



SB

2017

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Senator Gary Stevens
Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
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Sponsor Statement for Committee Substitute for Senate Bill 207 (Finance)
(Updated March 2, 2006)

CS for Senate Bill 207 "An Act relating to membership on the board of directors of the Alaska Aerospace Development Corporation"

This is straightforward legislation to assure that two members of the Alaska Aerospace Development Corporation (AADC) Board of Directors will reside in the borough where the launch activities of the corporation occur. The bill also assures no AADC board member will be removed during a current term to meet the new statutory requirements.

Since the late 1990s, AADC has conducted numerous rocket launches, infrastructure construction projects and other activities at its Kodiak Launch Complex facility. These activities have had an enormous impact on local residents' recreational activities at nearby Pasagshak Beach, local government operations and the Kodiak Island economy. Although not in statute, historically there have been two members of the board from Kodiak. With the Kodiak Launch Complex playing a key role in the testing of the nation's missile defense system it makes sense for the island community to be well represented on the AADC Board of Directors. Passage of CS for SB 207 (Finance) will assure that will happen without substantially affecting the current board structure.

CS for SB 207 is supported by the City of Kodiak and the Kodiak Island Borough.

I ask for your support of this important measure.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 2, 2006

SUBJECT: Sectional summary of CSSB 207(FIN)
(Work Order No. 24-LS1208VL)

TO: Senator Gary Stevens
Attn: Doug

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends AS 14.40.826(a) to require that two of the three members appointed under the state resident/private sector category be residents of the borough where the launch activities of the corporation occur, if qualified candidates are available.

Section 2. Allows current board members to retain their positions until they expire, even if the composition of the board does not satisfy the new requirement in bill sec. 1.

If I may be of further assistance, please advise.

TLB:lmb
06-088.lmb

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 207(FIN)
 (S) Publish Date: 3/1/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: AK Aerospace Development Corporation RDU: AK Aerospace Devel Corp (127)
Board Membership Component: AK Aerospace Devel Corp
 Sponsor: Gary Stevens
 Requester: Finance Component No.: 1424

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 CF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation provides that two members of the board must be residents of the borough where the launch activities occur, and that in absence of a qualified person from that area, the Governor shall appoint another individual. This legislation has no fiscal impact upon the operations of the corporation.

Prepared by: Monica James, Chief Financial Officer Phone 907 561 3338
 Division: Alaska Aerospace Development Corporation Date/Time 2/28/06 5:35 PM
 Approved by: Pat Ladner, President and CEO Date 2/28/2006
 Agency: Alaska Aerospace Development Corporation

Introduced by:	Mayor Selby
Requested by:	Mayor Selby
Introduced:	08/01/2006
Adopted:	09/01/2006

**KODIAK ISLAND BOROUGH
RESOLUTION NO. FY2006-09**

**A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY
URGING THAT THE GOVERNOR AND LEGISLATURE DESIGNATE
TWO SEATS FOR KODIAK RESIDENTS ON THE
ALASKA AEROSPACE DEVELOPMENT CORPORATION BOARD OF DIRECTORS**

WHEREAS, the Alaska Aerospace Development Corporation (AADC) was created in 1997 as a public corporation of the State of Alaska; and

WHEREAS, the purpose of the AADC is to allow the State to take a lead role in the exploration and development of space, to enhance human and economic development, and to provide a unified direction for space-related economic growth thereby ensuring a stable and dynamic research and business climate by attracting space-related businesses to locate within and utilize the opportunities provided in the state among other goals; and

WHEREAS, the powers and responsibilities of the AADC are vested in the board of directors, include but are not limited to: acquiring real and personal property; owning and improving launch sites, launch pads, landing areas, ranges, payload facilities, laboratories, space business incubators, facilities for the construction of rockets and other launch vehicles, and other space facilities and space-related systems, including educational, cultural, tourism, and parking facilities, and space-related initiatives; operating transportation facilities appropriate to meet the transportation requirements of a facility operated by the AADC; operating water, sewage, and utility service to a facility operated by the AADC; and providing public safety facilities for a facility operated by the AADC; and

WHEREAS, all of these activities, and others the AADC may pursue have the potential to significantly impact the greater Kodiak community and economy; and

WHEREAS, the board of directors of the AADC consists of nine members appointed by the governor as follows: (1) three state residents who have a significant high level of experience in the private business sector, specializing in financing or economic development or marketing; (2) the president or the designee of the president of the University of Alaska; (3) the director or designee of the Geophysical Institute of the University of Alaska; (4) the commissioner of commerce, community, and economic development or the commissioner's designee; (5) two members who have held or currently hold positions in the aerospace or commercial space industry or special experience regarding federal regulatory procedures and policies involving space or operational experience; members with aerospace experience may not exceed one; and (6) a public school educator or a public member; and


WHEREAS, the members of the board of directors of the AADC described above may be non-residents of the State and in addition, two members of the legislature shall serve as ex-officio nonvoting members of the board of directors. The two ex-officio nonvoting members shall include one member of the senate appointed by the president of the senate and one member of the house appointed by the speaker of the house; and

WHEREAS, since the creation of the AADC, two board members have also been Kodiak residents;

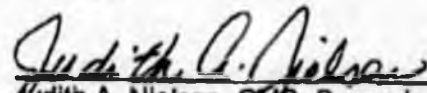
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT the Governor and the Legislature should designate two seats for Kodiak residents on the Alaska Aerospace Development Corporation Board of Directors.

ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS FIRST DAY OF SEPTEMBER 2005

KODIAK ISLAND BOROUGH


Jerome M. Selby, Borough Mayor

ATTEST:


Judith A. Nielsen, CMC, Borough Clerk

**CITY OF KODIAK
RESOLUTION NUMBER 05-37**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK INSISTING
THAT THE GOVERNOR AND LEGISLATURE DESIGNATE TWO SEATS ON THE
ALASKA AEROSPACE DEVELOPMENT CORPORATION BOARD OF DIRECTORS
FOR KODIAK RESIDENTS**

WHEREAS, the Alaska Aerospace Development Corporation was created in 1997 as a public corporation of the State of Alaska; and

WHEREAS, the purpose of the corporation is to allow the State to take a lead role in the exploration and development of space, to enhance human and economic development, and to provide a unified direction for space-related economic growth, thereby ensuring a stable and dynamic research and business climate by attracting space-related businesses to locate within and utilize the opportunities provided in the State, among other goals; and

WHEREAS, the powers and responsibilities of the corporation vested in the board of directors include but are not limited to acquiring real and personal property; owning and improving launch sites, launch pads, landing areas, ranges, payload facilities, laboratories, space business incubators, facilities for the construction of rockets and other launch vehicles, and other space facilities and space-related systems, including educational, cultural, tourism, and parking facilities, and space-related initiatives; operating transportation facilities appropriate to meet the transportation requirements of a facility operated by the corporation; operating water, sewage, and utility service to a facility operated by the corporation; and providing public safety facilities for a facility operated by the corporation; and

WHEREAS, all of these activities and others the Alaska Aerospace Development Corporation may pursue have the potential to significantly impact the greater Kodiak community and economy; and

WHEREAS, The board of directors of the corporation consist of nine members appointed by the governor as follows: (1) three State residents who have a significant high level of experience in the private business sector, specializing in financing or economic development or marketing; (2) the president or the designee of the president of the University of Alaska; (3) the director or designee of the Geophysical Institute of the University of Alaska; (4) the commissioner of Commerce, Community, and Economic Development or the commissioner's designee; (5) two members who have held or currently hold positions in the aerospace or commercial space industry or special experience regarding federal regulatory procedures and policies involving space or operational experience; members with aerospace experience may not exceed one; and (6) a public school educator or a public member; and

WHEREAS, the members of the board of directors of the corporation described in (5) above may be nonresidents of the State and, in addition, two members of the legislature shall serve as ex-

officio nonvoting members of the board of directors, and the two ex-officio nonvoting members shall include one member of the senate appointed by the president of the senate and one member of the house appointed by the speaker of the house; and

WHEREAS, since the creation of the Alaska Aerospace Development Corporation, two board members have also been Kodiak residents.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the governor and the legislature should appoint and designate two seats on the Alaska Aerospace Development Corporation Board of Directors for Kodiak residents.



CITY OF KODIAK

Charles E. Davidson

DEPUTY MAYOR

ATTEST:

Debra Maslen

CITY CLERK

Adopted: August 25, 2005

SB

253

Alaska State Legislature

SENATOR
GENE THERRIAULT
Chair

SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4797
Fax: (907) 465-3884

Legislative Budget and Audit Committee

DATE: March 6, 2006

TO: Representative Tom Anderson
House Labor and Commerce Committee

FROM: Senator Gene Therriault, Chair *Tomson*
Legislative Budget and Audit Committee

RE: SB 253 - Request For Hearing

This is to request the House Labor and Commerce Committee hear SB 253 - relating to extending the termination date for the Board of Chiropractic Examiners.

Attached are the following items:

- copy of the bill
- sponsor statement
- one page "fact" sheet
- sunset audit report on the Board of Chiropractic Examiners

Please contact Tom Maher (x3613) of my staff with questions or for additional information.

