

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND
LAND SURVEYORS

MINUTES OF THE MEETING
April 14, 2021

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Registration for Architects, Engineers and Land Surveyors was held on Wednesday, April 14th – Video conference hosted from Conference Room C, 9th Floor, State Office Building, 333 Willoughby Avenue, Juneau, AK.

1. Call to Order/Roll Call

The meeting was called to order at 2:00pm.

Board members present, constituting a quorum:

Jennifer Anderson, PE, Civil Engineer, Environmental Engineer
Bob Bell, PE, Civil Engineer and PS, Land Surveyor
Catherine Fritz, Architect
Jeff Garness, PE, Environmental Engineer
Elizabeth Johnston, PE, Electrical Engineer, Fire Protection Engineer
Loren Leman, PE, Civil Engineer
Edward Leonetti, Landscape Architect
Bruce Magyar, Public Member
Jake Maxwell, PS Land Surveyor
Randall Rozier, Architect
Fred Wallis, PE Mining Engineer

Attending from the Division of Corporations, Business, and Professional Licensing were:

Sara Neal, Licensing Examiner
Sara Chambers, Division Director*

*Attended portions of the meeting

The following members of the public attended portions of the meeting:

Barbara Cash – Founding Member American Society of Interior Designers-Alaska Chapter (FASID)
Joey Bosworth – Staff, Office of Rep. Claman
Paul Baril – AIA Alaska State Government Rep.

2. Review / Approve Agenda

Chair Johnston asked if there were any objections to approving the agenda. Hearing none, the agenda was accepted unanimously.

3. Chair Remarks / Disclosures

Chair Johnston reminded all board members of the open meetings act which requires the board to work under scrutiny of the public who they are here to protect. Outside of official board meetings, if a board member needs to send an email to the whole board, he or she needs to send it to a staff member who will then send it to everyone on the member's behalf. If there is a committee that involves multiple board members, AELS will public notice the meeting in following the Open Meetings Act.

Johnston also reminded the board that the Ethics Act of Alaska requires members of boards and commissions to disclose any matter that is a potential conflict of interest with actions that the member may take when serving on a board or commission, any circumstance that may result in a violation of ethics act and any personal or financial interest in a state grant, contract or lease that is awarded or administered by the members of the board or commission and the receipt of certain gifts. The AELS Board errs on the side of transparency and discloses.

Johnston then disclosed that she contacted AIA, APDC and the Interior Design Professionals to let them know that this board meeting on HB61 was happening. Fritz disclosed that since the board's last meeting in February of 2021 she had participated in APDC meetings regarding their legislative agenda for the year which included discussions with representatives and senators. Fritz has spoken via email with AIA specifically about HB61. She has no personal conflict, nor any financial interests in either APDC or AIA.

Bell disclosed that he had contacted the corps of engineers to discuss licensing of interior designers with regards to their requirements.

Leman disclosed that he had submitted a brief testimony on HB61 to the legislature and had sent Johnston a letter disclosing this information. He has no financial interest in it.

Garness disclosed that he had had a conversation with Barbara Cash.

Maxwell disclosed that he sits on the APDC board and has no financial interest in this.

4. Types of Professional Licenses – Director Sara Chambers

In Alaska, there are several ways to say licensure – permit, registration, license, etc. According to Alaska state law AS 08.01.110 – Centralized Statutes – definition is that “license means a business license or a license, certificate, permit, or registration or similar evidence of authority issued for an occupation by the department or by one of its boards listed in AS 08 01-110 which would include AELS. Within these boards, these terms are used interchangeably. The AELS board is a board of registration, however registrants are licensees because of the context of the AELS statutes.

Leonetti asked what question Chambers was trying to clarify to which Fritz responded since she had suggested the discussion regarding types of professional licenses. Fritz thought that it would be helpful for the board to understand the difference between practice to act in a title act and the various categories of licensing that happens in Alaska as well as the difference of registration versus certification. Fritz wanted to hear of all the opportunities that the state has to offer that would address

the interior designers concerns and that it does not just have to hone in on the AELS board. She wanted to hear if there are other avenues for the interior designers to achieve the desire of some kind of recognition.

