SIBA

Semi-Independent Boards and Agencies

Board of
Appraiser Certification
and Licensure

Board of
Architect Examiners

Board of Examiners for
Engineering and Land
Surveying

Oregon Film and Video

Board of
Geologist Examiners

Board of
Landscape Architects

Board of Landscape
Contractors

Board of
Massage Therapists

Board of
Optometry

Oregon Patient Safety
Commission

Board of
Physical Therapists

Tourism Commission

Travel Information
Council

Oregon Wine Board

A Model of Efficiency for Small State Agencies

A Report Produced by the

SIBA Group - February 1, 2011

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State of Oregon
Semi-Independent Boards & Agencies (SIBA)
A Model of Efficiency for Small State Agencies

Introduction

SIBA :
a better way of government for small boards and agencies.

Looking for new and efficient ways to do business is not a new concept. Many organizations have struggled with learning to do more with less; integrating and streamlining processes; cross training; increasing accountability; sharing resources; providing exemplary customer service; setting and meeting goals; and saving money. These are areas of continuous examination in the search for the best practices to initiate within a state agency. It is an exercise in finding the balance between minimizing the cost of doing business and providing a valuable public service that meets the needs of the customers, namely the citizens of Oregon.

More often than not, these ideals are broadly administered over state agencies of different sizes, with different missions and different constituents. The use of one centralized agency to determine how "all" state agencies should function, and the controls that are initiated to insure all agencies are held accountable to these imposed guidelines, has led to a stifling bureaucracy. It has also added costs to every agency that is compelled to comply, no matter its size or mission, thus increasing the cost of doing business in Oregon. Neither individualism nor freedom to act independently is nurtured, and they are rarely even tolerated, for fear of an agency "getting out of control".

Semi-independence, as a form of state government, is a prime example of how agencies can be administered without excessive bureaucratic constraints and still be held accountable, operate efficiently, and provide an often exemplary level of service to the people of Oregon with a minimal amount of oversight by the Oregon Legislative Branch.

This paper is presented to demonstrate the benefits of semi-independent status, and how it has fostered better and more efficient business practices within a variety of small state agencies since 1997.

The History and Emergence of Semi-Independent Agencies

The **SIBA** concept was first considered by the legislature in 1991, and was implemented between 1997 and 2003.

The Oregon Legislature first looked at the semi-independence model in 1991 and granted the Travel Information Council, The Oil Heat Commission and the Oregon Film and Video Group the status of "semi-independence". These agencies were commissioned to deliver services to their constituents in a more business-like manner, without having to follow all the seemingly irrelevant state-imposed requirements that faced other state agencies.

Again, in 1993, semi-independence was considered as a model for 30 smaller state licensing boards and advisory councils through the introduction of Senate Bill 166.

The intent was to allow these agencies to pilot the model of semi-independence on a larger scale to determine the viability of this form of government. The bill passed the Senate and was approved by the House Committee, but the bill was not put to a vote on the House floor before the session ended.

In 1997, the Oregon Board of Optometry; the Board of Geologist Examiners; the Board of Architect Examiners; the Board of Examiners for Engineering and Land Surveying; and the Landscape Architect Board were granted semi-independent status through Senate Bill 546. [See Appendix.]

With the success of the forerunners of this model of government, the 1999, 2001 and 2003 legislative sessions saw the acceptance of eight more boards as semi-independent state agencies. Also during this time, some original agencies came and went (e.g., the Oil Heat Commission, and the Children's Trust Fund).

Today there are fourteen (14) semi-independent agencies: 10 boards, 2 commissions, 1 council and 1 office. This document primarily addresses the functions and requirements that govern the nine (9) professional licensing boards *, which are listed in the table below:

Currently there are ***14 semi-independent*** agencies, boards, offices, and commissions.

Board/Agency/Commission	**Date of Semi-Independence**
Travel Information Council	**1991**
Oregon Film and Video Office	**1991**
Oregon Board of Optometry *	**1997**
Board of Examiners for Engineering and Land Surveying*	**1997**
Board of Geologist Examiners*	**1997**
Board of Architect Examiners*	**1997**
Landscape Architect Board*	**1997**
Board of Massage Therapists*	**1999**
Physical Therapist Licensing Board*	**1999**
Landscape Contractors Board*	**2001**
Appraiser Licensure and Certification Board*	**2001**
Oregon Tourism Commission	**2003**
Oregon Patient Safety Commission	**2003**
Oregon Wine Board	**2003**

Self- funded with no access to General Funds or Emergency Board bailouts.