Thank you for your consideration.

attachments

cc: Pat Davidson, Legislative Auditor

INTERIM ADDRESS

119 N. Cushman Suite 101, Fairbanks, Alaska 99701 • (907) 488-0857 • Fax: (907) 488-4271

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 253
 (S) Publish Date: 2/17/06

Revision Date/Time (Note if correction): _____ Dept Affected: Commerce
 Title Extend Board of Chiropractic Examiners RDU Corp. Bus & Prof Licensing (117)
 Component Corp. Bus & Prof Licensing
 Sponsor Rules by Request of LB&A
 Requester Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services		49.6	49.6	49.6	49.6	49.6
Travel		8.5	8.5	8.5	8.5	8.5
Contractual		54.7	54.7	54.7	54.7	54.7
Supplies		0.2	0.2	0.2	0.2	0.2
Equipment		0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	113.0	113.0	113.0	113.0	113.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	0.0	113.0	113.0	113.0	113.0	113.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.0	113.0	113.0	113.0	113.0	113.0
TOTAL	0.0	113.0	113.0	113.0	113.0	113.0

Estimate of any current year (FY2006) cost: 113.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Chiropractic Examiners to June 30, 2014. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2007 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct cost included in the FY 2007 budget. New funds are not required to implement this bill.

Prepared by: Katherine Mason, Administrative Manager Phone (907) 465-2572
 Division Corporations, Business and Professional Licensing Date/Time 2/13/06 5:37 PM
 Approved by: William C. Nell, Commissioner Date 2/13/2006
 Agency Commerce, Community, and Economic Development



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Rules By Request of LEG BUDGET & AUDIT
Current Version: SB 253
Contact: W. Tom Maher, 465-3613

Fact Sheet for: Senate Bill 253

Short Title: EXTEND BOARD OF CHIROPRACTIC EXAMINERS

Summary:

- Extends the termination date for the Board of Chiropractic Examiners to June 30, 2014.

Benefits:

- Continues to protect the public's health, safety and welfare by the regulation and licensing of qualified chiropractors.

Background:

- This legislation stems from recommendations contained in the Legislative Audit Report entitled "Department of Commerce, Community, and Economic Development, Board of Chiropractic Examiners," dated September 26, 2005.

Legislative Audit concluded that the Board of Chiropractic Examiners is operating in the public's best interest and should continue to regulate chiropractors. The board safeguards the public interest by promoting the competence and integrity of those who practice in this field and continues to improve its effectiveness and ensure chiropractors are licensed in the State of Alaska. Accordingly, SB 253 extends the board's sunset date eight years to June 30, 2014.

Alaska State Legislature

SENATOR
GENE THERRIAULT
Chair

SESSION ADDRESS
State Capitol
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Legislative Budget and Audit Committee

SPONSOR STATEMENT SB 253

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

This legislation stems from recommendations contained in the Legislative Audit Report entitled "Department of Commerce, Community, and Economic Development, Board of Chiropractic Examiners", dated September 26, 2005.

Legislative Audit concluded that the Board of Chiropractic Examiners (Board) is operating in the public's best interest and should continue to regulate chiropractors. The Board safeguards the public interest by promoting the competence and integrity of those who practice in this field and continues to improve its effectiveness and ensure chiropractors are licensed in the State of Alaska. Accordingly, SB 253 extends the sunset date of the Board to June 30, 2014 for an eight-year extension.

This audit was conducted under revisions made last session to the sunset process. The standard sunset period for occupational boards and non-occupational boards was changed from "not to exceed four years" to "not to exceed eight years". Additionally, to better measure operational performance, two new criteria were added to statute that must be considered in the course of a sunset review by the auditors:

- The extent to which the board, commission, or agency has effectively attained its objectives and the efficiency with which it has operated.
- The extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

INTERIM ADDRESS

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SB

254

Alaska State Legislature

SENATOR
GENE THERRIAULT
Chair

SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4797
Fax: (907) 465-3884

Legislative Budget and Audit Committee

DATE: March 6, 2006

TO: Representative Tom Anderson, Chair
House Labor and Commerce Committee

FROM: Senator Gene Therriault, Chair *GT*
Legislative Budget and Audit Committee

RE: SB 254 – Request For Hearing

This is to request the House Labor and Commerce Committee hear SB 254 – relating to extending the termination date for the State Physical Therapy and Occupational Therapy Board.

Attached are the following items:

- copy of the bill
- sponsor statement
- one page "fact" sheet
- sunset audit report on the State Physical Therapy and Occupational Therapy Board

Please contact Tom Maher (x3613) of my staff with questions or for additional information.

Thank you for your consideration.

attachments

cc: Pat Davidson, Legislative Auditor

INTERIM ADDRESS
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FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 254
 (S) Publish Date: 2/17/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Extend PT & Occupational Therapy Board RDU: Corp. Bus & Prof Licensing (117)
 Component: Corp. Bus & Prof Licensing
 Sponsor: Rules by Request of LB&A
 Requestor: Labor & Commerce Component No.: 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include initiation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	37.8	37.8	37.8	37.8	37.8
Travel	0.0	5.6	5.6	5.6	5.6	5.6
Contractual	0.0	2.4	2.4	2.4	2.4	2.4
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	45.8	45.8	45.8	45.8	45.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	0.0	45.8	45.8	45.8	45.8	45.8
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	0.0	45.8	45.8	45.8	45.8	45.8
TOTAL	0.0	45.8	45.8	45.8	45.8	45.8

Estimate of any current year (FY2006) cost: 45.8

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the State Physical Therapy and Occupational Therapy Board to June 30, 2014. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2007 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2007 budget. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Chief
 Division: Corporations, Business and Professional Licensing
 Approved by: William C. Noll, Commissioner
 Agency: Commerce, Community and Economic Development

Phone: (907) 465-2144
 Date/Time: 2/16/06 12:53 PM
 Date: 2/16/06

Alaska State Legislature

SENATOR
GENE THERRIAULT
Chair

SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
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Legislative Budget and Audit Committee

SPONSOR STATEMENT SB 254

"An Act extending the termination date for the State Physical Therapy and Occupational Therapy Board; and providing for an effective date"

This legislation stems from recommendations contained in the Legislative Audit Report entitled "Department of Commerce, Community, and Economic Development, State Physical Therapy and Occupational Therapy Board Sunset Audit", dated September 17, 2005.

Legislative Audit concluded that the State Physical Therapy and Occupational Therapy Board (Board) is operating in the public's best interest and should continue to regulate physical and occupational therapists. The Board safeguards the public interest by promoting the competence and integrity of those who practice in this field and continues to improve its effectiveness and ensure therapists are licensed in the State of Alaska. Accordingly, SB 254 extends the sunset date of the Board to June 30, 2014 for an eight-year extension.

This audit was conducted under revisions made last session to the sunset process. The standard sunset period for occupational boards and non-occupational boards was changed from "not to exceed four years" to "not to exceed eight years". Additionally, to better measure operational performance, two new criteria were added to statute that must be considered in the course of a sunset review by the auditors:

- The extent to which the board, commission, or agency has effectively attained its objectives and the efficiency with which it has operated.
- The extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

INTERIM ADDRESS

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Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Rules By Request of LEG BUDGET & AUDIT

Current Version: SB 254

Contact: W. Tom Maher, 465-3613

Fact Sheet for: Senate Bill 254

Short Title: EXTEND PT & OCCUPATIONAL THERAPY BOARD

Summary:

- Extends the termination date for the state Physical Therapy and Occupational Therapy Board to June 30, 2014.

Benefits:

- Continues to protect the public's health, safety and welfare by regulating and licensing physical therapists, occupational therapists, physical therapist assistants, and occupational therapy assistants.

Background:

- This legislation stems from recommendations contained in the Legislative Audit Report entitled "Department of Commerce, Community, and Economic Development, State Physical Therapy and Occupational Therapy Board," dated September 17, 2005. Legislative Audit concluded that the State Physical Therapy and Occupational Therapy Board is operating in the public's best interest and should continue to regulate physical and occupational therapists. The board safeguards the public interest by promoting the competence and integrity of those who practice in this field, continues to improve its effectiveness, and ensures therapists are licensed in the State of Alaska. Accordingly, SB 254 extends the sunset date eight years, to June 30, 2014.

Sunset laws began to be adopted in states in the 1970s as part of a national movement to increase the accountability of government and reduce bureaucracy. In theory, the sunset process provides the routine re-determination of the need for some aspect of government – thereby making it more likely that the growth of government is productive and deliberate.

