

State of Alaska FY2002 Governor's Operating Budget

Department of Community & Economic Development
Occupational Licensing
Component

Component: Occupational Licensing

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Component Mission

To ensure that competent professional and commercial services are available to Alaska consumers.

Component Services Provided

OCCUPATIONAL LICENSING: Administer the following 36 occupational licensing programs:

Licensing Boards assisted by the Division:

- Architects, Engineers and Land Surveyors
- Athletic Commission
- Barbers and Hairdressers
- Chiropractic Examiners
- Direct-Entry Midwives
- Dispensing Opticians
- Dental Examiners
- Marine Pilots
- Marital and Family Therapy
- Medical
- Nursing
- Optometry
- Pharmacy
- Physical and Occupational Therapy
- Professional Counselors
- Psychologist and Psychological Associate Examiners
- Public Accountancy
- Real Estate Appraisers
- Real Estate Commission
- Social Workers
- Veterinary Examiners

Licensing Programs administered directly by the Division:

- Acupuncture
- Audiologists and Speech-Language Pathologists
- Big Game Guides and Transporters
- Collection Agencies
- Concert Promoters
- Construction Contractors
- Dietitians
- Electrical and Mechanical Administrators
- Geologists
- Hearing Aid Dealers
- Morticians
- Naturopaths
- Nursing Home Administrators
- Nutritionists
- Underground Storage Tank Workers

Perform the following functions for over 130 occupations within the 36 programs listed above:

- Distribute application forms for initial licensure and renewal by mail and Internet
- Respond to questions from applicants, other states and non-governmental organizations regarding Alaska's licensing laws
- Review applications to determine if qualifications have been met
- Determine whether applicants are in arrears on child support or student loan repayment
- Verify Alaska licenses for the licensing agencies of other states
- Write and/or administer professional examinations
- Investigate complaints of incompetent or illegal activity by professionals
- Prepare formal accusations against licensees when investigations reveal evidence of violations of licensing laws
- Present the legal case against licensees charged with violations
- Negotiate settlements with licensees whom the division believes violated the law
- Report disciplinary actions taken against Alaska licensees to national databanks
- Organize licensing board meetings
- Assist licensing boards in writing regulations
- Represent the state in appeals of license denials, lawsuits and appeals of disciplinary actions
- Provide public lists of licensees on CD-ROM, paper, and through Internet search of the computer databases

BUSINESS LICENSING: License approximately 74,000 businesses to engage in commerce in Alaska. At the start of FY2001, 1,711 businesses held tobacco endorsements attached to their licenses permitting retail sale of tobacco products.

To administer the Business Licensing Program, the division:

- Distributes application forms for initial licensure and renewal by mail and Internet
- Reviews applications for completeness and legal sufficiency
- Collects \$50 for each two-year license and \$25 for each endorsement permitting retail sale of tobacco products
- Classifies businesses according to their primary activities
- Issues licenses at service counters in Juneau, Fairbanks and Anchorage
- Issues and renews licenses via the Internet
- Researches the licensing history of Alaska businesses
- Works to bring unlicensed businesses into voluntary compliance with the law
- Suspends tobacco sales endorsements of businesses convicted of selling tobacco to minors
- Provides public lists of licensed businesses on CD-ROM, paper and through Internet search of the computer database

Component Goals and Strategies

- 1) Allow qualified individuals to work in their chosen fields: earning a living, creating new businesses and providing the skilled workforce necessary for state development
 - Make licensing information easy to obtain and understand
 - Issue licenses correctly and promptly
 - Remove unnecessary barriers to licensure
 - Keep license fees as low as possible while meeting the division's legal responsibilities
- 2) Protect public health and welfare by safeguarding the quality of services provided by Alaska's licensed professionals
 - Investigate allegations of violations of licensing laws thoroughly and promptly
 - Sanction licensees who violate the law in an appropriate manner
 - Provide licensing boards with resources necessary to regulate effectively

Key Component Issues for FY2001 – 2002

PUBLIC RECORD REQUESTS:

An Attorney General's opinion stating that division files related to investigations of occupational license holders may be public documents has resulted in lengthy reviews of voluminous investigative files. Witnesses' rights to privacy

and public rights to government records must be weighed for each document in a file. The division expects the number of public record requests to increase as employers and parties to lawsuits become aware that investigative information is available. The division is having difficulty responding to the public record workload and other division activities are adversely affected.