Chambers offered to speak to the issue of practice act versus title protection act. Practice protection means that the practice of the profession, i.e. the activity of engineering, the activity of architecture, the activity of commercial interior design, would be protected. No one could practice those things without being granted permission from this board. The AELS board has a practice Protection Act. A Title Protection Act, which could also be included with a Practice Protection Act or could also be separate just protects the use of a title. For example, the professional counselors' statutes state that someone cannot use the title professional counselor unless they are licensed by the Board of professional counselors. However, their statutes do not restrict the practice of counseling to a licensee. Many state licensing programs have an element of both; that people need to get a license, or be registered, or certified, or permitted in order to call themselves X or to do whatever an x does in the state, as defined in statute and regulation.

As the state considers helping commercial interior designers, one possibility to consider, Chambers suggested is the idea of an exemption to practice their profession. Rather than to have to grant an affirmative permit or an affirmative license or registration, an exemption is given. With an exemption, no affirmative action would be needed, no forms, no view, and no fees. For example, commercial interior designers who hold an NCIDQ certification would be able to practice possibly things that are currently restricted to architects and engineers if they are within the scope of education of the interior design professionals. That would address the practical issue of interior design professionals wanting to practice the things that they have been trained to do. However, that does not address the elevation of the profession through licensure and the benefits that offers when trying to gain reciprocity in another state. That added value though does not fit into the current administration which would grant licensure for public protection. An exemption would make sure that people are practicing safely without having the burden of the licensing scheme.

Johnston thanked Chambers for speaking to this matter. Chambers left the meeting

5. Discussion on Board's position on HB61

Johnston drew everyone's attention to the document that had been sent to the AELS board that included all prior board minutes where HB61 was discussed, position statements from APDC and AIA and the actual HB61 bill. Johnston pointed out that Joey Bosworth, who is a staff person from Representative Claman's office, is attending telephonically and could answer any questions the AELS board might have regarding the bill. Johnston asked if anyone had any initial questions before the Legislative Liaison Committee shared.

Leonetti questioned whether AELS would advise the legislation or take a position statement on legislation. He asked if AELS is being asked to take a position. Johnston replied that the AELS board will make a statement on a bill that affects AELS with regards to how it would affect the AELS licensees and whether it would help AELS fulfill its mission statement. Since AELS has been invited to speak to this bill, Johnston thought it important to see what points the AELS board can agree upon with regards to HB61 and to delegate a member of the board to speak at hearings having to do with HB61.

Fritz pointed out that there is nothing in the board's by-laws that would prohibit them from taking a position on a bill. If the board wanted to, it could vote on whether or not it supports a bill. However, what the legislature does with the action AELS makes, is not under AELS' control.

Magyar asked if AELS had a formal membership application and requirements for the interior design professionals that wanted to sit on the board. He also thought a comprehensive survey should be done before making a decision. Research should be done to see which states have memberships for interior designers and which do not and to also find out why states have dropped membership. Magyar also wanted to know what Interior Designers would contribute to the AELS board. He also feels like this is not a good time to be adding another discipline to the board as it is currently without an administrator.

Leman shared that his main concerns were first, adding to the already lengthy board name, second, adding an interior designer initially to the board rather than through a probationary period for a group of 20 people or less as well as the change of the make-up of the board, and third, the costs to the other registrants due to registering a whole new group of people and writing the new regulations.

Johnston summarized Leman's points of concern by saying that, firstly, the proposed name of "Board of Registration for Architects, Engineers, Land Surveyors, Landscape Architects, and Commercial Interior Designers" will be too long of a board name. The second concern has two components about Board composition: the first is changing the "electrical or mechanical seat" to "electrical and mechanical seats" (net gain of one seat) and the second is the initial provision of an interior designer's seat for a rather small number of registrants (gain of an additional seat). Johnston did not summarize the third concern, which was self-explanatory. The desire for board composition would actually be that instead of a commercial interior designer seat the AELS board should be allowed to name one engineer from any branch of engineering. In the future, a commercial interior designer (CID) could be given a seat on the board.