SB

255

- **Sec. 1 of this legislation extends the sunset date of the Board of Examiners in Optometry from June 30, 2006 to June 30, 2014 per the audit conclusions contained in the report before you on page 9. Legislative Audit concluded that the Board of Examiners in Optometry continues to serve a public need and is operating in the public interest. The regulation and licensing of qualified optometrists is necessary to protect the public's health, safety and welfare. Further, the Board of Examiners in Optometry has operated effectively, adopted regulatory changes and supported legislation that improved its oversight process and promoted more effective regulation of licensed optometrists. Accordingly, SB 255 provides for an eight-year sunset extension.**
- **Sections 5, 6, 9, 10, and 12 incorporate the recommendation by the Legislative Auditor concerning a problem on licensing. The Auditor recommended the Legislature amend the optometry statutes to ensure they support current license endorsements for the diagnostic use of pharmaceutical agents. Currently, statutory language provides for a single endorsement for both prescribe and use. However, the Board of Examiners in Optometry is issuing two types of endorsements. The first allows a practitioner to both prescribe and use pharmaceutical agents and**

the second type of endorsement allows a practitioner “use” only. Current law does not authorize the use only endorsement. SB 255 corrects this situation by adding a section authorizing a use only endorsement and also, in sec. 12, “grandfathers” in the practitioners that were given that endorsement over the years. (since 1992)

- This legislation changes the law to make current practices legal, grandfathers license holders in, and makes sure we do not leave any practitioners out which could have an impact on the number of providers serving the public and hopefully maximizes the number of practitioners that can practice in Alaska.**
- Finally, the rest of this legislation contains “housekeeping” recommendations that were approved by the Board, and supported by the Department of Commerce, Community and Economic Development. These housekeeping amendments clean up old language and allow the Board to better protect the public.**
- Sec. 2 deletes the word president as the Board actually has a chair.**
- Sec 3 and 4 deal with allowing the Board to better protect the public by improving the handling of disciplinary actions.**

- **Sec 7 deletes the statutory cite requiring 24 hours of continuing education instruction, allowing the Board to establish through regulation, the number of hours without amending statute. This amendment was requested by the BEO in its response to the audit and is now similar to other boards.**
- **Sec 8 removes the “branch office” reference as they no longer exist.**
- **Finally, there is one fiscal note from Occupation Licensing – passage of this legislation will incur no additional costs beyond those already contained in the FY07 Governor’s operating budget request .**
- **Thank you.**

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 255 (FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Optometry: Extend Bd/Lic. Endorsement RDU Corp, Bus & Prof Licensing (117)
 Component Corp, Bus & Prof Licensing
 Sponsor Rules by Request of LB&A
 Requester House Labor & Commerce Component No. 2380

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services		12.8	12.8	12.8	12.8	12.8
Travel		3.5	3.5	3.5	3.5	3.5
Contractual		1.7	1.7	1.7	1.7	1.7
Supplies		0.0	0.0	0.0	0.0	0.0
Equipment		0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	18.0	18.0	18.0	18.0	18.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	0.0	18.0	18.0	18.0	18.0	18.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.0	18.0	18.0	18.0	18.0	18.0
TOTAL	0.0	18.0	18.0	18.0	18.0	18.0

Estimate of any current year (FY2006) cost: 18.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary.)

This legislation extends the board of Examiners in Optometry to June 30, 2014. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2007 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2007 budget.

Prepared by: Katherine Mason, Administrative Manager Phone (907) 465-2572
 Division: Corporations, Business and Professional Licensing Date/Time 3/10/06 1:31 PM
 Approved by: William C. Noll, Commissioner Date 3/10/2006
 Agency: Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 255(L&C)
(S) Publish Date: 2/16/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title: Optometry: Extend Bd/Lic. Endorsement RDU: Corp. Bus & Prof Licensing (117)
Component: Corp. Bus & Prof Licensing
Sponsor: Rules by Request of LB&A
Requester: Labor & Commerce Component No: 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services		12.8	12.8	12.8	12.8	12.8
Travel		3.5	3.5	3.5	3.5	3.5
Contractual		1.7	1.7	1.7	1.7	1.7
Supplies		0.0	0.0	0.0	0.0	0.0
Equipment		0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	18.0	18.0	18.0	18.0	18.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1156)	0.0	18.0	18.0	18.0	18.0	18.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	0.0	18.0	18.0	18.0	18.0	18.0
TOTAL	0.0	18.0	18.0	18.0	18.0	18.0

Estimate of any current year (FY2006) cost: 18.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Examiners in Optometry to June 30, 2014. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2007 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2007 budget. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Chief Phone (907) 465-2144
Division: Corporations, Business and Professional Licensing Date/Time 2/10/06 4:28 PM
Approved by: William C. Noll, Commissioner Date 2/10/06
Agency: Commerce, Community and Economic Development

Alaska State Legislature

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Chair



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Legislative Budget and Audit Committee

SPONSOR STATEMENT CSSB 255 (FIN)

“An Act extending the termination date and duties for the Board of Examiners in Optometry; amending the licensing, endorsement, and renewal provisions for optometrists; and providing for an effective date”

This legislation stems from recommendations contained in the Legislative Audit Report entitled “Department of Commerce, Community and Economic Development, Board of Examiners in Optometry Sunset Audit”, dated Sept. 27, 2005.

Legislative Audit concluded that the Board of Examiners in Optometry (BEO) continues to serve a public need and is operating in the public interest. The regulation and licensing of qualified optometrists is necessary to protect the public’s health, safety and welfare. Further, the BEO has operated effectively, adopted regulatory changes and supported legislation that improved its oversight process and promoted more effective regulation of licensed optometrists. Accordingly, SB 255 extends the sunset date for the BEO to June 30, 2014 for an eight-year extension.

Legislative Audit also recommended that the Legislature amend the optometry statutes to ensure they support current license endorsements for the diagnostic use of pharmaceutical agents. Currently, statutory language provides for a single endorsement for both prescribe and use. However, the BEO is issuing two types of endorsements. The first allows a practitioner to both prescribe and use pharmaceutical agents and the second type of endorsement allows a practitioner “use” only. Current law does not authorize the use only endorsement. SB 255 corrects this situation by adding a section authorizing a use only endorsement and also “grandfathers” in the practitioners that were given that endorsement over the years.

The Senate Labor and Commerce Committee deleted the statutory cite requiring 24 hours of continuing education instruction, allowing the Board to establish through regulation, the number of hours without amending statute. At the request of the BEO, the Senate Finance Committee adopted a number of statutory “housekeeping” amendments to delete unnecessary references and improve Board function to better protect the public.

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Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Rules By Request of LEG BUDGET & AUDIT
Current Version: CSSB 255 (FIN)
Contact: W. Tom Maher, 465-3613

Fact Sheet for: Senate Bill 255

Short Title: OPTOMETRY: EXTEND BD/ LIC. ENDORSEMENT

Summary:

- Extends the termination date of the Board of Examiners in Optometry to June 30, 2014.
- Amends optometry statutes to ensure they support current license endorsements for both "prescribe" and "use."
- Deletes the statutory cite requiring 24 hours of continuing education instruction and makes other statutory "housekeeping" changes requested by the board.

Benefits:

- Continues the regulation and licensing of qualified optometrists necessary to protect the public's health, safety and welfare.
- Maintains and potentially increases the number of licensees available to provide services to the public by authorizing a "use" only license endorsement, and grandfathering in practitioners who have been granted a "use" only endorsement without appropriate statutory authority.
- Allows the Board to establish, in regulation, the minimum number of hours of continuing education instruction without amending statutes.
- Performs statutory housekeeping to eliminate unnecessary references and improve the board's ability to protect the public.

Background:

- Legislative Audit concluded that the Board of Examiners in Optometry (BEO) continues to serve a public need and is operating in the public interest. Further, the BEO has operated effectively, adopted regulatory changes, and supported legislation that improved its oversight process and promoted more effective regulation of licensed optometrists. Legislative Audit also recommended that the Legislature amend the optometry statutes to ensure they support current license endorsements for the diagnostic use of pharmaceutical agents. Currently, statutory language provides for a single endorsement for both "prescribe" and "use." However, the BEO is issuing two types of endorsements. The first allows a practitioner to both prescribe and use pharmaceutical agents, and the second allows a practitioner to "use" only. Current law does not authorize the "use" only endorsement. SB 255 adds a section authorizing a "use" only endorsement and also grandfathers in practitioners who were given that endorsement over the years.

Audit Report



**DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF EXAMINERS IN OPTOMETRY
SUNSET AUDIT**

September 27, 2005



Audit Control Number:

08-20042-05

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in Juneau, Anchorage, or at our web site <http://www.legaudit.state.ak.us>

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September 27, 2005

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF EXAMINERS IN OPTOMETRY

September 27, 2005
Audit Control Number
08-20042-05

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, or program subject to the sunset review process. Currently under AS 08.03.010(c)(14), the Board of Examiners in Optometry is scheduled to terminate on June 30, 2006. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Examiners in Optometry should be extended. The regulation and licensure of optometrists contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Examiners in Optometry to June 30, 2014.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology	1
Organization and Function.....	3
Report Conclusions.. ..	5
Findings and Recommendations	7
Analysis of Public Need.....	9
Agency Responses	
Department of Commerce, Community, and Economic Development.....	17
Board of Examiners in Optometry.....	19

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Examiners in Optometry (BEO). Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(14) requires the board to terminate on June 30, 2006. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

Objectives

Central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed optometrists.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

The major areas of our review were board proceedings, licensing, and complaint investigation and resolution functions for fiscal years ending June 30, 2002, 2003, 2004, and 2005. During the course of our examination we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Compliance with statutes and regulations related to the licensing of optometrists. Our evaluation addressed consideration of applications, testing of candidates, and continuing education necessary for an individual to maintain their optometry license in good standing.

- Minutes of board meetings, budget documents, and annual reports related to, or issued by, BEO.
- Files related to applicants for, and holders of, licenses issued by BEO.
- Complaints filed with the Department of Commerce, Community, and Economic Development, Division of Corporations, Professional and Business Licensing (division).
- Interviews with employees of the division.
- Reading and correspondence files maintained with the division.

ORGANIZATION AND FUNCTION

Alaska Statute 08.72.010 establishes the Board of Examiners in Optometry (BEO). The board is composed of five members: four licensed optometrists who have been Alaska residents for at least three years and one public member. All appointments are made by the governor.

Alaska Statute (AS 08.72) defines the practice of optometry as the examination, diagnosis, and treatment of conditions of the human eyes and visual system, other than by use of laser, x-rays, surgery, or pharmaceutical agents.

