

COMPARISON WITH BOARDS IN NEARBY STATES: TYPES OF BOARDS, STRUCTURE, & COSTS

The Economic Affairs Committee in September requested a review of how nearby states deal with boards, the board structures, and how they handle costs. The result is a two-part handout:

- A board-by-board handout addresses licensees, renewal fee costs, and budgets of Montana occupational/licensing boards with variations of those themes in nearby states.
- This handout, in addition to highlighting board differences, focuses specifically on structure and costs.

Types of Boards/Differences with Montana

Of the 34 boards and 7 programs affecting regulated industries in Montana, 7 boards and 4 programs do not have counterparts for the profession/occupation in South Dakota. Some occupations licensed by MT boards are not licensed in S.D.-- for example, denturists)

- naturopaths/midwives (MT Board of Alternative Health Care)
- boxers/wrestlers (MT Board of Athletics)
- clinical lab scientists
- denturists (in MT Board of Dentistry)
- acupuncturists (in MT Board of Medical Examiners)
- outfitters
- private alternative adolescent residential/outdoor programs
- private security patrol officers and investigators (business license required)
- radiologic technologists
- sanitarians
- speech language pathologists (but hearing aid dispensers/audiologists are regulated)
- athletic agents
- boiler operators/blasters/crane operators
- elevator contractors, mechanics, and inspectors
- fire prevention/fireworks people

Licenses in North Dakota licenses are the same except for 3 boards and 5 programs. Some occupations not licensed, like denturists and acupuncturists, are within other boards in MT.

- naturopaths/midwives
- denturists
- acupuncturists
- private alternative adolescent residential/outdoor programs
- radiologic technologists
- athletic agents
- boiler operators/blasters/crane operators
- elevator contractors, mechanics, and inspectors
- tattoo or body piercing operators
- water treatment operators

Washington licenses all but 3 of same occupations and only 2 of 7 programs. Outfitters are licensed but have no board.

- clinical lab scientists
- private alternative adolescent residential/outdoor programs
- water well contractors
- athletic agents
- blasters/crane operators
- fire prevention/fireworks wholesalers
- tattoo/body piercing
- water treatment plant operators

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Exhibit #17

Idaho licenses all but 5 of the same occupations as Montana and only 2 of 7 programs (athletic agents and water treatment plant operators). Some occupations licensed in MT but not in Idaho include midwives. Sanitarians are licensed nationally but not by state and they have no board.

- midwives
- clinical lab scientists
- private alternative adolescent residential/outdoor programs
- private security patrol officers and investigators
- radiologic technologists
- sanitarians (licensed nationally)
- water well contractors
- Addiction counselors - voluntary licensing
- athletic agents - no board but licensing
- boiler operators/blasters/crane operators
- elevator contractors/mechanics/inspectors
- fire prevention/fireworks wholesalers
- tattoo or body piercing

Wyoming licenses all but 6 of the same occupations as Montana and only 2 of the 7 programs (addiction counselors and fire prevention/fireworks). Some local licensing is allowed, for example of plumbers or private security patrol officers and investigators.

- naturopaths/midwives
- boxers/wrestlers
- clinical lab scientists
- denturists
- plumbers
- private security patrol officers and investigators
- sanitarians
- athletic agents
- boiler operators/blasters/crane operators
- elevator contractors/mechanics/inspectors
- tattoo or body piercing
- water treatment plant operators

Types of licensing

South Dakota

A mix. Some boards under the Dept of Labor, others under the Dept of Health, Dept. of Public Safety (EMTs get general fund money), Dept. of Revenue, Dept of Human Services. May contract with an outside agent to provide administrative services (e.g. One contractor handles Board of Barbers, Social Workers, Psychology, Funeral Services, Podiatrists, Hearing Aid Dispensers).

North Dakota

Generally independent; budgets do not go before Legislature. Boards hire own staff and are self-funded. Have to follow state policies to adopt rules. Boards may contract with a group or handle administration themselves. Board of Veterinary Medicine hires as part-time director an employee of the national board of veterinarians and state reimburses national group. Boards may use attorney general's office for legal help and pay on an as-you-go basis. Board of Medical Examiners has attorney on retainer.

Washington

Centralized within a department: either in the Dept of Health, which licenses all medical professionals, the Dept. of Licensing, or the Dept of Labor & Industry. Dept. of Licensing handles: Appraisers, Architects, Auctioneers, Bail Bonds, Boxing, Camping Resorts, Cemeteries, Collection Agencies, Cosmetologists, Court Reporters, Employment Agencies, Engineers, Firearms, Funeral Directors, Geologists, Land Surveyors, Landscape Architects, Limousines, Martial Arts, Notaries Public, On-Site Wastewater Treatment, Private Investigators, Security Guards, Real Estate, Sellers of Travel, Timeshares, Vehicles for hire, Wrestling, Uniform Commercial Code (lien information). The Dept. of Labor and Industries licenses trades, including: Constructor Contractors, Electrical, Elevator Contractors and Mechanics, and Plumbers. In the Dept. of Health, the department attorney works with Commissions. Staff is hired by the department.

