ALASKA STATE LEGISLATURE

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August 14, 2009

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities and the attached report is submitted for your review.

DEPARTMENT OF PUBLIC SAFETY
ALCOHOLIC BEVERAGE CONTROL BOARD
SUNSET REVIEW
July 27, 2009

Audit Control Number
12-20063-09

This review examines the activities of the Alcoholic Beverage Control Board (ABC Board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. Alaska Statute 44.66.010 specifies that the ABC Board will terminate on June 30, 2010, and will have one year from that date to conclude its administrative operations. We recommend that the legislature extend the ABC Board's termination date until June 30, 2014.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Alcoholic Beverage Control Board (ABC Board or the Board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the ABC Board should be re-established. Currently, under AS 44.66.010(a)(1), the Board will terminate on June 30, 2010 and will have one year from that date to conclude its administrative operations.

Objectives

The ABC Board was created to regulate the manufacture, sale, barter, and possession of alcoholic beverages in order to protect the public health, safety, and welfare of citizens in the State.

To this end, the primary objective of this audit was to determine whether there is public need for the Board and if its existence should be extended.

The secondary objective was to determine if the ABC Board is serving public interest in regards to licensing/permitting functions, administrative activities, board activities, and enforcement activities by reviewing these major functions for effectiveness and efficiency of operations.

Scope

Alaska Statute 44.66.050 outlines the factors to be considered in determining whether the Board has demonstrated public need for its continued existence. We reviewed the ABC Board's activities that occurred from FY 07 through FY 09. We also reviewed the board's proceedings to determine whether it complied with Alaska Statutes and regulations.

Methodology

In order to meet the various objectives of the audit, our fieldwork included:

- Review of Title IV; and Title 13, Chapter 104 of the Alaska Administrative Code to determine the ABC Board's compliance to its statutes and regulations.

- Attendance at the February and May 2009 ABC Board meetings. Examination of the ABC Board meeting records to identify board actions. We obtained notifications from the

Alaska Online Public Notice System, and used board meeting minutes to verify compliance with the public notice and board meeting requirements.

- Analysis of the ABC Board's enforcement records and the DPS information system, APSIN, case data for enforcement activities.

- We performed a reconciliation between the ABC Board's licensing database fees and the State Accounting System financial accounts. Using ALDER management reports and the ABC Board's licensing database information, we prepared a schedule of revenues, expenditures, and a list of licensing fees for FY 07 through FY 09.

- On a sample basis we selected 86 license files for examination of compliance with the ABC Board statutes, regulations, and procedures.

- We reviewed newspaper articles pertaining to liquor licensing in Alaska.

- We surveyed local governing bodies, law enforcement agencies, community groups (community councils and Mother's Against Drunk Driving) and active licensees for their opinions on the operations and decisions of the ABC Board.

  The survey questionnaires were sent to all the police departments, using information from the Alaska Peace Officer Association and to Village Public Safety Officers. All local governing bodies and community and village councils were surveyed. For the approximately 1800 active licensees, we selected a random and judgmental sample totaling 385 licensees.

Survey Group	Response Rate
Local Government	45%
Law Enforcement	48%
Active Licensees (Sample Basis)	48%
Community Groups	19%

- We tallied and analyzed responses from the survey for use in the analysis of public need section of the report

- We examined miscellaneous documents related to the board's operations as necessary for evaluating if the Board is operating in the public interest.

- We interviewed the ABC Board's staff, the director, the current board chair, and various individuals from other state agencies. We also contacted the Alaska Ombudsman; the Office of Victim's Rights Commission; Human Rights Commission; U.S. Equal Opportunity Office; Department of Administration, Division of Personnel; and Boards and Commissions regarding any complaints against the ABC Board.

ORGANIZATION AND FUNCTION

The Alcoholic Beverage Control Board (ABC Board or the Board) was established in 1959 by Title IV of the Alaska Statutes as a regulatory and quasi-judicial agency. For administrative purpose, the ABC Board is located within the Department of Public Safety (DPS). The Board controls the manufacture, barter, possession, and sale of alcoholic beverages in the State. The duties of the Board include overseeing the issuance, transfer, renewal, suspension, and revocation of licenses, and proposing and adopting regulations necessary to carry out the purposes of governing statutes in a manner that will protect the public health, safety, and welfare. In addition, the Board may grant peace officer powers to persons employed for the administration of Title IV. These powers are used as necessary for the enforcement of the criminally punishable provisions of the Title, regulations of the Board, and other criminally punishable laws and regulations including laws against prostitution and gambling. These powers are subject to the concurrence of the DPS commissioner.