Board Duties and Powers

The board regulates the practice of optometry. BEO sets the minimum standards to practice in Alaska by:

- Licensing optometrists through examination or credentials.
- Establishing, amending, or eliminating regulations that affect the standards of professional optometry practice.
- Taking disciplinary actions in accordance with the Administrative Procedure Act when a person has violated optometric statutes or regulations.

Board of Examiners in Optometry (As of September 26, 2005)

Jill Matheson, Optometrist, Chair

John Cobbett, Optometrist, Secretary

Jeffrey Gonnason, Optometrist

Thomas Carter, Public Member

Vacant, Optometrist

Applicants must be a high school graduate or equivalent, in addition to having graduated from a recognized college or school of optometry. Additionally, applicants must pass all parts of the National Board of Examiners in Optometry (NBEO) examination, the Treatment and Management of Ocular Disease (TMOD) examination, and the Alaska State Optometry Law examination. Licensed optometrists are required to obtain minimum amounts of continued education every year. Optometrists licensed in other states who wish to license by credentials must meet the requirements of AS 08.72.170 and regulation 12 AAC 48.020 prior to receiving Alaska licensure.

Department of Commerce, Community, and Economic Development (DCCED), Division of Corporations, Professional and Business Licensing (division)

The division provides administrative and investigative assistance to BEO. Administrative assistance includes budgetary services; functions such as collecting fees, maintaining files,

and receiving and issuing application forms; and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates DCCED to adopt regulations establishing the amount and manner of payment for application fees, examination fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the division with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in superior court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Examiners in Optometry (BEO) should be extended. The board is operating in the public interest by effectively regulating the individuals who hold themselves out to the public as licensed optometrists.

The regulation and licensing of qualified optometrists is necessary to protect the public's health, safety, and welfare. To that end, BEO assists in establishing educational and work experience standards for licensure. Such standards provide reasonable assurance that persons licensed as optometrists are qualified. Standards of practice are enforced through the active investigation of complaints and revocation or suspension of licenses when appropriate.

BEO has operated effectively and in the public's best interest over the past four years. It has adopted regulatory changes and supported legislation that improved its oversight process and promoted more effective regulation of licensed optometrists.

Chapter 58, SLA 2005, enacted on June 25, 2005, amended AS 08.03.020, Procedures governing termination, transition, and continuation. Among other changes, this amendment extends the continuation or reestablishment period of a board from four to eight years.

Alaska Statute 08.03.010(c)(14) requires that BEO be terminated on June 30, 2006. Under AS 08.03.020(a), the board has a one-year period to administratively conclude its operations. We recommend the legislature extend the board's termination date to June 30, 2014.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Division of Corporations, Business, and Professional Licensing (the division), in conjunction with the Board of Examiners in Optometry (BEO), should decrease licensing fees to eliminate the board's current and projected operating surplus.

Evidence shows the board is accumulating a growing surplus each year. At the end of FY 04 and FY 05, BEO had an operating surplus of \$13,541 and \$56,760, respectively.

Alaska Statute 08.01.065(c) requires that fees for an occupation be set to approximate the regulatory costs related to that occupation. Given the growing surplus, it is evident that BEO revenues have exceeded board costs for several years without the division and BEO recommending necessary licensing and other fee adjustments.

There has been a steady decrease in board costs since FY 02. Review of board expenditures for the period FY 02 through FY 05 shows travel and contractual costs have decreased each year since FY 02 and personal services costs are down following a spike occurring in FY 03. In general, total expenditures have decreased slightly each year since FY 02, while revenues have steadily increased each renewal year during this time period. See Exhibit 1, the financial schedule in the Analysis of Public Need section of this letter.

We recommend that the division and the board review licensing fees and regulatory costs to ensure BEO's fees are not unduly high and are set to meet the annual operating costs of the board.

Recommendation No. 2

The legislature should consider amending the optometry statutes to ensure they support license endorsements for diagnostic use of pharmaceutical agents.

The board could better serve the public if optometry statutes were broadened to allow the issuance of a pharmaceutical use (only) endorsement. This change would maintain and potentially increase the number of licensees available to provide optometric services. Additionally, if current optometric statutes are amended, BEO may issue pharmaceutical use (only) license endorsements without violating current law.

Currently, BEO issues pharmaceutical agent use (only) license endorsements under 12 AAC 48.021, which is not consistent with AS 08.72.175. Regulation 12 AAC 48.025, Pharmaceutical Agent Prescription and Use Endorsement, specifically authorizes the board to issue a TPA, or Therapeutic Pharmaceutical Agent endorsement. This endorsement

authorizes a licensee to prescribe and use pharmaceutical agents as specified by AS 08.72.175. Comparatively, regulation 12 AAC 48.021 authorizes the board to issue a license endorsement to use topically applied pharmaceutical agents for diagnostic examination purposes only. The endorsement, commonly referred to as a DPA, or Diagnostic Pharmaceutical Agent endorsement, is not authorized by statute.

The 1992 amendment to AS 08.72.175 expanded the license endorsement authority of the board from "use" to "prescribe and use," thereby causing regulation 12 AAC 48.021, Pharmaceutical Agent Use Endorsement, to become void. A discord between statute and regulation governing optometry endorsements is evident.

We recommend the legislature consider amending AS 08.72.175 to specifically authorize the board to issue a license endorsement allowing for use (only) of pharmaceutical agents in addition to the current prescribe-and-use authorization. Further, consideration should be given to the need for a grandfather clause to ensure the legality of DPA endorsements issued since the 1992 statute amendment.

ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public-need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commission, or program has operated in the public interest.

The Board of Examiners in Optometry (BEO), through regulation of the licensure of optometrists, has provided the public with qualified professionals in the field of optometry. The board has ensured continued public safety by supporting both statutory and regulatory changes relating to the exam process, licensure by credentials, and continuing education hours.

The board supported a statutory amendment relating to the requirement to submit a photograph of the applicant with an application for a new license. While not repealed, the statute was revised, specifying that *"the department may require the applicant to submit a photograph of the applicant for its files; however, the photograph may not be forwarded with the application to the board for review."* This change eliminates any possible bias that could occur if an applicant's photograph was forwarded with the application to the board.

The board supported legislation to ensure that statutory and regulatory licensing renewal requirements were congruent with one another. Chapter 16, SLA 2002, amended AS 08.72.181(d) to require licensees to obtain 24 hours of postgraduate continuing education (CE). This statutory change reduced the prior CE requirement of 48 hours, thereby providing consistency between statutory and regulatory requirements relating to CE hours.

The board continues to support a statutory change to AS 08.72.272 allowing for prescriptive use of systemic drugs in the treatment of ocular disease or emergency anaphylaxis. In 1988, optometry statutes were updated to allow qualified individuals to use diagnostic drugs. In 1992, a statutory amendment dropped oral medication authorization, thereby limiting licensees to prescribing only topical therapeutic drugs to treat eye diseases.

The board has maintained a reasonable meeting schedule, has consistently strived to make the licensing process more efficient, and has continued to license only qualified applicants.

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The Board of Examiners in Optometry supported passage of Chapter 16, SLA 2002, which accomplished changes to several statutes related to optometry. Significant changes benefiting the public included:

- Acceptance of passing scores of an exam administered by the National Board of Examiners in Optometry (NBEO).
- Requiring a state jurisprudence exam.
- Elimination of the state practical exam for licensure by credentials.

Overall, the statutory changes allow qualified applicants a more streamlined licensure process in the State. The acceptance of a passing score on the national examination eliminates a duplication of effort that all applicants previously faced with the state practical examination. Requiring successful passage of a state jurisprudence exam ensures optometrists are knowledgeable of Alaska's laws governing optometry.

The board licenses applicants in two ways, by examination and by credentials. Licensure by credentials requires applicants to document their previous work history as the basis for receiving a state license to practice. Applicants under both licensing methods must also pass a written exam of the laws of Alaska governing optometry.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The establishment of a statute allowing for licensure by credentials has eliminated an unnecessary barrier for individuals licensed in other states wishing to practice in Alaska.

As shown in Exhibit 1 on the following page, most of BEO's revenues are from licensing and renewal fees. License renewals are conducted on a biennial basis in odd-numbered fiscal years. This creates a two-year cycle in board revenues, with most revenues collected in the renewal year. We reviewed the internal records maintained by the Division of Corporations, Professional and Business Licensing (division) for revenues and expenditures associated with BEO. We did not audit this information, but present it for general information purposes.

In FY 02, revenues were considerably lower than expected, \$362, for a nonrevenue-generating year. The division staff could not account for the reason for the low reported revenues. The records for BEO show only two persons were licensed that year and paid a total of \$1,150. It is unknown where the difference, \$783, was recorded.

There is a recurring cumulative surplus in nonrenewal years. The revenue generated in a renewal year must be sufficient to fund most of the board's costs for the subsequent nonrenewal year. FY 05 financial data show a significant surplus at year end. Exhibit 1 also details both a steady revenue increase in renewal years and a growing cumulative surplus. Therefore, we recommend the division and the board review the regulatory costs and licensing fees to ensure BEO licensing fees are reduced to eliminate the growing surplus. (See Recommendation No. 1)

Alaska Statute 08.01.065(c) requires "that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." As Exhibit 1 reflects, the board's growing cumulative surplus is in noncompliance with this statute.