Exempt from some statutes which are better suited for or designed for governance of larger boards and agencies.

Fiscal accountability through published annual financial reports to DAS; subject to biennial outside independent financial or audit review; validated

How Semi-Independent agencies are "set apart"

1) Self-funded: All semi-independent agencies are self-funded and fully supported by income such as application, examination, license fees; federal funds; grants; and other program revenue. General Fund tax dollars are not allocated to, and in no way support, the operation of these agencies.

2) **Statutory Differences**: Most of the semi-independent agencies that regulate professional licensure are subject to the provisions of ORS 182.456 through 182.472. These statutes provide an avenue for more efficient operation, by exempting the agencies from statutes and portions of statutes that govern:

- State personnel relations (except for temporary appointments and collective bargaining);
- Use of state facilities;
- Public contracting and purchasing (except for surplus property and products of the disabled);
- State printing;
- Interagency services;
- Financial Administration (except for writing off uncollectible debts);
- Disbursing and investing of funds; and
- Salaries and expenses of state officers and employees.

3) Other Requirements: Semi-independent agencies have different governing statutes, thus not all semi-independent agencies are subject to all the same State laws. Semi-independent agencies must:

- Maintain tort liability coverage;
- Adhere to public records and meeting laws;
- Use the services of the Department of Justice for advisement and counsel;
- Use the services of the Secretary of State (SOS) Audits Division for financial control through audit or review; and
- Maintain continual participation in the State PERS program.

4) Fiscal Accountability:

- Semi-independent agencies must establish financial accounts in FDIC insured banks and ensure that deposits in excess of FDIC limits are collateralized.
- The boards must follow generally accepted accounting principles (GAAP) and accurately disclose the financial condition and financial operation of the board through published reports to the Department of Administrative Services (DAS), the public, and the Legislative Fiscal Office.

Budgets are set by rule-making via the public hearing process, with notice to all licensees and interested parties. Total budget process takes 2-3 months, as opposed to the18 months required of most State agencies.

- Biennially, the boards are subject to external independent audits or financial reviews conducted according to governmental audit and review standards. These audits or financial reviews are scrutinized and published by the Secretary of State Audits Division.
- The boards are required to prepare and adopt a biennial operating budget through the public hearing and administrative rule processes. Prior to the adoption or modification of a budget, a notice of public hearing is sent to all interested parties and licensees of the board to allow opportunity to present testimony concerning the budget. After the hearing process, if no substantial changes are required, the budget is adopted, and an administrative rule is filed which defines the agency's budget for the upcoming biennium. If substantial changes are required, the budget must go through the hearing process again in order to be adopted.

5) Administrative Accountability: Semi-independent boards are required to:

- Adopt personnel policies, along with contract and purchasing policies. These policies are to be submitted DAS for review and approval to make certain the proposed policies are in compliance with applicable state and federal laws and collective bargaining contracts.
- Prepare and submit a biennial performance report to the Governor, President of the Senate, Speaker of the House and Legislative Fiscal Office which contains at a minimum:

Administrative accountability: Policies are approved by DAS. Biennial Board key performance measurement report goes to the Governor, Legislators, and the Legislative Fiscal Office.

A. A copy of the most recent audit or financial review; and

B. A copy of the actual budget for the prior biennium and a copy of the adopted budget for the biennium in which the report is made.