Idaho

Department of Self-Governing Agencies exists in statute but no one heads it. Some boards assigned to it in statute, which allows employees to be state employees. Two types of boards: 1) regulatory boards that can hire their own staff and 2) the boards listed with the Bureau of Occupational Licensing. Regulatory boards that stand-alone can contract with the Bureau of Occupational Licensing, but they don't. These include: Board of Accountancy, Athletic Commission, Public Works Contractor Licensing, Board of Certified Short-hand Reporters, Board of Geologists, Board of Medicine, Board of Nursing, Board of Dentistry, Board of Outfitters and Guides, Board of Pharmacy, Board of Land Surveyors, Real Estate Commission and Board of Veterinary Medicine. Others under the Bureau of Occupational Licensing are: Accupuncture, Architectural Examiners, Athlete Agent Registration, Barber Examiners, Chiropractic Physicians, Cosmetology, Counselors, Drinking Water and Waste Water Professionals, Hearing Aid Dealers, Landscape Architects, Morticians, Nursing Home Administrators, Optometry, Podiatry, Psychologist Examiners, Real Estate Appraisers, Residential Care Facility Administrators, Social Work Examiners, Residential Contractors. State comptroller provides billing/accounts receivable services. Entire Legislature approves budget and any administrative rules (as a result of a ID Supreme Court decision that said boards could not set administrative law. Effect is to expand the time to adopt administrative rules as compared to time to pass law.) Regulatory boards usually hire independent attorneys.

Wyoming

A mix. Wyoming dismantled its Dept. of Commerce under which some boards operated and transferred some boards to Dept of Administration and Information, which "supports or operates in conjunction with" 31 professional licensing boards. Department itself hires staff for 13 boards. Remaining boards may hire staff, which are considered state employees. Remaining boards may or may not be decentralized. Some boards share staff. Most boards (Board of Medicine excepted) pool for attorney services

provided by Attorney General's office. Dept of Fire Prevention and Electrical Safety works with the electrical board. See "Costs" for more detail.

Costs

Boards in most states operate on a pay-as-you-go basis (through licensee fees).

WYOMING

Two people chosen at random gave perspectives on how boards operate (one satisfied, one less so):

1) Boards are self-funded.

(a) As such, when there was a shortage of office space in Cheyenne, the boards were told to find their own space because they could raise fees to cover rent.

(b) State requires some cost allocations to pay expenses for auditor's office, treasurer's office, mail.

(c) Websites are not standardized.

2) Staff for small boards has to be expert in all fields and handle all work. For example, one staff member who handles two boards works 5 hours a day for both. She's the only staff person and does all board work except for legal advice.

3) The attorney general's office provides the legal advice pool for the boards. There is a base fee and an overage fee if a board requires more legal advice. The Board of Medicine hires its own attorney. The AG pool provides both prosecuting attorney and advisory attorney for contested case hearings. The pool is paid for from interest income generated by the board's enterprise fund. If there isn't enough money in the fund, then a board has to seek extra funding. Sometimes this is a problem.

NORTH DAKOTA

Budgets:

Boards determine their own budgets and are self-funded. The Legislature does not see the budgets and does not authorize appropriations for the boards. Bank account maintained by state. Fees cover audit performed by state.

Staff:

Boards hire staff. For the Board of Veterinary Medicine, the executive director is employed through the National Board of Veterinary Medicine (located in ND). The state reimburses the national board. Executive director works 2 hours a week for the state board and the remainder of his time is with the National Board.

Legal Services:

Boards either can hire own attorney on retainer or use State AG's office on a pay-as-needed basis.

IDAHO

Budget:

Board determines budget. Governor reviews budget. Legislature approves budget. Receipts and payments go through the state comptroller.

Staff:

Board hires executive directors, which are nonclassified. Other staff is classified. All are state employees.

Legal Services:

Boards can hire own attorneys or use Attorney General staff. The Legislature has to approve administrative rules adopted by a board, per an Idaho Supreme Court decision.

SOUTH DAKOTA

An email from the executive secretary of the S.D. Board of Nursing Facility Administrators said that many years ago the state moved licensing boards under the Dept. of Commerce & Regulations, which allowed boards to hire private contractors for administration. Some contractors have several boards; others have only one. In 2002 the Dept. of Commerce & Regulation was dissolved and boards were assigned to "appropriate" departments. The email added "I would guess all licensing boards are "autonomous", in other words, we have our own board of directors and function with a budget of only our licensing fees/revenues - no monies from the State budget. At least we're supposed to be autonomous, but we're being regulated by these Depts now more than ever."

Budgets:

Boards fill out department's budgetary forms and generally submit as is to Governor. Legislature approves board budgets as part of the department budget, not separately.

Staffing:

Boards hire staff under contract. The contract is state-designed. Contractors are not state employees. They submit monthly bills to the department for management fees and direct expenses (postage, supplies, phone, etc.).

Legal Services:

Boards formerly contracted with own attorney. Now department has attorney under contract. The attorney sends the board the invoice, the board staff codes the invoice and submits to the department for payment. Contested case hearings involve an AG representative at no cost to the board or to the department.

WASHINGTON

Still checking.