Exhibit 1

State of Alaska Board of Examiners in Optometry Schedule of License Revenues and Board Expenditures FY 02 - FY 05 (Unaudited)				
	FY 05	FY 04	FY 03	FY 02
Revenue	<u>\$ 68,285</u>	<u>\$ 9,141</u>	<u>\$ 56,090</u>	<u>\$ 362</u>
Direct Expenses				
Personal Services	12,813	12,314	15,631	12,548
Travel	3,548	4,379	3,129	8,305
Contractual	1,718	1,460	3,729	4,502
Supplies	0	49	92	18
Equipment	0	0	0	0
Total Direct Expenses	<u>18,079</u>	<u>18,202</u>	<u>22,581</u>	<u>25,373</u>
Indirect Expense	<u>6,987</u>	<u>6,212</u>	<u>5,951</u>	<u>5,299</u>
Total Expenses	<u>25,066</u>	<u>24,414</u>	<u>28,532</u>	<u>30,672</u>
Annual Surplus (Deficit)	<u>43,219</u>	<u>(15,273)</u>	<u>27,558</u>	<u>(30,310)</u>
Beginning Cumulative Surplus (Deficit)	13,541	28,814	1,256	31,566
Unallocated Administrative Indirect Revenue	0	0	0	0
Ending Cumulative Surplus (Deficit)	<u>\$ 56,760</u>	<u>\$ 13,541</u>	<u>\$ 28,814</u>	<u>\$ 1,256</u>

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

The location, date, and time of upcoming board meetings and proposed changes in regulations were advertised in the *Anchorage Daily News*, as well as posted on BEO's website. Adequate time was provided for interested individuals to plan to attend or to submit written comment for review. The board's meeting agenda sets aside suitable time for public comment. Board minutes reflect public participation at various meetings and the board's review of public written comment.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Public notices of proposed regulations are published in the *Anchorage Daily News* and the Alaska Online Public Notice System. The board minutes document that unlimited time was allotted for the scheduled public comment period. Proposed regulation changes are circulated to those affected by the changes.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

For the period July 2001 through May 2005, the division opened 11 investigative cases related to individuals either seeking licensure or licensed by BEO. The type of complaint varied and included unlicensed practice, fraud/misrepresentation, incompetence, criminal conviction, license application problems, and continuing education; no single type dominated the complaints. Approximately 45% of the cases were filed by division staff; another 36% were filed by clients.

The 11 cases were open for an average of 222 days. At May 2005, two of the 11 cases remained open, averaging 440 days open. One of the two cases involved a lapsed license. While the issue itself was resolved in a timely manner, the case was not administratively closed by division staff and thus is reported as an active case. There was no apparent reason for the delay of action on the part of investigative staff for the second case remaining open.

We have reviewed the nature and extent of complaints filed involving optometrists. The division, in conjunction with the board, took appropriate investigative action, prioritized complaints in a reasonable manner, and proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

No complaints or investigations specifically involving the actions and activities of BEO were received or undertaken by either the Office of the Ombudsman or the Office of Victims' Rights within the past three fiscal years.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Exhibit 2 is a summary of new licenses issued by BEO for the period under review.

Exhibit 2

New Optometrist Licenses Issued (exclusive of renewals)	FY 02	FY 03	FY 04	FY 05	Current Licenses (as of June 30, 2005)
No Endorsement	0	0	0	0	3
Therapeutic Endorsement	2	6	11	15	122
Diagnostic Endorsement	0	3	1	0	5

Optometry licensing requirements involve passing two national examinations and a state jurisprudence examination. The national exams are developed and graded by the National Board of Examiners in Optometry. Developed by BEO, the state exam tests each applicant's knowledge of state statutory and regulatory requirements pertaining to optometry. Licensure-by-credentials applicants must pass the state jurisprudence exam only.

Each applicant is required to satisfy requirements for licensing. Board meeting minutes reflect that BEO considers each applicant and verifies that the licensing requirements are met prior to issuing a license.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We did not find any evidence that the board was not complying with the State personnel practices, including affirmative action, in qualifying applicants. In no instance has the board denied an applicant a license based on personal attributes.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

As discussed in Recommendation No. 2, BEO should support legislative changes to AS 08.72.175 to ensure that statutes and regulations pertaining to license endorsements are congruent with one another. Additionally, BEO should consider necessary regulatory changes to ensure required continuing education hours are consistent with any license endorsement changes.

As discussed in Recommendation No. 1, BEO should review its fee schedule and the costs of its regulatory operations. Currently, the board's revenues exceed its cost of regulatory operations. As required by AS 08.01.065(c), the division and the board must adjust licensing fees to bring BEO's revenues in line with the regulatory costs related to its operations.

Several optometric statutes are outdated, incongruent, or unclear, potentially hampering BEO's efforts to regulate the optometry profession. We noted several instances where optometry statutes were in need of revision, clarification, or elimination. Specifically, the following statutes need attention:

AS 08.72.181(d), Renewal of license. This statute specifies the number of continuing education hours necessary for license renewal. Such specificity should be removed from statute and left to the board to manage through the regulatory process.

AS 08.72.191(6), Fees. This portion of the statute, fees for branch office license and renewal, became obsolete with the repeal and rewrite of a portion of central licensing statute AS 08.01.065.

AS 08.72.060(c)(1), Miscellaneous powers and duties of the board. Currently, the statute reads in part, "*The board shall elect a president...*" It should be amended to read, "*The board shall elect a chair...*" to ensure the language is consistent with central licensing statute AS 08.01.020 (Board organization), which states in part, "*... the governor may designate the chair of a board...*"

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

Broad objectives identified by the board included:

- Develop and offer a new state law exam.

- Send a representative to the Association of Regulatory Boards of Optometry (ARBO) meeting annually.
- Show support or opposition, as appropriate, for certain legislation.
- Ensure licensees are informed of both statutory and regulatory changes, including new and amended language.
- Review statutes and regulations for necessary changes.

Evidence suggests BEO establishes and meets its operational objectives annually, with the exception of sending a representative to the ARBO meeting annually. The board did not send a representative to the ARBO meeting for the years FY 02 through FY 04.

The board has streamlined the licensing process by allowing for licensure by credentials and by accepting a passing score on the national optometry examination in lieu of passing a state practical examination.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

Our review of the interactions among BEO, the American Optometric Association (AOA), and the Alaska Optometric Association (AKOA) did not reveal activities duplicated by two or more organizations. As discussed previously, the board took action eliminating duplicative efforts of the state BEO and the AOA by eliminating the state practical exam and accepting passing scores on the national exams.

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RECEIVED
NOV 25 2005
LEGISLATIVE AUDIT

OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

November 22, 2005

Ms. Pat Davidson, CPA
Legislative Auditor
Division of Legislative Audit
Legislative Budget and Audit Committee
P.O. Box 113300
Juneau, Alaska 99811-3300

Dear Ms. Davidson,

Thank you for the opportunity to respond to your Preliminary Audit Report concerning the Board of Examiners in Optometry Sunset Audit.

Please consider the following comments to your findings and recommendations.

Recommendation No. 1

The Division of Corporations, Business and Professional Licensing (the division), in conjunction with the Board of Examiners in Optometry (BEO), should decrease licensing fees to eliminate the board's current and projected operating surplus.

We agree that fees will be reviewed for possible adjustments prior to its license renewal on December 31, 2006. However, the assumption that the FY05 year end operating surplus of \$56,760 should be the cause for a fee decrease is too preliminary. Fee reviews are based on the biennial licensing cycle prior to the license renewal period. Current BEO costs (FY06) will need to be included before any adjustments to the fees can be considered, especially since FY06 is a nonrenewal year. The Board normally ends nonrenewal years in a deficit situation because the primary source of revenue derives from new licensees in those years. BEO licenses are due for renewal on 12/31/06 (FY07). A financial review will be conducted prior to the license expiration and fees will be adjusted accordingly.

Recommendation No. 2

The legislature should consider amending the optometry statutes to ensure they support license endorsements for diagnostic use of pharmaceutical agents.

We concur that statutory amendments are needed to address pharmaceutical agent endorsements. We also support the need to ensure the legality of licensees with DPA endorsements (diagnostic pharmaceutical agent endorsement).

The Department also support the Board's desire to delete of the number of continuing education hours required in AS 08.72.181(d) and to grant authority to establish CE requirements by regulations, as is the practice with many other licensing programs. This will help to smooth transition in granting optometry licensees to prescribe and use therapeutic pharmaceutical agents as their normal scope of practice, and prohibit licensees who fail to meet CE requirements from attempting to practice at the status of a licensee with a DPA endorsement.

Consideration of these statutory changes during the sunset review process will enhance the practice of optometrists in Alaska.

Sincerely,



Richard K. Urion
Director of Corporations, Business and Professional
Licensing
for
William C. Noll
Commissioner



Alaska Vision Center, Inc.

JILL GEERING MATHESON, O.D.

September 15, 2005

Pat Davidson
Legislative Budget and Audit Committee
P O Box 113300
Juneau, AK 99811-3300

RECEIVED
NOV 25 2005
LEGISLATIVE AUDIT

Re: Preliminary Audit Report Response
Board of Examiners in Optometry

Dear Ms. Davidson:

I have had the opportunity to read the Preliminary Audit Report. In response, I would like to restate the Board's desires, as there are some discrepancies between the report and the Board's actual wishes.