ENFORCEMENT OF TOBACCO SALES LAW

The division issues business license endorsements to businesses that sell retail tobacco products and the division suspends the endorsements of businesses convicted of sale to minors. The Department of Health and Social Services is dedicating substantial new resources to enforcement of tobacco sales laws. This effort will result in significantly more convictions. The division will respond by assigning investigators to prepare cases for suspension hearings and negotiate settlement agreements. We also anticipate an increased caseload for the hearing officer. In FY02, the division will implement any changes made to the tobacco endorsement statute during the legislative session.

ESCALATING ENFORCEMENT COSTS:

The cost of investigating and disciplining license-holders accused of violating licensing laws continues to rise, as the process becomes more formal and litigious. Costs include investigators, expert witnesses, attorneys from the Department of Law and hearing officers. Enforcement costs are paid through license fees. One extensive case can double fees for small programs and discourage disciplinary action against licensees.

VOLATILITY OF FEES:

AS 08.01.065(c) mandates that the department set license fees for each occupation at a level that approximately equals the cost of regulating the occupation. Enforcement costs often vary considerably from year-to-year, depending on the number of complaints. This makes fees very volatile. A 1997 legislative audit directed the division to set fees incorporating professions' surpluses and deficits from prior years. The audit also recommended strictly applying the fee law and requiring each of the division's 130 professions to pay their own costs rather than accounting at the board/program level. The result of a strict legal interpretation would be even greater variation in fees for small professions. Attention must be given to an effort to revise the fee structure to reduce these serious fluctuations in fees.

NEED FOR STRONG AND CONSISTENT LAWS:

Alaska's licensing laws have gray areas and inconsistencies that contribute to legal costs and difficulty protecting the public. A comprehensive update of the laws would assist enforcement.

Major Component Accomplishments for FY2000

BUSINESS LICENSING:

- Completed implementation of the new business classification system, improving the quality of information about the number and types of businesses in Alaska.
- Expanded business license information available through the Internet. The list of businesses can now be searched by activity type, location, name, license number, and tobacco endorsement.
- Prepared to offer business licensing through the Internet in the autumn of 2000. Licenses can now be purchased, renewed, updated and reprinted online.

OCCUPATIONAL LICENSING:

- Created a licensing program for Speech-Language Pathologists.
- Established the first regulations governing manicurist licensing.
- Began implementation of a new law licensing practitioners of Tattooing and Permanent Cosmetic Coloring, and Body Piercing.
- Issued the first licenses to professional counselors, and bachelor and master social workers.
- Began requiring marine pilots to complete a performance evaluation based on simulation of Alaska ports. This is the first simulator-based evaluation system for pilots in the nation. 25% of Alaska pilots have been evaluated to date.
- Increased information about licensed professionals available through the Internet.
- Rated best in the nation by Public Citizen for medical enforcement.

Statutory and Regulatory Authority

The Division of Occupational Licensing operates under the following authorities:

AS 08.01	CENTRALIZED LICENSING
AS 08.02	Miscellaneous Provisions
AS 08.03	Termination, Continuation and Reestablishment of Regulatory Boards
AS 08.04	Board of Public Accountancy
AS 08.13	Board of Barbers and Hairdressers
AS 08.20	Board of Chiropractic Examiners
AS 08.29	Board of Professional Counselors
AS 08.36	Board of Dental Examiners
AS 08.48	State Board of Registration for Architects, Engineers and Land Surveyors
AS 08.62	Board of Marine Pilots
AS 08.63	Board of Marital and Family Therapy
AS 08.64	State Medical Board
AS 08.65	Board of Certified Direct Entry Midwives
AS 08.68	Board of Nursing
AS 08.71	Board of Dispensing Opticians
AS 08.72	Board of Examiners in Optometry
AS 08.80	Board of Pharmacy
AS 08.84	State Physical Therapy and Occupational Therapy Board
AS 08.86	Board of Psychologist and Psychological Associate Examiners
AS 08.87	Board of Certified Real Estate Appraisers
AS 08.88	Real Estate Commission
AS 08.95	Board of Social Work Examiners
AS 08.98	Board of Veterinary Examiners
AS 08.06	Regulation of acupuncturists
AS 08.11	Regulation of audiologists and speech-language pathologists
AS 08.24	Regulation of collection agencies
AS 08.92	Regulation of concert promoters
AS 08.18	Regulation of construction contractors
AS 08.38	Regulation of dietitians and nutritionists
AS 08.40	Regulation of electrical and mechanical administrators
AS 08.54	Regulation of guide-outfitters
AS 08.42	Regulation of morticians
AS 08.45	Regulation of the practice of naturopathy
AS 08.70	Regulation of nursing home administrators
AS 08.02.011	Regulation of professional geologists
AS 08.55	Regulation of hearing aid dealers
AS 43.70	Regulation of Business Licenses
AS 05.05; 05.10	Athletic Commission
AS 46.03.375	Certification of Storage Tank Workers
AS 08.02.025	Student Loan Default Program
AS 25.27.244	Child Support Enforcement Program
AS 44.62	Administrative Procedure Act
AS 44.33.020	Department of Community & Economic Development

Federal Laws:

42 CFR 431, 433 and 483	Nurse Aide Registry
42 CFR 442 and 45	Nursing Home Administrators
12 U.S.C. 3338	Real Estate Appraiser

State Regulations:

12 AAC 02 - 12 AAC 75	Administrative Regulations
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12 AAC 12
18 AAC 78

Business Licensing Regulations
Underground Storage Tank Workers

Key Performance Measures for FY2002

Measure: The time taken for investigation of licensing law complaints
(Developed jointly with Legislature in FY2001.)

Current Status:

In FY 2002 the division will work to reduce the amount of time between the opening of cases and the issuance of a formal accusation, a settlement document or the decision to close the case without action.

Benchmark:

Unknown

Background and Strategies:

The division opens from 450 to 550 investigation cases each year. Most of these cases are initiated by citizen complaints against licensed professionals, however, others are initiated by the division. Cases are closed when the division determines that no formal charge will be made against the license holder, when disciplinary action is taken, or when a hearing determines the licensee did not violate the law. Many factors affect the length of time a specific case remains open including, the priority the division gives to the case based on risk to public health and safety, the overall division case load, the complexity of the investigation, the availability of Department of Law legal services, the hearing officer's schedule, court action and the action of the licensee under investigation. In recent years, insufficient attorney service has been a major contributor to investigative delay. The FY01 budget authorized additional Department of Law services for the division. When vacant attorney positions are filled, the division anticipates a reduction in investigation time. Quick closure of cases cannot be an isolated goal, because investigative thoroughness is also essential to protect consumers.

Measure: Whether the division increases the number of opportunities to take occupational licensing examinations by at least 25 percent in the fiscal year ending June 30, 2001
(Developed jointly with Legislature in FY2001.)

Current Status:

The division will increase the frequency of division-controlled written exams from quarterly to monthly for all of FY02, thereby achieving the performance measure.

Benchmark:

The frequency of exams in other small-population states is unknown.

Background and Strategies:

Many professionals cannot qualify for licenses and begin working without first passing an exam. Exams must be conducted properly and securely to render accurate results. The quality of exam administration by private proctors has been uneven. Alaska's size makes travel to a central exam site expensive for license applicants. The division currently offers the above referenced written exams four times each year in Anchorage, Juneau and Fairbanks. The division will designate a clerk in Anchorage and Fairbanks who will administer exams one day each week and supervise additional private proctors. This will result in the Fairbanks office being closed to the general public on Fridays.

