
Indian
Bird
Girdwood

House Finance Committee:

Inserts conforming language in **Sec. 2(a)**:

Rewords the sentence describing how an “at-large” member is elected to conform to the language regarding the election of other members. This clarifies that the process is the same for all members.

Sec. 3 adds a new section to require board members to complete an additional 9 Continuing Legal Education (CLE) credits.

Representative Mike Hawker

Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
907 465-4949 office
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

House District 27:

Anchorage
Glen Alps
Rainbow
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Bird
Girdwood

House Bill 63

Sponsor Statement

Short Title: Extend Bar Association Board of Governors

HB 63 extends the termination date of the Board of Governors of the Alaska Bar Association until June 30, 2021, in accordance with the recommendation of the Legislative Auditor.

The Board of Governors serves an important public service by ensuring that persons licensed to practice law are qualified and providing a forum for complaint investigation. The Board also appoints the Bar counsel, which is responsible for oversight and all disciplinary actions taken against licensees.

28-LS0309\O
Bailey
4/8/13

CS FOR HOUSE BILL NO. 63(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HAWKER, Gruenberg, Tarr

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Board of Governors of the Alaska Bar Association; and**
2 **providing for an effective date."**

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

4 *** Section 1.** AS 08.03.010(c)(2) is amended to read:

5 (2) Board of Governors of the Alaska Bar Association (AS 08.08.040)
6 - June 30, 2021 [2013];

7 *** Sec. 2.** AS 08.08.050(a) is amended to read:

8 (a) Two members of the board shall be elected by and from among the
9 members of the association resident in the first judicial district; four members of the
10 board shall be elected by and from among the members of the association resident in
11 the third judicial district; two members by and from among the members of the
12 association resident in the combined area of the second and fourth judicial districts;
13 and one member of the board shall be elected at large by and from among the
14 members of the association residing in [AT LARGE FROM] the entire state. Three

1 members who are not attorneys shall be appointed by the governor and are subject to
2 confirmation by the legislature in joint session.

3 * **Sec. 3.** AS 08.08 is amended by adding a new section to read:

4 **Sec. 08.08.082. Continuing legal education for board members.** A member
5 of the Board of Governors each year shall complete the mandatory ethics continuing
6 legal education requirements and the voluntary continuing legal education
7 requirements set out in the Alaska Bar Rules.

8 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).