1. The Board agrees that extending the Board of Examiners to June 30, 2014 appears reasonable.
2. Regarding Recommendation #1 to lower fees: the BEO had briefly discussed at the last meeting that it would be seeking to lower licensing fees in light of the budget surplus. This surplus has been due to the decreased expense of giving an in-state board examination. The BEO will act on this at the next meeting on December 1, 2005.
3. Regarding Recommendation #2 to amend the optometry statutes to ensure they support diagnostic use of pharmaceutical agent endorsements: While it appears that regulation 12AAC 48.021 is not consistent with statute AS 08.72.175, it is not in the BEO's interest to change statute AS 08.72.175 to allow diagnostic use. The BEO has discussed at length a desire to go to one level of licensure, that is, to have all new licenses as of a specified date (we have discussed 2009) be at the prescribe and use (aka therapeutic) level. License renewals would not be eligible for "downgrading" to DPA or no endorsement. Current lower levels of licensure would be grandfathered as restricted licenses. Changing the said statute to include diagnostics would actually take us farther from our goal. The BEO will, however, look at ways to remove the inconsistency between the regulation and the statute while considering a way to provide for the legality of DPA endorsements issued since the 1992 statute amendment.
It appears the legislative audit agency is concerned that fewer optometrists will either choose to or be able to meet the requirements for TPA only licensure. While the agency is looking at this only from an economic standpoint, the BEO is looking at what is in the best interests of the patients. All optometrists since the early 1990's have been educated to be TPA licensed doctors. We are committed to using that education to protect the eye health and vision of all citizens, and a TPA licensed optometrist can provide a higher level of care. The very few numbers of DPA endorsed licenses and no endorsement licenses means that the economic impact to the state's coffers would be minimal.
4. Another BEO desire is to change 08.72.181 (d). The BEO discussed eliminating "of 24 Hours". The statute would then read "...submit to the board evidence of postgraduate continuing education instruction as prescribed by regulations of the


p.2
Preliminary Audit Report Response
Board of Examiners in Optometry

board." This gives the BEO the ability to change the hours of continuing education without legislative approval as needs arise.

5. The BEO needs legislation to grant therapeutic prescriptive authority to applicants applying for license by credentials. We are hoping this can be accomplished with a regulation change.
6. Currently, there is nothing in the practice act authorizing the BEO to deny or put stipulations on new licenses by examination. Under AS 08.72.170(8), the BEO cannot grant a license if the applicant by credentials has had any disciplinary actions regardless of the level of severity, how long it has been since the action was taken, or if the licensee is currently under investigation in another state. Under License by Credentials and License by Examination, the BEO needs authority to either deny or put stipulations on a license for an applicant who currently has disciplinary action, had disciplinary action in the past, or who is being investigated at the time of application in another state. Our only legal possibility at this time is to grant the license if the applicant is by examination, or deny the license if the applicant is by credentials.
7. The BEO supports legislation to widen the scope of therapeutic prescriptive authority to include oral and systemic pharmaceutical agents for the treatment of ocular conditions. This would allow Alaska optometrists to practice at the same level as over 35 other states which leads to fewer referrals and decreased economic impact of eye health care in the state.

Please contact me if you have further questions.

Sincerely,



Jill Geering Matheson, OD, Chair
Board of Examiners in Optometry

p.2
Preliminary Audit Report Response
Board of Examiners in Optometry

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Please contact me if you have further questions.

Sincerely,



Jill Geering Matheson, OD, Chair
Board of Examiners in Optometry

SB

260

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 15, 2006

FURTHER REFERRALS:

Date of Committee Action: February 22, 2006

The LABOR AND COMMERCE Committee considered:

SB 260

SENATE BILL NO. 260

EXTEND TASK FORCE ON WORKERS' COMP

"An Act extending the date by which the Task Force on Workers' Compensation shall report its findings and the termination date of that task force; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EFD
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

NEW FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
LWF	1			X

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
<i>Robert Crawford</i>	<i>Robert Crawford</i>	CRAWFORD			X	
<i>Lynn</i>	<i>Lynn</i>	LYNN	X			
<i>Michelle LeDout</i>	<i>Michelle LeDout</i>	LEDOUT				
<i>John Munn</i>	<i>John Munn</i>	MUNN				
<i>Norm Peters</i>	<i>Norm Peters</i>	PETERS				
<i>Tom Anderson</i>	<i>Tom Anderson</i>	ANDERSON	X			
Chair:						
Chair:						

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99901-1182
(907) 465-2327
(907) 465-5241 Fax

Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

Senate Bill 260 Sponsor Statement

“An Act extending the date by which the Task Force on Workers’ Compensation shall report its findings and the termination date of that task force.”

Senate Bill 260 carries out two simple purposes. First, it extends the Task Force on Workers’ Compensation by one year terminating its charge on February 28, 2007. Secondly, the Bill allows the Task Force an additional two months in which to complete its report to the Legislature. The new due date is February 15, 2006.

During the first session of the 24th Legislature the Governor introduced Senate Bill 130 designed to implement necessary reforms within the State’s workers’ compensation program. Additionally, SB 130 established a Task Force on Workers’ Compensation. The Task Force was charged with reviewing and analyzing a broad range of issues relevant to Alaska’s workers’ compensation system. Senate Bill 130 was signed into law on the 15th of September 2005.

The Task Force consists of ten public members and three members of the Legislature. Public members are as follows: Dr. John Duddy (Alaska State Medical Association); Rod Betit (Alaska State Hospital & Nursing Home Association); Michael Jensen (WC Attorney-Employee); Tracy Heikes (WC Attorney-Employer); Kevin Dougherty (Organized Employees); Ted Quinn (Non-organized Employees); Conni Livsey (WC Insurance Carriers); Jamie Slack (Self-Insured Employers); Linda Lewis (Small Businesses), and; Everett Billingslea (Large Businesses).

The Legislature is represented by: Senator Gretchen Guess (minority member); Senator Ralph Seekins (Senate co-chair), and; Representative Bob Lynn (House co-chair).

The Task Force held eight meetings between the 29th of September 2005 and the 5th of January 2006 out of which was produced a Final Report to the Legislature. The Report covers a broad range of topics and concludes with a recommendation for a one year extension. This recommendation is made as a result of the Task Force’s late commencement as well as the complexity of the subject matter.

The Task Force has no budget and has been conducting all its work telephonically. This mode of operation will continue thereby producing zero fiscal impact.

SB

272

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 272(L&C)
 (S) Publish Date: 4/5/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Mortgage Lending RDU: Banking & Securities (536)
 Component: Banking & Securities
 Sponsor: Wagoner
 Requester: Labor & Commerce Component No: 2808

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	121.1	121.1	121.1	121.1	121.1	121.1
Travel	15.0	15.0	15.0	15.0	15.0	15.0
Contractual	58.0	58.0	58.0	58.0	58.0	58.0
Supplies	1.5	1.5	1.5	1.5	1.5	1.5
Equipment	4.8	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	200.4	195.6	195.6	195.6	195.6	195.6

CAPITAL EXPENDITURES

CHANGE IN REVENUES (1156)	259.2	228.4	348.5	348.5	348.5	348.5
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Receipt Supported Services (1156)	200.4	195.6	195.6	195.6	195.6	195.6
TOTAL	200.4	195.6	195.6	195.6	195.6	195.6

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would require the licensing and regulation of people making and brokering mortgage loans to borrowers. The division estimates there are about 22,000 mortgage documents filed each year in Alaska. The division anticipates needing two additional staff to implement the provisions of this legislation: one Financial Institution Examiner I, and one Business Registration Examiner position. Travel funds would cover the cost of 20 trips to conduct examinations of licensees. Contractual expenses include \$25.0 for the Department of Law to draft and enforce orders resulting from investigations, and \$33.0 to contract for the collection of the documentation filing fees.

Prepared by: Mark Davis, Director Phone: 907.269.8144
 Division: Banking & Securities Date/Time: 3/6/06 2:57 PM
 Approved by: William C. Noll, Commissioner Date: 3/6/2006
 Agency: Commerce, Community, and Economic Development

FISCAL NOTE # 1

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSSB 272(L&C)

ANALYSIS CONTINUATION

Revenue: The division estimates this legislation would generate \$259.2 in the first year due to the initial licensing of an estimated 112 establishments (\$39.2 resulting from \$250 per license and \$100 investigation fee per establishment, and the collection of \$220.0 in document filing fees (22,000 documents at \$10 per document.)) In the second year, the division anticipates licensing 24 additional establishments for a total revenue amount of \$228.4 which results from \$220.0 in document filing fees and \$8.4 in license fees.) In year 3 the division anticipates generating \$348.5 (\$126.0 results from the examination of 56 establishments at a cost of \$2.25 per examination; \$220.0 document filing fees; and \$8.4 in new licensing fees for 7 new establishments. Years 4 and 5 are expected to generate a similar amount of revenue.



Official Business

ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

- Chair, Senate Resources Committee
- Vice-Chair, Senate State Affairs Committee
- Member, Community & Regional Affairs
- Member, Legislative Council
- Member, World Trade

Session: January – May
State Capitol, #427
Juneau, AK 99801
Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December
145 Main Street Loop; Suite 226
Kenai, AK 99611
Phone: 907-283-7996 Fax 907-283-8127

SECTIONAL ANALYSIS CSSB 272(L&C)

SECTION 1

Adds mortgage lenders and brokers to the definition of financial institution.