C. These budget documents must show:

1. The beginning balance and ending balance for each of the two biennia;
2. A description of material changes between the two biennia;
3. A description of the public hearing process used to adopt the current operating budget; and
4. A description of current fees and proposed fee changes along with supporting documentation for the current fees and proposed changes.
5. A description of all temporary and permanent rules adopted by the board since the last report submitted;
6. A description, if the board issues licenses, of board actions promoting consumer protection that were taken since the last report submitted;

7. A description of the board's licensing activities performed since the last report submitted that will allow adequate evaluation of the board's performance of its licensing responsibilities, including:
8. The number of license applications;
9. The number of licenses issued;
10. The number of examinations conducted;
11. The average time between application for and issuance of licenses;
12. The number and types of complaints received about persons holding licenses;
13. The number and types of investigations conducted;
14. The number and types of resolutions of complaints;
15. The number and type of sanctions imposed; and
16. The number of days between beginning an investigation and reaching a resolution.
17. A description of all other actions taken, since the last report, in the performance of the board's statutory responsibilities to allow adequate evaluation of the board's performance.

The LFO will review the reports and prepare a statement of findings and conclusions, which it will then submit to the Joint Legislative Audit Committee.

Savings of time and money and better customer services through quicker response times; shortened budget cycle; no charges for use of DAS time and services; ability to comparison shop; and best practices shared between like agencies.

Advantages of Semi-independence

There are two distinct advantages to a semi-independent form of governance: *time and money*. These advantages extend to state government as a whole and are found through:

1**) The streamlining of administrative and operational functions** of a semi-independent board, which allows the board to respond quickly to financial and personnel issues in an efficient and effective manner;

2) Statutory exemptions from many of the requirements that set guidelines and parameters for the management of larger boards and commissions, which frees up time for dealing with the issues that face the profession which the board regulates, instead of spending time on bureaucratic requirements;

3) Shortening the budget cycle, which reduces personnel time, spent and related costs for the board and for state government. The budget cycle, for most state agencies, is a lengthy and tedious process. It involves concentrated time on behalf of the board members, board staff, the Department of Administrative Services (DAS), the office of Budget and Management (BAM), the Legislative Fiscal Office (LFO), Shared Client Services (SCS), and the Legislature. Even the smallest of regular state agencies contends with the same challenges each budget season.

It is estimated that completion of the budget cycle for a regular state agency takes up to twelve (12) weeks of preparation time, involving a cast of numerous individuals, and a total process time of up to eighteen (18) months is required to complete the cycle. The budget cycle for a semi-independent board takes about three (3) weeks of preparation time; involves a cast of only a few individuals (board and staff); and requires a total process time, including public hearings, of around two (2) to three (3) months.

While the majority of agencies' budgets are set by legislative authority, a semi-independent agency's budget is set by the administrative rule-making process during which the budget is actually reviewed and approved by the "stake holders" (e.g., licensees) who fund and have an interest in the board's operations. The amount of time spent by state personnel, board members, and the legislative assembly in preparing, reviewing and adopting the budget of a regular state agency is significantly higher than that required for a semi-independent agency.

4) The ability to perform services internally such as:

- book keeping;
- financial reporting;
- accounts payable;
- billing;
- human resources;
- payroll (including benefits);
- information and technical systems and service; and
- purchasing and contracting.

Regular state agencies must depend on the efficiencies of employees outside the control of the agency, and must pay a sizeable assessment regardless of whether the agency requires these services or not. Included in the assessment are many intangibles and overhead, e.g., the costs to staff, manage, equip and operate a DAS service division.

Oftentimes, the smaller non-semi-independent boards get lost in the DAS mix. With DAS priorities focused on the primary needs of the larger agencies, often the concerns or requests of the smaller boards do not receive the same level of consideration or have the same sense of urgency. Semi-independent boards provide all their own services through in-house expertise or through contracts with outside professionals.

Unlike regular state agencies, a semi-independent agency's contracted costs can be directly associated to the service provided. This gives the semi-independent boards more control and discretion over the actual costs vs. benefits of a particular service. It also allows the semi-independent boards the option to shop around for their service providers and to consider cost, convenience, and performance. The timesavings here are evident. Semi-independent boards do not use many State services. Thus the savings in State human (and other) resources equates to a savings in dollars.

Dollars are saved by the semi-independent boards, which control and monitor the best use of their service dollars when contracting for services. The board's ability to relate the cost of the services provided directly to the benefits received is a much more efficient way of obtaining and managing outside services.