Status of FY2001 Performance Measures

	<i>Achieved</i>	<i>On track</i>	<i>Too soon to tell</i>	<i>Not likely to achieve</i>	<i>Needs modification</i>
• The time taken for investigation of licensing law complaints		X			

	<i>Achieved</i>	<i>On track</i>	<i>Too soon to tell</i>	<i>Not likely to achieve</i>	<i>Needs modification</i>
<ul style="list-style-type: none"> • Whether the division increases the number of opportunities to take occupational licensing examinations by at least 25 percent in the fiscal year ending June 30, 2001 • Whether the division converts the business license classification system to a new, more detailed classification system in the fiscal year ending June 30, 2001; 	X				X

Occupational Licensing
Component Financial Summary

All dollars in thousands

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	3,325.6	3,556.3	3,711.1
72000 Travel	235.0	292.4	292.4
73000 Contractual	1,865.2	2,532.0	2,708.8
74000 Supplies	64.7	75.2	75.2
75000 Equipment	38.5	75.6	75.6
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	5,529.0	6,531.5	6,863.1
Funding Sources:			
1005 General Fund/Program Receipts	5,357.8	527.4	545.0
1007 Inter-Agency Receipts	124.2	200.3	141.0
1040 Real Estate Surety Fund	47.0	273.5	273.8
1053 Investment Loss Trust Fund	0.0	75.9	0.0
1108 Statutory Designated Program Receipts	0.0	7.8	0.0
1156 Receipt Supported Services	0.0	5,446.6	5,903.3
Funding Totals	5,529.0	6,531.5	6,863.1

Estimated Revenue Collections

Description	Master Revenue Account	FY2000 Actuals	FY2001 Authorized	FY2001 Cash Estimate	FY2002 Governor	FY2003 Forecast
Unrestricted Revenues						
General Fund Program Receipts	51060	882.7	0.0	0.0	0.0	0.0
Unrestricted Fund	68515	0.0	1,487.7	1,487.7	1,562.5	1,803.1
Unrestricted Total		882.7	1,487.7	1,487.7	1,562.5	1,803.1
Restricted Revenues						
Interagency Receipts	51015	124.2	200.3	195.8	141.0	141.0
General Fund Program Receipts	51060	5,357.8	527.4	527.4	545.0	545.0
Statutory Designated Program Receipts	51063	0.0	7.8	7.8	0.0	0.0
Receipt Supported Services	51073	0.0	5,446.6	5,446.6	5,903.3	5,903.3
Real Estate Surety Fund	51360	47.0	273.5	270.6	273.8	273.8
Investment Loss Trust Fund	51393	0.0	75.9	75.9	0.0	0.0
Restricted Total		5,529.0	6,531.5	6,524.1	6,863.1	6,863.1
Total Estimated Revenues		6,411.7	8,019.2	8,011.8	8,425.6	8,666.2

Occupational Licensing

Proposed Changes in Levels of Service for FY2002

- DCED hearing officer funding source change -- Prior to FY00, the DCED hearing examiner conducted hearings for several divisions within the department. The Division of Occupational Licensing received interagency receipts from other divisions for hearing services. The volume of occupational licensing hearing work has required dedication of the hearing examiner exclusively to the Division of Occupational Licensing. A funding source change from interagency receipts to receipt supported services is requested to reflect the hearing examiner's current 100% funding from occupational license fees. The funding source change would be consistent with the statutory requirement that the fees from each occupation cover the cost of regulating the occupation.
- Specific Board Requests -- The State Medical Board requests additional licensing staff to speed processing of physician and physician assistant license applications. Alaska hospitals and doctors have requested quicker processing and more frequent communication during application review. The division believes this goal can best be achieved with an administrative clerk II in Anchorage and a medical licensing examiner in Juneau. The medical and nursing programs would share the clerk.
- The Board of Nursing requests additional staff to speed licensing of nurses and nurse aides. Alaska has over 8,000 nurses and over 2,000 certified nurse aides. These numbers have grown substantially over the past decade and continue to rise, straining the existing staff's ability to respond. There is a great deal of mobility in the nursing profession, and health care facilities need to be able to put new nurses and nurse aides to work immediately. The division believes the addition of an administrative clerk II in Anchorage shared by the medical and nursing programs would improve service to the public.
- The Board of Registration of Architects, Engineers and Land Surveyors requests a licensing examiner to speed licensing, improve administration of examinations, and free the board administrator to handle more complex tasks. The board is responsible for 5,000 licensed design professionals and a single licensing examiner is no longer sufficient to meet board and applicant needs.
- Department of Law Rate Increases -- The FY01 budget bill authorized the division to RSA Law \$614.0 for the services of four attorneys and a part-time paralegal. The Department Law has since updated its billing rate, as required by the federal government. The FY01 rate for attorney work has increased 2.84% from what was charged in FY00. The FY 02 rate will increase another 2.57%. The overall increase from FY 00 to FY 02 will be 5.49%. An increment is requested to allow the division to receive the same level of legal services in the face of rising hourly rates.
- Increments for the Divisions of Insurance, Occupational Licensing, and Banking, Securities, & Corporations are requested to cover rent expenses in FY02. An increment for the DCED State Facilities Rent Component is requested to receive the rent payments, in the form of interagency receipts. General funds, in the amount of FY01 rental rates paid by the 3 divisions, are transferred to the Department of Administration.