SECTION 2

Article 1. Licensing

06.60.010 Subjects lenders and brokers to licensing

06.60.020 Lists various exemptions from licensing under this Act

06.60.025 Requires that an employee and independent contract have to follow the provisions in this chapter even though they do not have to get a separate license

06.60.030 Provides the requirements for licensure under this Act

06.60.040 Requires the Division to investigate applications for a license under this Act

06.60.050 Requires the initial license fee be submitted with the application, and that only one fee is required for dual licenses.

06.60.060 Sets out bonding requirements and amounts and gives the Division authority to increase the amount set in this section.

06.60.070 Requires the Division to grant or deny a license within 90 from the date they receive a complete application.

06.60.080 Details some things the Division must consider when determining whether to grant or deny a license.

06.60.090 Lists additional grounds for denying a license.

06.60.100 Gives the Division the authority to define the form and contents of the license and requires the business and internet addresses be included.

06.60.110 Gives duration of a license and means to renew a license.

06.60.120 Provides requirements for a licensee to transfer a license.

Article 2. Licensee Obligations

06.60.200 Requires an annual report, that contents are specified by the Division, be submitted and provides a \$25/day fee for late filling.

06.60.210 Sets a \$250 annual license fee and sets when the fee is due each year.

06.60.220 Prohibits the licensee from doing business within another business unless it is disclosed in the application.

06.60.230 Allows for a license to change business locations after the licensee submits written notice to the Division.

06.60.240 Requires the licensee to notify the Division of any significant change in the operation or control of the license.

06.60.250 Sets guidelines and requirements for record keeping.

06.60.260 Requires a licensee who's office is located outside Alaska make their records available at a location in Alaska, or pay the costs of the Division to examine their records out of state.

06.60.270 Defines disqualified person and prohibits them from most aspects of a licensed office/business, unless there is written approval by the division in some cases, or after seven years of having a clean record.

06.60.280 Requires the license to be posted at the place of business.

Article 3. Discipline of Licensee

06.60.300 Specifies when the Division should revoke or suspend a license

06.60.310 Sets guidelines/requirements for surrendering a license.

06.60.320 Provides the effect of revocation, suspension or surrender of a license and requires all preexisting contracts and loans be satisfied or sold/assigned to another licensee.

06.60.330 Gives the Division the authority to reinstate a revoked license.

06.60.340 Sets requirements and purposes for an examination of a licensee. Frequency of at least every 3 years and provides for reimbursement to the Division for costs of conducting the examination.

06.60.350 Prohibits a licensee from giving false, misleading or deceptive statements to the Division in the course of an investigation or examination.

06.60.360 Gives the Division the authority to make a ruling, demand or finding addressing proper conduct of a licensee.

Article 4. Business Duties and Restrictions

06.60.400 Prohibits a licensee from advertising false, misleading or deceptive information about their business.

06.60.410 Subjects a person, when pertinent, to federal regulations.

06.60.420 Gives a list of activities that are prohibited of a person listed in this chapter.

06.60.430 Sets restrictions on refinancing a loan within the first 12 months.

06.60.440 Requires segregations of escrow accounts and restricts when a licensee can require a borrower to supply escrow funds.

Article 5. Enforcement

06.60.500 Defines when the Division can issue a cease and desist order.

06.60.510 Provides authority and process for the Division to censure, suspend or bar a licensee, also limits the period covered for such actions; up to 12 months.

06.60.520 States that the licensee is liable for a violation committed by a person/agency employed by the licensee.

06.60.530 Sets a civil penalty of no more than \$10,000 for a person who knowingly violates any provision of this chapter.

06.60.540 Provides additional enforcement provisions.

Article 6. Collection of Program Administration Fee

06.60.600 Sets up a program administration fee.

06.60.610 Provides authority for the Division to contract with a licensee or other person to act as an agent to collect the program administration fee, and removes liability of the Division.

06.60.620 Allows an agent from .610 to retain 25% of collected fees, requires transmittal of fees collected by January 15 and gives the Division authority to assess a penalty for late fees or no fees.

Article 7. Miscellaneous Provisions

06.60.700 Clarifies that the provisions of this chapter apply to internet businesses.

06.60.705 Triggers the Administrative Procedures Act for actions of the Division taken to deny, revoke or suspend a license, and for hearings and orders.

06.60.710 Gives the Division the authority to adopt regulations to implement this chapter.

06.60.720 Clarifies that when sections of this Act are preempted by federal law, then federal law applies. When this Act conflicts with another state law, then this Act applies.

Article 8 General Provisions

06.60.990 Gives definitions for various terms used in this Act.

06.60.995 Gives the short title of this Act

SECTION 3

Amends AS 44.62.330(a) to add this Act to that section of law

SECTION 4

Adds new subsection to AS 45.50.481

SECTION 5

Provides for a transition period for the implementation of this Act. Gives current business activities, subject to this Act, until March 1, 2008 to get licensed.

SECTION 6

Provides the Division the ability to adopt regulations necessary to implement the changes made by this Act.

SECTION 7

Gives an immediate effective date for Section 6 of this Act.

SECTION 8

Gives an effective date, for all other sections of this Act, of July 1, 2007.



Official Business

ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

- Chair, Senate Resources Committee
- Vice-Chair, Senate State Affairs Committee
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Phone: 907-283-7996 Fax 907--283-8127

SPONSOR STATEMENT CSSB 272(FIN)

Alaska is the only state that does not license and regulate residential mortgage lending. Because of this, the Alaska Division of Banking and Securities has no authority to investigate the 50 phone calls per week on questionable lending practices and 20 plus legitimate complaints, and can do nothing to help Alaska consumers that feel they are being taken advantage of. Increased access to internet lending in recent years has contributed even further to the growing number of complaints and has caused the U.S. Congress to seek ways to strengthen consumer protection in an area that represents, to some, the largest single investment they will make in their lifetime.

Recognizing this problem, the mortgage lending industry in Alaska has been meeting for several years to develop legislation that balances protection of Alaska's consumers while insuring sufficient access to residential mortgage loans. And this past year the Alaska Division of Banking and Securities has worked closely with several leading mortgage lending groups to develop the language in SB 272 that will address this problem.

SB 272 has been introduced as a companion bill to HB 424 and is a strong starting point to address this problem and grant the Alaskan Division of Banking and Securities enough licensing and regulatory authority to begin dealing with the growing number of complaints they receive from Alaska home buyers.

This effort to establish accountability in the mortgage lending industry in Alaska is vital and past due. The proposal is an initial attempt to regulate the mortgage lending industry in Alaska and is supported by the Alaska Division of Banking and Securities and several groups in the industry.



DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT
Division of Banking and Securities

Frank H. Murkowski, Governor
William C. Nell, Commissioner
Mark R. Davis, Director

Senator Thomas Wagoner
State Capitol, Room 427
Juneau, AK 99801-1182

Dear Senator Wagoner:

I would like to take this opportunity to respond to concerns expressed by Mr. John Martin in his e-mail dated May 1, 2006, regarding the fiscal note for SB 272. The fiscal note calls for funding from two sources – namely from fees paid by licensees and program fees paid through mortgage deeds recorded for residential real estate.

The expenses for the department include two additional PCN's, training costs, overhead for the department, and other items that the department will be paying is education material for the public. The budget covers the entire department's operation, but recoverable costs for examination and travel will be collected on a per licensee basis and contributed back to the general fund. Any surplus in the budget is a buffer to anticipate additional costs to begin licensing of a previously unregulated industry. We anticipate responding initially to numerous licensing requests and possible complaints from Alaska residents. It is anticipated that beyond the minor surplus in the budget, growth in program administration fees will covers additional department expenses in the future thereby alleviating any increase the licensing fees.

The department developed this two-pronged fee structure to balance fees between enforcement and licensing of business in the mortgage industry and the users who contact the division for assistance. Through regulation the department intends to continue to work with industry groups to address the program administration fee.

I hope this letter helps clarify the department's fiscal position regarding SB272. If you have any questions, please feel free to contact me at (907) 269-8140.

Cordially,

Mark Davis
Director

From the Division of Banking and Securities
Response to
John Martin's updated testimony on SB 272, dated 4/4/06.
Page 1 of 10

This summary is a response to Mr. Martin's letter regarding SB 272. Beginning on page 2, Mr. Martin recommends the legislation incorporate all mortgage originators are added to bill and be licensed. The division is supportive of licensing originator's but feels that SB 272 is not the proper format for such licensing.

A number of issues need to be resolved regarding Originator's licensing before it can be brought before the legislator for passage. The issues surround the following:

- Which state division will regulate this activity? Since an originator's license resembles that of a personal occupational license, should the Division of Corporations, Business and Professional Licensing or the Division of Banking and Securities be authorized to enforce the legislation? While SB 272 clearly is a license for the business, in the same manner as a charter for a bank or credit union, or a license for a payday lender is regulated by the Division of Banking and Securities, it is not known if we should regulate Originators because they would not be individually examined. Instead, their employer would be examined as provided in SB 272.
- Licensing requirements for originators have not been sufficiently researched to determine the best process. Mr. Martin testified that originators should be educated and tested. As part of any originator licensing bill, pre-license testing would be a requirement. The content of the licensing, what qualifies for passage to obtain a license, and continued examinations all must be resolved before an originator bill can be drafted.
- Another component of licensing that Mr. Martin has testified to is the need for continued education for originators. The division supports this concept and would require that minimum standard for continued education is necessary in any originator licensing bill. However, a consensus must be identified between the division and all the originators. The consensus must provide the type of classes that must be passed by the originator and what the minimum score they should

From the Division of Banking and Securities
Response to
John Martin's updated testimony on SB 272, dated 4/4/06.
Page 2 of 10

receive in order to receive a license and continue to maintain their license.