Leman agreed with Johnston and clarified that the commercial interior designer could be given a seat on the board after a probationary period, similar to how landscape architects were handled when they first became registered. Or an interior designer might be selected by a Governor from the category of "other disciplines.". Johnston then asked Leman if he did not support the proposed addition of dedicated seats for electrical and mechanical engineers. He responded by saying he did not have particular concern about that, because of the large number of electrical and mechanical registrants in Alaska, other than the challenge of adding another member to the Board. Additionally, he wondered if that really is necessary to represent those disciplines better on the Board, because he, as a civil engineer, has reviewed primarily electrical and mechanical applications during his first year on the Board (paired with Johnston), and that has worked okay. Leman also voiced his concerns about the conflict between professions given that there is an overlap between architects and CIDs. Johnston replied that the board has dealt with overlap of professions before when it added the discipline of fire protection engineers. If the CIDs become licensed the Board would ensure that their practice is well defined.

Leman proposed that an easier approach might be to go with a title act initially and then morph into a practice act. However, he did say that he has recently learned that the CIDs have invested many years

into the effort to get registered in Alaska and acknowledged that CIDs he is familiar with have tremendous skills that contribute to the design profession. Johnston pointed out the AELS board's mission statement which says that it is the board's responsibility to ensure that those entering these practices would meet minimum standards of competency and maintain standards during their practice. If the AELS board is going to license a new profession, it would need to agree in a fair manner that the licensees' examinations, experience and education meet a minimum standard of competency. If the AELS board thinks that there is a public health, safety and welfare reason to regulate the practice of commercial interior design, then the board would want to support CIDs becoming licensed. Johnston then asked Barbara Cash to address the issue of practice act versus title act and what CIDs would not be able to do under a title act that they would be able to do under a practice act.

Cash said that when ASID had compared the title act to a practice act they found that the under a title act there is a lack of ability to regulate the practitioners and the scope of practice. There is little ability to protect public life and safety if the state is not registering and regulating. Registering individual based on their competency and regulating a defined scope of practice is what ASID thinks is the best way for Alaska to protect the public.

Fritz asked Cash why this licensure movement went from requesting a title act to a practice act. Fritz pointed out that there are only two states and Washington D.C. that have practice acts. Based on research Fritz had done she found that there are 18 states who have voluntary certification programs and 20 states with no regulation of interior design. In the 18 states that have voluntary certification programs, they have definitions of interior design that focused on public health, safety and welfare. Fritz asked Cash to explain why ASID thinks that a practice act is the only way to protect public health, safety and welfare.

Cash responded first by saying that the licensure movement had never been for a title act. She clarified that through a petition ASID clarified that it would be a mandatory registration and not a voluntary registration. Cash further explained that ASID thought that a practice act would be the clearest and most succinct and most effective way would be to stay with a registration with a regulated scope of practice. CIDs protect public safety within commercial buildings of public occupancy which fits extremely well within the mission of the AELS board.

Johnston read the scope of practice #24 C-E, as defined in HB 61 which was found in Section 32 of the bill:

“ **Sec. 32.** AS 08.48.341 is amended by adding new paragraphs to read:

(24) "commercial interior design" means a professional service or creative work for a building the primary use of which is public occupancy, involving

(A) analysis, research, planning, and design of the interior spaces of a building for the purpose of enhancing and protecting the health, safety, and welfare of the public by preparation of interior drawings, specifications, or other technical submissions and administration of nonstructural interior construction;

(B) design and specification of code-compliant interior finishes, furnishings, fixtures, or equipment;

- (C) design or modification of existing nonstructural interior partitions, doors, suspended ceiling systems, or constructed ceiling elements;
- (D) design or modification of existing internal circulation systems or number and configuration of exits for suite occupant load; or
- (E) review, analysis, and evaluation of building codes, accessibility standards, or guidelines for interior planning, design, and nonbearing construction compliance;

Leman pointed out that the definition creates the opportunity for conflict between professions. He pointed out that civil and structural engineers could do some of what is in the scope of practice and architects could most likely do nearly all of it.

