

Senate State and Local Government
February 6, 2025

Testimony of the State Board of Law Examiners
SENATE BILL NO. 2308

Chair Roers and members of the Committee, I am Petra Hulm, Secretary-Treasurer of the State Board of Law Examiners, appearing on behalf of the State Board of Law Examiners in opposition to Senate Bill 2308.

The State Board of Law Examiners opposes the bill inasmuch as it includes the Board of Law Examiners. The Board requests the definition of "board" remain as currently enacted or remove the State Board of Law Examiners.

The State Board of Law Examiners is not an executive branch board under Title 43. The power to regulate attorneys lies with the Judicial Branch in the North Dakota constitution in Article VI, Section 3. The Board of Law Examiners has limited statutes in N.D.C.C. Chapters 27-11, 13 and 14. The Board believes this important work should be done by the Judicial Branch and the State Board of Law Examiners, and not the Legislative Branch or the Executive Branch.

As was recognized when these statutes and constitutional provisions were enacted, the practice of law is a matter of vital interest to the general public, because lawyers are engaged in the preservation and protection of fundamental liberties of the people. Because of that vital interest, these responsibilities are taken seriously by the Court and the Board.

The Board of Law Examiners has substantial oversight and support. The Bar Board, now known as the State Board of Law Examiners, was established in 1919. The practice of law and the Board of Law Examiners has been managed and governed by the Judicial Branch since its inception. The Board has valuable input and oversight from the leaders of the Judicial Branch. The Justices have the ultimate authority to admit attorneys and to make the rules governing the practice of law. The Clerk of the Supreme Court is the administrator for the Board's office.

The Board of Law Examiners is operating successfully. The Board of Law Examiners demonstrated in the study done by the Labor Commissioner in 2023-2024, that it operates timely and effectively. The Board timely renewed more than 3,000 licenses in 2024 and admitted 119 new attorneys in 2024.

The Board of Law Examiners and the Supreme Court continually evaluates the practice of law and ways to increase access to legal services. North Dakota is known nationally in the attorney admission and licensing area as being progressive in removing unnecessary barriers for people to apply and become admitted and licensed to practice law, while still maintaining protection of the public. The Supreme Court has a task force looking in detail at lawyers coming to and staying in North Dakota, as well as alternatives to providing legal services to the public. One current exploration is allied legal professionals. An allied legal professional allows specially-trained non-lawyers to offer legal assistance in certain areas of the law.

The Board of Law Examiners continually evaluates ways to encourage workforce development while protecting the public. The Board has removed barriers in the following ways:

- ND gives a portable exam. The Board began giving a national uniform multiple-choice exam in 1976. It began using the uniform essay and multiple-choice exam, known today as the UBE, in 1997. ND was the second state in the nation to officially adopt the UBE and the first state to administer the UBE. Forty-one jurisdictions have adopted the UBE, which allows licensure in ND to those with a qualifying score. The Supreme Court has adopted the NextGen bar examination starting in 2027. Presently, 32 jurisdictions have announced the intent to use the NextGen bar examination.
- ND has set the threshold for admission based solely on a UBE score at 260 - the lowest score of all jurisdictions.
- ND allows admission by a score related to the multiple-choice portion of the exam – the Multistate Bar Exam – if admitted where that exam was taken. This brings additional portability from jurisdictions that have not adopted the UBE.
- ND allows a 6-month temporary license to applicants while applications for admission are pending completion of a character and fitness investigation.
- ND allows practice by law students who have completed two semesters of education and law school graduates prior to admission.
- ND allows licensing and practice of foreign legal consultants without examination.
- ND allows practice without examination by volunteers with approved legal services organizations.

- ND provided for practice following a major disaster such as occurred in 1997 in Grand Forks.
- ND has provided for Military Spouse Certification since 2016.

The Board respectfully believes this legislation is duplicative of other bills pending – such as SB 2395 and HB 1442.

If this legislation goes forward, equal representation should be included. It does not appear the Judicial Branch is included, though the Executive Branch and Legislative Branch are included. It also does not offer representation by boards.

Finally, the Board notes that the admission and licensing of attorneys is a confidential process. Under Court rule and the opinion of the Attorney General, the records of the Board are not subject to open records. Therefore, if this bill should pass as written, any information provided would be limited in scope so as to not violate that confidentiality.

We respectfully ask the committee to recommend the definition of “board” remain as currently enacted or remove the State Board of Law Examiners.