5) The ability to do comparison-shopping when spending board dollars on supplies, equipment, furnishings, and travel-related expenses constitutes a real advantage. A semi-independent board can compare the State's contractual purchasing agreements and costs with the current market environment. For example, the purchase of a new computer through the State contract at the State's agreed-upon price can be compared to the purchase of the same computer on the open market while taking advantage of internet sales, vendor closeout sales, etc. Often, semi-independent boards can find savings of hundreds of dollars when buying airline tickets, and make other travel arrangements quickly and efficiently.

6) The ability to regularly network between semi-independent agencies has been accomplished by the formation of the SIBA group, which meets bi-monthly. Meeting agendas address current topics of interest, legislative actions, State initiatives relative to the SIBA boards, and common concerns of the boards. Also discussed are best practices for the semi-independent boards, and vendors and services that have proven to be of value.

In 2005, the SIBA group developed and published "Guidelines for Semi-Independent Government". This 26-page document was meant as both an educational tool and a beginner's guide that enables other small agencies to avoid "re-inventing the wheel" if they seek a transition to semi-independent status.

Disadvantages of Semi-Independence

Semi–independence is a different form of governance, making it is a target for challenge and change during every legislative session.

If you talk to an Administrator or Director of a semi-independent board, you may hear that there are no significant disadvantages to being semi-independent. However, there are some extra challenges. Some of the monthly reporting to PEBB, PERS, the Oregon Savings Plan, and the Workers Compensation group, which happens automatically through the State's payroll and benefits systems for non-semi-independent boards, creates additional work for the directors of the semi-independent boards who use these services. The extra work generally takes the form of special monthly reporting workarounds. This also creates an additional burden on PEBB and PERS, which have to collect and consolidate the data given to them by semi-independent agencies.

And while, to a great extent, all small agency Executive Directors serve as their agency's personnel and budget and legislative and administrative managers, the Executive Director of a semi-independent agency also takes on all of the functions in these areas that are routinely provided by DAS Shared Client Services for most small agencies (such as accounting and payroll).

Throw in "facilities manager" and "employee benefits manager", and "information technology manager" and a semi-independent agency Executive Director finds him- or herself wearing more (and often larger) hats than the majority of small agency heads.

But the single biggest challenge involved in running a semi-independent agency results from "being different". Lack of knowledge and understanding of the benefits of semi-independence (for both the agencies themselves, and the State in general) can create angst and animosity amongst those who are unfamiliar with the concept. Because semi-independence is an unusual form of State government, it tends to be a target for challenge and change at every legislative session. There are always those who feel that one size <u>should</u> fit all, and they are often frustrated by the need to consider and work with alternatives.

Summary and Conclusions: A Proven Track Record

Since 1997, the semi-independent agencies have become a finely tuned group working in collaboration to develop and maintain a better way of doing business. The SIBA bimonthly meetings provide board administrators and directors a forum where they pool the collective resources of their knowledge and skills in the development and maintenance of best practices. These practices incorporate the streamlining and efficiencies that each of the boards has developed and experienced in its own course of doing business. And they not only save the boards time and money, but also save the State time and money by not having to support the services for these boards. As noted above, the savings of time and money come from the efficient use of human capital and resources, and the flexibility in contracting, purchasing and operations. Semi-independent boards are accountable, both financially and administratively. As with all state agencies, semi-independent agencies and boards are subject to the oversight of the Governor's Office, the Secretary of State's Audits Division, the Legislative Fiscal Office, the Department of Justice, the Ethics Commission, and the Department of Administrative Services. More importantly, through the public hearings process, the semi-independent agencies are directly accountable to their stake holders who have a voice in the biennium budgets set by each of the boards.

Less Government:

By operating effectively and efficiently (while still being held accountable), semi-independent agencies can minimize the use of State resources and free up General Fund dollars for health care, education, and public safety.

Small semi-independent regulatory boards play a huge role in the protection of the public and in serving the profession they regulate. However, their fiscal impact is minimal when it comes to the overall budget of the State of Oregon since they are self-funded and have no impact on the State's general funds. In times of budget crunch and pressure from constituents to tighten up (and not create more) government, Oregon should look towards semi-independence as a way to run more small boards, agencies, and commissions. If legislators are indeed looking for a better way of doing business, and a better form of governance for small agencies, then the answer is not in creating more government, or bigger government with more bureaucracy. The answer is smaller government with less bureaucracy, and the solution is right in front of them: semi-independence.