Fritz stated she was concerned that this definition is not consistent with the other definitions in the current AELS statutes and asked that the sponsor please look at how architecture and engineering are defined and try to get a definition that is consistent with current AELS statutes. Fritz pointed out that the work “commercial” is problematic in that in the AELS statutes it does not matter if it is commercial, industrial, or non-commercial, if it needs to be regulated for health, safety and welfare, it needs to be regulated. There are exemptions that take out things that are of minor importance.

Furthermore, Fritz said that by making this a practice act it will require all interior designers to get a license. The people who are practicing interior design who are not licensed will be in violation. She encouraged legislature to look in the public domain to see who is already out there practicing interior design to see how they feel about having to get licensed to run their business should this bill get passed. Fritz also shared that this legislation would require the state of Alaska and municipalities to now have interior designers solicited in requests for proposal for new work or for work for themselves. Fritz wants the AELS board to inform the parties that will be affected by this legislation ensuring they know the ramifications of it.

Fritz encouraged the sponsor to cut back the definition by saying “we do not mean these things. We only mean those things.” Fritz said it is helpful to look at how other states are defining it. Johnston clarified Fritz’ point by saying that Fritz would like to see non health, safety and welfare portions of the definition of the practice be removed, so that they are not required. Fritz confirmed that that was correct. Fritz said that she still has not heard the need for this legislation. What is the current health, safety, welfare or harm or hazard that makes registration of interior designers necessary.

Leonetti pointed out that the meeting is approaching the end time of 3pm to which Johnston said the meeting could continue until 4pm if it did not lose a quorum. Leonetti shared that he had worked adjacent to and directed interior designers and recognizes that there is a difference between architects and interior designers. Leonetti encouraged the AELS board to think about this legislation within its context. The legislation is speaking to commercial interior designers that are working on commercial buildings. Much work done inside offices and homes is not advertised and commercial remodels inside of an office is not under the purview of this

legislation. Leonetti did share the concern of the size of the board, but felt it could be worked through. He does support having a mechanical engineer and an electrical engineer independently of each other on the board. He thinks the definition spelled out in the bill is well defined, but could use improvement. He does not see that there is anything in this legislation that would prohibit architects from continuing to do what they are currently doing. This legislation will capture those people that are out there that should not be doing interior design that are inadvertently doing interior design, and putting the health and welfare of the public at risk.

Garness began by saying that he does not completely know the scope of the profession of interior designers however as he looked at the definition he does not see how the definition differs from architecture. He wants to ensure that the bill is not coming up with a solution to a non-problem. To what extent does the AELS board want to create new regulation and new burdens for people moving into this profession. Garness pointed out that some have been doing the practice of interior design for 35 years and Garness would like to know the carnage they have done that would make this legislation needed.

Rozier would like to see other states' definitions of the scope of practice for interior designers. He agrees with Leonetti in that it is going to capture people doing something that they are not supposed to do which will put a heavier workload on the investigator. Rozier does recommend that AELS request that the definition gets cleaned up. It has redundancies and has too much ambiguity in the definition of what a commercial interior designer is. Rozier also brought up the point of municipality issues where certain municipalities require stamps and some do not require stamps from licensed practitioners. Plans have been approved that were not stamped that did impact the health, safety and welfare. This problem will be a possibility and a probability as this moves forward.

Anderson and Maxell both stated that their comments and concerns have already been voiced. Wallis passed on commenting on HB61.

Johnston said that she believes that anyone who is qualified by virtue of their experience education and examination should be allowed to practice their profession in our state. If the AELS board believes that the practice of interior design includes health safety welfare elements such as in Fritz's example, where the State wants to move around its cubicles. Perhaps an interior designer is appropriate so the state does not block the exiting. Because a person can do something is enough of a reason to allow them to do so. Just because architects are excellent at something does not mean they are the only ones who know how to do something. Health safety and welfare is where the focus of the Board should be. Johnston totally agrees that anything within a scope of practice should be confined to that area and the board should not be regulating things that have no impact to health, safety, and welfare.