As required by AS 08.01.065(c), all Occupational Licensing increments would be funded with license fees through receipt supported services.

Summary of Component Budget Changes

From FY2001 Authorized to FY2002 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2001 Authorized	603.3	0.0	5,928.2	6,531.5
Adjustments which get you to start of year:				
-Update Executive Administration and Support Cost Allocation Plan	6.2	0.0	71.8	78.0

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
Adjustments which will continue current level of service:				
-Convert Special FY2001 Labor Cost Fund Sources to Rcpt Svcs and GF/PR	-69.4	0.0	69.4	0.0
-Year 2 Labor Costs - Net Change from Fy 2001	4.9	0.0	31.9	36.8
Proposed budget increases:				
-Specific Board Requests	0.0	0.0	118.0	118.0
-Dept of Law rate increase	0.0	0.0	30.0	30.0
-State Facilities Rent	0.0	0.0	68.8	68.8
FY2002 Governor	545.0	0.0	6,318.1	6,863.1

Occupational Licensing
Personal Services Information

Authorized Positions			Personal Services Costs	
	FY2001 Authorized	FY2002 Governor		
Full-time	65	70	Annual Salaries	2,856,850
Part-time	3	1	COLA	42,372
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	1,034,946
			<i>Less 5.67% Vacancy Factor</i>	<i>(223,068)</i>
			Lump Sum Premium Pay	0
Totals	68	71	Total Personal Services	3,711,100

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Accounting Clerk I	0	0	1	0	1
Accounting Tech II	0	0	1	0	1
Administrative Assistant	1	0	0	0	1
Administrative Clerk I	0	0	2	0	2
Administrative Clerk II	5	0	3	0	8
Administrative Clerk III	1	1	4	0	6
Administrative Coordinator	0	0	1	0	1
Administrative Manager II	0	0	1	0	1
Analyst/Programmer II	0	0	1	0	1
Analyst/Programmer IV	0	0	1	0	1
Division Director	0	0	1	0	1
Exec Sec Bd Of Nursing	1	0	0	0	1
Exec Sec State Med Bd	1	0	0	0	1
Exec Secretary Rec	1	0	0	0	1
Hearing Examiner	1	0	0	0	1
Investigator III	13	0	0	0	13
Investigator IV	1	0	0	0	1
Legal Secretary I	2	0	0	0	2
Licensing Examiner	0	0	1	0	1
Marine Pilot Coord	0	0	1	0	1
Medical Licensing Examiner	0	0	1	0	1
Nurse III	1	0	0	0	1
Occ Lic Exam I	1	0	15	0	16
Paralegal Asst I	0	0	1	0	1
Prog Coordinator	0	0	1	0	1
Publications Spec II	1	0	0	0	1
Records & Licensing Spvr	0	0	2	0	2
Regulations Spec II	0	0	1	0	1
Secretary	0	0	1	0	1
Totals	30	1	40	0	71