- Same exemptions that exist in SB 272 would apply to originators. Mr. Martin asserts that having all originators licensed, we would be able to bypass all the exemptions under SB272. This is not correct. Federally chartered institutions, **which employ a bulk of originators**, would still be exempt under the originator bill. The goal of having all originators licensed is something that will require a change of view by federal regulatory agencies.
- The exemptions in SB 272 would still apply to originators because the other applicable law that regulates the exempted entities has to be changed, and there has not been sufficient time to study the effect of a broad implementation of the originators license.
- Another part of the originator licensing was the request by Mr. Martin and others that the originators' pay into a surety fund for coverage of any losses that might occur to the public for unscrupulous or illegal acts on the part of a licensed originator. The terms of the surety fund have not been drafted or determined how it will be managed.
- Mr. Martin did point out correctly that an originator must be supervised by their employer, who is the licensee. If the originator does not conduct business legally, then the division will take away the license of the lender or broker, thereby affecting their ability to earn an income. We have also added in SB 272 an ability to remove an employee for violation of the law.

In summary, the division supports licensing of originators. However, SB 272 is not the place to attempt to force the originator licensing law into. Instead, a number of the issues highlighted above must be resolved and a framework for the originator licensing bill needs to be prepared. **The Division of Banking and Securities plans to work with the Alaska Mortgage Bankers Association, Alaska Mortgage Brokers Association, Alaska Bankers Association, and the Independent Lenders Association of Alaska over this year to develop a comprehensive legislation for regulating mortgage originators.**

**From the Division of Banking and Securities
Response to
John Martin's updated testimony on SB 272, dated 4/4/06.
Page 3 of 10**

On pages 4 through 8 of Mr. Martin's updated testimony, Mr. Martin lists a number of sections of SB 272 that need changes. The department addresses those concerns as follows:

Referencing residential properties. This is done in the definition of what a mortgage loan covers under this act. It is not needed in the preface of the bill.

Sec. 06.60.010(a) -- The division has deferred to legislative legal on how to handle such language. The intent is to cover all persons, whether they are a sole proprietor, partnership, corporations, LLC, or other entity to be required to obtain a license.

Mr. Martin lists the exemption in AS 06.60.020 as concerns. The list of exempted entities is based on sections of both state and federal law. The exemptions are authorized as follows:

(1) a mortgage lender who makes six or fewer mortgage loans within a period of six consecutive months;

This exemption is to allow individuals who have property that they intend to subdivide or liquidate over a period of time to enter into owner-financed transactions. The division wanted to preserve the rights of land owners in more rural sections of Alaska a method to finance the sale of their property without become a licensee. In most rural communities the sale of residential property is considered non-conforming. For purposes of this discussion, Non-conforming loans for rural properties do not qualify for most conventional loan programs because the lack of local zoning or building ordinances which affect the appraisal standards; in addition, the borrowers may have credit qualification issues.

(2) a mortgage lender who is authorized to engage in business as a bank, savings institution, or credit union under the laws of the United States, a state or territory of the United States, or the District of Columbia;

The mortgage lender engaged in business through bank or credit union, or other financial institution usually operates as a unit or department of the chartered financial institution. In the case of federally chartered institutions, the state authority is limited in scope due to supremacy clause. Federal courts have repeatedly applied those principles to determine that federal law preempts state law that would pose obstacles

From the Division of Banking and Securities
Response to
John Martin's updated testimony on SB 272, dated 4/4/06.
Page 4 of 10

to the exercise of national bank powers. The Court has observed that the history of Supremacy Clause litigation of national bank authority is "one of interpreting grants of both enumerated and incidental 'powers' to national banks as grants of authority not normally limited by, but rather ordinarily pre-empting contrary state law." This is also held for other federally chartered financial institution, for example federal credit unions are exempt under the Federal Credit Union Act, 12 U.S.C. 1751 et seq.

(3) a subsidiary and an affiliate of a mortgage lender who is covered by (2) of this section and who is subject to the general supervision, regulation, audit, or examination by a regulatory body or agency of the United States, a state or territory of the United States, or the District of Columbia;

Because subsidiaries and affiliates are treated with the same exemption that applies to federally chartered financial institutions, based on their inclusion in the regulatory review they would be excluded on the same basis as institution governed under exemption (2). However, based on the structure of some subsidiaries or affiliates, they are not subject to the same regulatory oversight and therefore they would be subject to SB 272. It is the division's intent to review on a case-by-case basis any exemptions from SB 272 that some institutions may apply for. An application for exemption at a minimum will require the entity to state why they should be exempt from SB 272, and also have a determination letter from a regulatory authority stating: the entity is exempt from SB 272; and the entity is subject to examinations and regulatory oversight.

(4) a nonprofit corporation that makes mortgage loans to promote home ownership or home improvements for qualified individuals; in this paragraph

(A) "nonprofit corporation" means a corporation that qualifies under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code) for an exemption from federal income taxation;

(B) "qualified individual" means an individual

- (i) whose income is 60 percent or less of the median income in the United States;
- (ii) who is over the age of 60 years; or
- (iii) who has a disability; in this subparagraph, "disability" has the meaning given at 42 U.S.C. 12102(2)(A);

Treatment of Non-profit entities with respect to loan, or other financial assistance programs are usually exempt from licensing, or other regulatory oversight because they only exist to provide services to the community that other for-profit business will not offer. In most cases, the non-profit has a Board of Directors and Executive Director that are

From the Division of Banking and Securities
Response to
John Martin's updated testimony on SB 272, dated 4/4/03.
Page 5 of 10

responsible to report to the grant funding agencies or other charities that provide the operating capital of the non-profit. The services to the public the non-profit provides are normally non-traditional and usually are conducted in a subsidized or cost-free manner. With mortgage lending, a housing non-profits traditional role is to either manage their own housing projects, or administer a rent-to-own program that provides for subsidized housing loans, or grants for consumers to purchase private dwellings.

(5) an agency of the federal government, a state government, a municipality, or a quasi-governmental agency making or brokering mortgage loans under the specific authority of the laws of a state or the United States;

The exemption for this type of entity is primarily due to the function they serve in the economy. The entities are primarily housing finance conduits that package and sell mortgage securities in the financial markets, and in turn provide the funding to purchase mortgage directly from mortgage companies. These entities in whole are known as the "secondary market", and are normally removed from direct lending to the customer; instead they rely upon the mortgage companies to complete the origination of the loan and then it is packaged and sold or transferred to a loan servicer. The secondary market provides the means to consolidate capital from other market participants.

(6) a person who acts as a fiduciary for an employee pension benefit plan qualified under 26 U.S.C. (Internal Revenue Code) and who makes mortgage loans solely to participants of the plan from assets of the plan;

Pension benefit allow mortgage to be funded from individual accounts held by the participants. The terms of the loans are usually set by the plan participants, with the overall plan having basic guidelines. The fees charges are normally for administrative services, along with fees for any legal services. While the loan may be for a real estate purpose, the collateral for the loan is pledged assets of the plan. The most common example is an administered 401(k) plan that allows for borrowing. The plan assets are encumbered and the money is granted to the plan participant. Any interest they pay on the "loan" is re-invested into the corpus of the plan assets.

(7) a person who is licensed in this state as an attorney, real estate broker, or real estate agent when rendering services as an attorney, real estate broker, or real estate agent, but who is not actively and principally engaged in negotiating, placing, or finding

From the Division of Banking and Securities
Response to
John Martin's updated testimony on SB 272, dated 4/4/06.
Page 6 of 10

mortgage loans; however, a real estate broker or real estate agent who receives a fee, commission, kickback, rebate, or other payment for directly or indirectly negotiating, placing, or finding a mortgage loan for another person is not covered by this paragraph;

An attorney, real estate broker, or real estate agent are professions that are supervised by other regulatory agencies. In the course of discharging their professional duties, each of the referenced professions is supervised by laws of the state. Their duties are subject to review as part of their professional conduct by the boards or commission that govern the licensing process. The division has been discussing if an originator regulation bill should be drafted to make the professional licensing fall under the Division of Professional or Business Licensing.

(8) a person who acts in a fiduciary capacity conferred by the authority of a court; and

An individual appointed by the court may be acting in the capacity as an administrator, guardian, or trustee. They are exempt because they are acting for the benefit of the party they are appointed to represent. An example of this capacity is a bankruptcy trustee who is responsible for administering the estate of a bankruptcy petitioner. The trustee has the authority to enter into contracts that are intended to provide the greatest amount of recovery for the creditors of the estate. In addition, a guardian may be appointed fiduciary duties to enter into transactions for an incapacitated adult, or for minor children.

In either situation, the trustee or guardian may enter into contracts for liquidation of estate assets where they may provide "owner financing". In all these situations, the person appointed by the court is bound by court rules and their activity is supervised by the court.

(9) a person who is licensed by the United States Small Business Administration as a small business investment company under 15 U.S.C. 661 - 696 (Small Business Investment Act of 1958).

A small business investment company is an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities contemplated under this the SBI Act, which, if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years, and possesses the powers reasonably necessary to perform such