The Board is composed of five members appointed by the governor and confirmed by the legislature. State law requires two board members be persons actively involved in the alcoholic beverage industry (excluding wholesale) and at least three members representing the general public. No three members of the Board may be engaged in the same business, occupation, or profession. Board members, including their immediate family, representing the general public, may not have any financial interest in the alcoholic beverage industry. Board members are appointed for overlapping three-year terms. A director, appointed by the governor, serves as the executive officer and is responsible for enforcing Title IV and the regulations adopted by the Board.

Exhibit 1

Alcoholic Beverage Control Board Members as of July 15, 2009
Robert Klein, Chairman Anchorage, Industry Member Term expires March 1, 2011
Ethan Billings Juneau, Industry Member Term expires March 1, 2012
Belen Cook Cordova, Public Member Term expires March 1, 2010
Joseph DelDonno Anchorage, Public Member Term expires March 1, 2011
Ellen Ganley Fairbanks, Public Member Term expires March 1, 2012

Title IV specifies the type of licenses, licensing fees and the activities allowed under each class of license issued by the Board. Title IV also establishes procedures for the issuance of new and renewal licenses.

ABC Board employees ensure that the approximately 1,800 licensees comply with Title IV. Employees provide three functions that involve licensing, enforcement, and administration activities. These services are briefly described as follows:

- Licensing

  The three-member licensing staff is responsible for processing license and permit applications, maintaining licensing records and files, collecting licensing fees, and

answering licensing questions asked by the public and licensees. The licensing supervisor is also responsible for preparing board meeting packets and for recording and transcribing the board meeting minutes.

- Enforcement

  The six-member enforcement staff currently consists of two Anchorage-based investigators, one Fairbanks-based investigator, one Juneau-based investigator, one Anchorage-based administrative clerk, and one Anchorage-based enforcement supervisor. Investigators perform various duties including inspecting licensed premises, investigating complaints of suspected licensing violations, conducting compliance checks, and responding to questions from licensees and the public. Investigators monitor server training courses and perform background checks on applicants. They also give lectures relating to alcoholic beverage control laws and regulations on behalf of the Board and provide Title IV training to law enforcement agencies on request. The administrative clerk maintains the statewide written order database which contains a monthly record of the alcohol purchased by, and shipped to a person who resides in a municipality or established village that has restricted the sale of alcohol beverages.

- Administration

  The ABC Board's director and an administrative assistant comprise the administrative staff. Administrative duties include preparation of budget documents, calculation and issuance of revenue sharing payments to local municipalities, issuing public notices, processing of vendor invoices, and the preparation of bank deposits. The director provides oversight, guidance and direction to staff, participates in public hearings and meetings, and addresses inquiries and requests from licensees, law enforcement agencies, and the general public.

The ABC Board's office is located in Anchorage. In FY 09, the Board has an operating budget of approximately $1.3 million for its ten staff positions and activities (excluding revenue sharing).

REPORT CONCLUSIONS

In our opinion, the Alcoholic Beverage Control Board (ABC Board) should continue to regulate the manufacture, sale, barter, and possession of alcoholic beverages in Alaska in order to protect the public's health, safety, and welfare. The Board has demonstrated a need for its continued existence by providing protection to the general public through the issuance, renewal, revocation, and suspension of liquor licenses. Protection has also been provided through active investigation of suspected licensing violations and enforcement of the state's alcoholic beverage control laws and regulations.

With the exceptions noted in the Findings and Recommendations section of this report, the ABC Board is operating in the public interest. However, improvements are needed to improve the effectiveness and efficiencies of its operations.

This is the third audit performed in the last seven years in which we have recommended a stronger internal control environment be implemented to include written policies and operating procedures as well as a strategic plan governing enforcement activities. The current director assumed these responsibilities in January 2009, and has made significant improvements in a matter of a few months. The current director has been proactive in improving daily operational functions and addressing outstanding and current audit issues. Although the current director has taken immediate action to make improvements to the ABC Board, we are nonetheless concerned that certain issues in the last three audits have not yet been addressed. Therefore, we recommend that AS 44.66.010(a)(1) be amended to extend the termination date of the Alcoholic Beverage Control Board to June 30, 2014**.**

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FINDINGS AND RECOMMENDATIONS

A current status of the previous sunset audit[1] four recommendations are presented below.

Prior Audit Recommendation No. 1 – The Alaska Beverage Control Board's (ABC Board or the Board) members and director should strengthen the control environment over alcohol regulatory functions.

This recommendation has been partially resolved. However, continued improvements are needed to improve the licensing database data, procedures, and retention of documents. These issues are further addressed in the current Recommendation No. 2 of this report.

Prior Audit Recommendation No. 2 – The ABC Board members and director should develop and implement an overall plan of enforcement activities to ensure the effective allocation of their resources.

