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Testimony
SB – Health Occupations Boards – Investigations –
Right to Counsel
Education, Health, and Environmental Affairs
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FAVORABLE

AFSCME Council 3 supports SB 77. This legislation provides the right to counsel for investigations under the health occupation boards. A basic tenant of unionism is that employees deserve a right to due process and representation when it comes to decisions that could impact their livelihoods. SB 77 promotes due process.

Licenses and certificate holders are already allowed counsel for hearings conducted by the health occupations board, so it make sense to extend this right to counsel to the investigation stage as we do with other matters pertaining to due process rights. Given the nature of their work, it is not uncommon for a state employee who carries a license under one of the health occupations boards to have a false accusation launched against them by a member of the public. The administrative process, which includes investigations and several rounds of hearings, can clear the employee from any wrongdoing but if the member of the public files a complaint to the health occupations board they will also investigate. Both proceedings could impact the employee's ability to maintain employment, but the employee is only entitled to full representation in one. This is both unfair and could negatively impact employees who are completely innocent but just nervous during formal questioning.

The purpose of counsel during the investigative process is not to change an individual's story or argue the facts of the case. It's simply to ensure that the employee is given a fair process and an ability to respond truthfully and in a manner that can be understood by the investigators. Often these investigations can feel very personal to the employee, and it is not always easy to maintain composure. Having counsel during these investigations also ensures that what the employee says in these proceedings is accurately reflected.

SB 77 is a good bill, and we urge the committee to provide a favorable report. Thank you.

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An employee has the right to a union representative if requested by the employee.
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