

SENATE WORKFORCE DEVELOPMENT COMMITTEE
SENATOR MIKE WOBBEMA, CHAIRMAN

TESTIMONY PRESENTED BY

MICHAEL HOWE, SECRETARY OF STATE

Chairman Wobbema and members of the committee, I'm Michael Howe, North Dakota Secretary of State. I'm here to provide neutral testimony for SB 2395 and to request an amendment as I believe this bill has unintended impacts to our agency.

SB 2395 seeks to create a new chapter of NDCC Title 43. Three of the occupations included under this title—contractors (NDCC ch. 43-07), home inspectors (NDCC ch. 43-54), and professional employer organizations (NDCC ch. 43-55) – are licensed by our office. These licenses do not have a review board process or continuing education requirements that must be met to be licensed in the state. Home inspectors are required to pass an exam, but that is only on initial application, and we do not administer the exam. If SB2395 is passed without amendment, the requirements in this bill would impact the way these three occupations are licensed by our office.

The definition of “board” on page 1, starting on line 13 appears to include the Office of the Secretary of State in the statement “... or other agency of state government created or identified in this title ...” We believe a small amendment to the bill would exclude the licenses handled by our office that don't have greater review processes or occupational requirements. These licenses are very different from the requirements needed for other occupations under this title.

PROPOSED AMENDMENT TO SB2395

Page 1, Line 14, insert “excluding the secretary of state,” after the word title.

“Board” means a board, commission, or other agency of state government, excluding the secretary of state, created or identified in this title to regulate a particular occupation or profession, the education standards and practices board, and the state board of law examiners.

IMPACTS IF NOT AMENDED:

Outlined below are the specific changes within the bill that would affect our office.

Page 2, Lines 11 and 12, 13 and 14

“...a board shall issue a license to an out-of-state licensee applicant to practice in this state if, upon application to the board, the applicant...Actively has used the license for two of the three years immediately preceding submitting an application under this section.”

- Is this an additional requirement that out-of-state applicants must be licensed in the other state for two of the three years? Or is this an alternative method for licensure? This would potentially require changes to our license applications and procedures.

Page 2, 21 and 22

“Has not been disciplined in any jurisdiction in which the individual has held a license within the last ten years”

- Is this an additional requirement that must be asked of out-of-state applicants? This would potentially require changes to our license applications and procedures.

Page 2, 23 and 24

“Is not under investigation by another licensing authority or law enforcement authority in a state, federal, or foreign jurisdiction”

- Is this an additional requirement that must be asked of out-of-state applicants? This would potentially require changes to our license applications and procedures. We currently ask similar questions, but may need to add some or change them and then also not allow an application to be processed if there is a pending investigation even if it is something that we would normally approve (e.g., DUI) if this means that we cannot issue if there is something pending.

Page 2, Lines 30 and 31

“A board shall issue a license within seven business days to an individual who submits a complete, unencumbered, routine application.”

- It is likely that we would be able to issue within the seven business days, but this would put a requirement on that.

Page 3, Line 9

“The licensing application form must be made available electronically.”

- If a fillable PDF form accessible from our website is acceptable, then this would not be an issue. If more than this is needed, changes would be needed for PEOs and home inspectors.

Page 3, Lines 15 – 19

“By July thirty-first of each year, on forms developed by the department of labor and human rights, each board shall report to the labor commissioner data on the number of licenses granted, number of licenses denied, number of licenses that were not issued within the seven-day timeline, and reason for the delay for licenses issued after the seven-day timeline.”

- This would be a new data that would need to be tracked by our office. We would need to track the number issued, number denied, and number not issued within seven business days (including the reason for the delay).

Page 3, Lines 20 – 27

“Unless already a member of an effective interstate compact, a board shall annually review available interstate compacts in professions it regulates to determine whether joining the interstate compact would be in the best interest of the profession and state, giving consideration to workforce shortages and evolving trends in occupation licensure and technology. The review must be noted clearly in the board's agenda and meeting minutes and the board must provide the labor commissioner with a copy of the considered compact and the board's reason for determining that entering the interstate compact was not in the best interests of the profession.”

- This would require that we conduct an annual review of interstate compacts to determine whether we should join. It mentions the review being “noted clearly in the board's agenda and meeting minutes.” We do not have board meetings.

Page 4, Lines 11 – 13

“Biennially, each board under title 43 shall consider options to provide limited licensing to an individual with relevant experience who has not previously held an equivalent license of the type issued by the board.”

- This would require that biennially, we consider options for limited licensing under certain circumstances.