Appendix : Summary and Legislative History of SB 546

1997 Session

Senate Bill 546

Relating to establishment of semi-independent state agencies.

SB 546 establishes a pilot program of granting semi-independent status to five professional and occupational licensing boards. These boards consist of Engineers and Surveyors, Geologists, Optometrists, Architects, and Landscape Architects.

During the past several legislative sessions, privatization, semi-privatization, or semi-independent status has been granted to Oregon Public Broadcasting, the Oregon Tourism Commission, the Oregon Health Sciences University, the Travel Information Council, and SAIF Corporation.

Semi-independent status, as envisioned by SB 546, requires the five boards to contract for services and to operate free from statutes concerning personnel, purchasing, contracting, and budget approval.

SB 546 retains audit, investment restriction, and administrative rule adoption requirements. SB 546 also directs the boards to establish an elective appointment method for members in place of appointment by the Governor, with Senate confirmation.

The measure requires public members to be selected from a list provided by the Governor, authorizes the boards to establish their own fee structures and budgets, requires the boards to submit audits and reports to the legislature.

The measure sunsets June 30, 2001.

Effective Date: July 25, 1997

Legislative History of Senate Bill 546

SB 546 By Senator SHANNON -- Relating to state agencies; appropriating money; declaring an emergency.

2-26(S) Introduction and first reading. Referred to President's desk.
2-27 Referred to Rules and Elections.
6-13 Public Hearing and Work Session held.
6-17 Recommendation: Do pass with amendments. (Printed A-Eng.)
6-18 Second reading. Rules Suspended. Third Reading. Carried by Bryant. Passed.
Ayes, 23 --Nays, 4, Burdick, Castillo, Dwyer, Hannon, Excused, 1--Dukes, Attending Legislative Business, 2----Gordly, Lim.
6-19(H) First reading. Referred to Speaker's desk.
Referred to Transportation.
6-25 Public Hearing and Work Session held.
6-27 Work Session held.
6-28 Recommendation: Do pass with amendments and be printed B-Engrossed.
6-30 Rules suspended. Second reading. Rules suspended. Third reading. Carried by Harper. Failed.
Ayes, 17 --Nays, 41, Adams, Beck, Beyer, L., Bowman, Brian, Carter, Courtney, Deckert, Edwards, Eighmey, Fahey, Jenson, Johnson, Johnston, Josi, Kruse, Lehman, Lewis, Luke, Messerle, Milne, Minnis, Montgomery, Piercy, Rasmussen, Repine, Schrader, Shields, Snodgrass, Sowa, Starr, Strobeck, Sunseri, Taylor, Thompson, VanLeeuwen, Watt, Welsh, Westlund, Wooten, Speaker Lundquist, Excused for business of the House, 2----Prozanski, Ross.
Welsh served notice of possible reconsideration.
7-1 Vote reconsideration carried.
Ayes, 37 --Nays, 21, Adams, Beyer, L., Bowman, Courtney, Edwards, Eighmey, Jenson, Johnson, Kruse, Lewis, Luke, Messerle, Montgomery, Piercy, Prozanski, Ross, Shields, Strobeck, Sunseri, Thompson, Wooten, Excused for business of the House, 2----Repine, Watt. Passed.
Ayes, 32 --Nays, 27, Adams, Beyer, L., Bowman, Brian, Courtney, Edwards, Eighmey, Hill, Jenson, Johnson, Kruse, Lehman, Lewis, Luke, Messerle, Minnis, Montgomery, Piercy, Prozanski, Repine, Ross, Shields, Strobeck, Sunseri, Thompson, Westlund, Wooten, Excused for business of the House, 1----Speaker Lundquist.

7-2(S) Rules suspended. Senate concurred in House amendments and repassed bill.
Ayes, 23 --Nays, 1, Hannon, Excused, 3--Dwyer, Stull, Yih, Attending Legislative Business, 3----Gordly, Hamby, Timms.

7-11 President signed.

7-16(H) Speaker signed.

7-25(S) Governor signed.

Chapter 643, 1997 Laws.

Effective date, July 25, 1997.