

House Industry, Business and Labor
March 19, 2025

Testimony of the State Board of Law Examiners
SENATE BILL NO. 2395

Chair Warrey and members of the Committee, I am Petra Mandigo Hulm, appearing on behalf of the State Board of Law Examiners in opposition to Senate Bill 2395. I am Secretary-Treasurer of the Board.

The State Board of Law Examiners opposes the bill as amended. The board appreciates the amendments made by Senator Hogue in the Senate to allow the Board to continue to do its full character and fitness evaluation. However, the Board opposes its inclusion in this bill. The Board believes licensure of attorneys should continue to be regulated by the Supreme Court.

I have attached proposed amendments to remove the Board of Law Examiners.

The admission of attorneys lies with the Supreme Court under the North Dakota Constitution Article VI, Section 3. The State Board of Law Examiners is not an executive branch Board under Title 43. The members are appointed by the Supreme Court, and it is the Supreme Court that admits attorneys to the bar pursuant to the Board's recommendation. As was recognized when the constitution was 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.

The Board believes this important work should be done, as it always has been, by the Judicial Branch and the State Board of Law Examiners, and not the Legislative Branch or the Executive Branch. The Supreme Court should retain its role promulgating the rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law, as provided for in the North Dakota Constitution.

There has been no convincing reason provided to now, after more than 100 years, enact legislation regulating attorney admission rather than adhere to the thorough and effective process developed by the Supreme Court. A comment was made in the Senate committee that maybe it is time for the legislature to get involved. Why and why in this way? The Board has shown in two studies that it operates timely and effectively. The bar association responded that it is happy with the Board's performance. There is no problem to rectify here. There is no reason for legislation and it creates confusion and conflict with pending rules.

The proposed bill addresses admission based on years of practice. However, there are a number of other ways an out-of-state attorney can be admitted. The admission to practice rules address these. Having a small set of currently conflicting statutes in addition to the rules will cause confusion. The Supreme Court has a process to amend rules and that process could be used to propose changes. To date, the Court has been responsive addressing concerns, and there is no indication it would not continue to be.

We understand this bill has a workforce development goal. The Supreme Court, the State Board of Law Examiners and the State Bar Association have undertaken significant efforts to attract out of state attorneys to come to North Dakota. The Supreme Court recently amended its rules to extend the time a bar examination score can be transferred and to reduce the number of continuing education hours required for licensure. The Court also developed the Rural Attorney Recruitment Program. Finally, the Court has a task force evaluating alternatives to providing legal services to the public. It requested funding to develop allied legal professionals who would be allowed to offer limited legal assistance to the public without a license to practice law. Your concerns have been heard and the Board and the Court have acted on them. Allow the Supreme Court to continue doing its good work.