Johnston believes the board could adapt to growing from an 11 to a 13 member board. She would like to see a mechanical engineer seat on the board. She agreed that the name of the board proposed in the bill is cumbersome and should the bill be enacted the name would need to be shortened.

Johnston proposed that AELS vote on a delegate to send to the HB 61 meeting on Monday, April 19th, 2021 at 3:15pm. She expressed appreciation to the board members for taking the time to discuss this matter.

Bell said he is concerned about expanding the board to include an interior designer when structural engineers do not have a seat on the board. He pointed out that there are 3000 civil engineers yet there are just two civil seats on the board. He wondered why there would be a seat for an interior designer when there would only be 20 to 30 of them.

In talking about the makeup of the board, Fritz thought that the recommendation in the bill to add a mechanical seat was short sighted. The mechanical and electrical issue have nothing to do with interior design and should not be part of this bill. Fritz agrees with Lemman in that if the bill passes interior designers should have an advisory capacity.

Garness asked about the possibility of building a sunset clause in to the bill in the event that the bill passed and two to three years from now it was found to not be working. Johnston replied that the board itself goes through a sunset review and if the interior designers would be part of that should they become licensed. Fritz pointed out that it would be possible to write in a sunset clause if they wanted it on a different timeline than the board's sunset clause.

At 3:15pm, Leonetti left the meeting

Johnston inquired of the board if they wanted to speak share the points it agreed upon regarding HB61 during the 4/19/2021 legislative hearing to which the board responded that it did. However, Fritz pointed out that there had been no motion so there is technically no position of agreement at this time. Fritz suggested that the AELS board express its concerns with a goal of trying to find a workable solution for the interior designers' request as well as address the board's concerns. During the hearing, AELS should state that it is looking into this and then have the Legislative Liaison Committee research other states regulations and report back its findings before the end of session or before the bill passes.

Johnston asked Fritz if it would be true to say the board is neutral on the bill to which Fritz responded with no. Fritz pointed out that everyone had expressed concern about some aspect of the bill which proves that the AELS board believes that the bill needs work.

6. Vote on AELS Board Delegate to Speak in Legislative Hearings

Garness thought Fritz, because she is an architect and knows more about the interior designer profession than anyone else on the board, would be the best choice on the board. Johnston pointed out that there could be a perceived conflict of interest so it might be better if the spokesperson be someone other than an architect. Fritz responded that if she was voted on to be the AELS delegate she would not represent anything from the board in a way that was not appropriate.

Lemman made a motion to nominate Johnston as the board delegate to speak at the hearing for HB61 however no one seconded the motion so it was not voted on.

On a Motion duly made by Jeff Garness, seconded by Bob Bell it was RESOLVED to nominate Catherine Fritz to speak on behalf of the AELS Board at the hearing for HB 61 on Monday, 4/19/2021.

The motion was amended to say:

On a Motion duly made by Jeff Garness, seconded by Bob Bell it was RESOLVED to nominate Catherine Fritz and Elizabeth Johnston to speak on behalf of the AELS Board at the hearing for HB 61 on Monday, 4/19/2021

The motion was amended a second time to say the following:

On a Motion duly made by Jeff Garness, seconded by Bob Bell and approved unanimously through a roll call vote it was RESOLVED to nominate Catherine Fritz and Elizabeth Johnston to speak on behalf of the AELS Board at all legislative hearings regarding HB61.

Fritz let Johnston know that a member of the public had their hand up to speak. Johnston invited Paul Baril to speak. Baril introduced himself as the AIA state government representative for Alaska and is speaking on behalf of the 200 architects in Alaska. He informed the board that if the AELS board has any questions regarding the AIA position statement that was included in the board packets that he would be happy to answer those questions. Johnston thanked Baril for his commitment to the profession.

Chair Johnston thanked everyone for their time and expressed appreciation for all those willing to help.

The meeting adjourned at 3:35 p.m.

Respectfully submitted



Sara J Neal, Licensing Examiner

Approved:



Elizabeth Johnston, Chair
Alaska Board of Registration for Architects,
Engineers, and Land Surveyors

Date: 06/15/2021