

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 63, L.D. 125, Bill, "An Act to Prohibit the Board of Land Surveyors from Enacting Continuing Education Rules"

Amend the bill by inserting before the statement of fact the following:

'Sec. 2. Study.

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Board" means the Board of Licensure for Professional Land Surveyors.

B. "Commissioner" means the Commissioner of Professional and Financial Regulation.

C. "Committee" means the Committee to Study Continuing Education for Land Surveyors.

D. "Department" means the Department of Professional and Financial Regulation.

2. Committee appointed. The commissioner shall, within 15 days of the effective date of this Act, appoint the Committee to Study Continuing Education for Land Surveyors to consist of 6 licensed professional land surveyors and the commissioner or the commissioner's designated representative who, if not a member of the department, must be a public member as defined in the Maine Revised Statutes, Title 5, section 12004-A. The 6 licensed members must include 2 persons who favor the current board rule regarding continuing education, 2 who favor no continuing education requirement and 2 who favor a continuing education

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requirement other than that in board rules. Prior to making these appointments, the commissioner shall review the letters submitted to the board in conjunction with the adoption of the continuing education rules.

The commissioner or the commissioner's designee shall act as chair of the committee and shall call the first meeting for no later than 30 days after the effective date of this Act.

This committee shall prepare recommendations as to whether continuing education should be a requirement for relicensure as a surveyor and, if so, what the specifics of the requirement should be.

3. Subjects. The committee shall include responses to the following questions in its report.

A. Are there currently any things related to the competence of surveyors practicing in this State that represent a threat to the safety or welfare of the citizens of Maine?

B. Which, if any, of the following would result in lessening the threat described in paragraph A, to what degree, in what priority order, and at what cost:

(1) Better control of unlicensed practice. How should this be accomplished? The committee shall explore the possibility of the board bringing an action to enjoin such practice utilizing one of the options indicated in subparagraph (2);

(2) Improving the board's authority and ability relative to revoking or denying reissuance of a license. The committee shall include in its study legislation that would permit the following:

(a) The board to utilize its own attorney or that of the department;

(b) A nonattorney board member to bring an action in Administrative Court; or

(c) The board to have the power itself to revoke or refuse to renew a license;

(3) A relicensing examination. Should this be for everyone, for those who have not practiced extensively in the previous biennium, in lieu of continuing education, for those who have had practice problems, as one segment of a continuing education requirement or as

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- 2 a guide for the applicant in structuring the
applicant's continuing education program;
- 4 (4) Peer review, including review of plans in the
registry of deeds;
- 6 (5) Better communication between the board and the
8 licensees. Would it help if the deadline for
10 relicensing notification was such that the regulatory
agenda for the coming year could be included?;
- 12 (6) Better board standards of practice. The committee
report must include a response to the recommendations
14 made in the testimony of Louis Edward Pare to the Joint
Standing Committee on Business Legislation dated
16 February 2, 1993;
- 18 (7) More representative board membership; for example,
membership in proportion to the number of members and
20 nonmembers of the Maine Society of Land Surveyors; and
- 22 (8) Continuing education. In recommending continuing
education, the committee shall make an effort to
24 provide factual evidence that continuing education has
been shown to maintain competency. If this is not
26 possible, the committee shall recommend a program for
evaluating the results of a continuing education
28 program once implemented.
- 30 C. What are the answers to the following questions
concerning continuing education?
- 32 (1) Should continuing education credit be given for
34 professional memberships and practice of the
profession? The committee shall familiarize itself
36 with the recommendations of the American Congress on
Surveying and Mapping, the National Society of
38 Professional Surveyors, the National Council of
Examiners for Engineering and Surveying and the
40 International Association for Continuing Education and
Training.
- 42 (2) Should it be a requirement that some part of the
44 continuing education requirement be through classroom
instruction?
- 46 (3) Should the board have a list of approved providers
48 and courses, should it review the applicant's proposed
continuing education program or should it approve the

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continuing education submitted on an after-the-fact basis?

(4) Will the continuing education be sufficiently available in all areas of the State so as not to inflict a hardship on any applicant?

4. Compensation. Committee members serve without per diem or expenses.

5. Report. The committee shall make a report of its findings and recommendations, including any necessary draft legislation, to the Joint Standing Committee on Business Legislation with a copy to the Executive Director of the Legislative Council by January 1, 1994. If committee recommendations are not unanimous, the committee shall also provide a minority report, together with majority response.

FISCAL NOTE

The State Board of Licensure for Professional Land Surveyors will incur some minor additional administrative costs to repeal existing rules pertaining to continuing education requirements. These costs can be absorbed within the board's existing budgeted resources.

The Department of Professional and Financial Regulation will incur some minor additional costs to staff the study committee. These costs can be absorbed within the department's existing budgeted resources.'

STATEMENT OF FACT

The bill removed the authority of the Board of Licensure for Professional Land Surveyors to make rules requiring continuing education for relicensure, thereby voiding current rules, prohibiting new rules, and requiring any continuing education requirement to be in statute.

This amendment requires the Commissioner of Professional and Financial Regulation to appoint a study committee consisting of representatives of those on either side of the issue of continuing education, those who favor continuing education but not that currently in rule and a public member. This committee is to report to the Joint Standing Committee on Business Legislation by January 1, 1994 on the subject of the role of continuing education in assuring licensee competence and the specifics of any recommended program.