This recommendation has not been resolved. An overall strategy has not been implemented to ensure enforcement goals are met in an efficient and effective manner. The Board continues to lack a strategy for selecting licensed premise inspections and compliance checks. Some data is entered inconsistently or inaccurately into the enforcement database system. Improvements for enforcement are discussed at Recommendations No. 1 and No. 2.

Prior Audit Recommendation No. 3 – The ABC Board's director should ensure compliance with public notice requirements and establish procedures to ensure board meeting records are complete and accurate.

This recommendation has not been implemented. The ABC Board's staff is still not providing adequate public notification of its board meetings, and meeting records are still incomplete. (See current Recommendation No. 2 for further details.)

Prior Audit Recommendation No. 4 – The legislature should consider amending Title IV to remove the voting ability of the board's director.

The ABC Board's director periodically votes on issues decided in board meetings. AS 04.06.060 provides, "*If a majority of the board is present and voting, the director, with the consent of the members present, may cast a tie-breaking vote*."

Allowing the director a vote removes an important check and balance of good government – a separation of the executive and quasi-judicial functions. To ensure an appropriate balance

[1]Department of Public Safety, Alcoholic Beverage Control Board, August 31, 2006, (Audit Control No. 12-20047-06).

of government, we recommended that the legislature consider amending the statute to remove the director's voting ability.

The situation remains the same and there is no current legislation to address this issue. The board and the director have not reached a concurrence of opinion in developing a better methodology in solving this matter that occurs infrequently.

Current Recommendations

Recommendation No. 1

The ABC Board members and director should establish quantifiable and objective enforcement goals and develop a clear plan by which they will direct its enforcement resources to most efficiently and effectively accomplish those goals in a verifiable manner.

There is no enforcement strategy to prioritize and apply resources in a cohesive fashion to enforce the alcoholic beverage laws. The ABC Board's enforcement investigators[2] are charged with enforcing alcoholic beverage laws and are currently given wide individual latitude in selecting licensees to inspect or check for compliance. However, without quantifiable and objective goals and a review process, the agency does not know if inspecting and checking half the licenses is a good or bad outcome for their efforts, an effective or efficient use of their resources, or in the best interest of the public.

Review of the enforcement database indicates that of the approximately 1800 current active licenses, 47% had premise inspections[3] and 50% had compliance checks[4] during the three-year period of FY 07 through FY 09. The remainder of the licenses were not inspected or checked for compliance during this period. It also appears many licenses were inspected multiple times, while many were not inspected at all. The ABC Board continues to be without a systematic strategy to ensure resources are used effectively and efficiently to enforce the alcoholic beverage laws.

The ABC Board members and director should make it a priority to develop and implement goals for enforcement activities that have tangible metrics. This plan should maximize their resources and provide direction to investigators to ensure they are performing their duties effectively and efficiently, and according to the direction of the board and director.

[2]The ABC Board's enforcement staff consists of four investigators, with one based in Juneau, one based in Fairbanks, two based in Anchorage, as well as an enforcement supervisor in Anchorage. One Anchorage inspector is specifically assigned to conducting compliance checks. Premise inspections are conducted by the three remaining investigators.

[3]A premise inspection involves an enforcement investigator inspecting a licensed premise for compliance to the alcohol beverage laws.

[4]Compliance checks specifically involve determining whether licensees or agents of the licensee are furnishing alcohol to persons under the drinking age limit of 21 years and over-serving to patrons.

Recommendation No. 2

The ABC Board members and director should develop and enforce written policies and procedures to ensure their staff's compliance with state laws and decisions made by the board and director.

There are instances of non-compliance and non-enforcement with state laws, overpayments to municipalities, possible nonpayment of fees by license holders, and incomplete and inaccurate tracking of data. The ABC Board's staff lacks oversight and accountability over their activities to ensure compliance with state laws and decisions made by the board and director. Specific issues include:

1. Records Retention. The ABC Board's staff is not consistently retaining documents in accordance with the State records retention laws and the ABC Board's statutes with respect to premise inspection reports, notice of violations, criminal history records, permit applications, and notification letters.

   Premise inspection reports document an investigator's inspection of a licensed premise. Notices of violations communicate to a licensee and to the ABC Board alcoholic beverage violations by the license holder or agents of the licensee. The Board uses the criminal history records for evaluating an applicant's qualification for issuance, transfer, or renewal of an alcohol license.[5] The data from these documents should be recorded in the enforcement database; however, not all documents are retained to confirm the completeness and accuracy of the data.

   Applications received for issuance of caterers, special events, and other permits are also not retained. These applications provide important information regarding the event and conditions of approvals (e.g. police department authorizations and the ABC Board's approval).

   Notification letters to local governing bodies and expired license notifications were missing from the license files. A written notice to the local governing body is to be given within ten days after receipt of an application so that the local governing body may protest the issuance, renewal, relocation, or transfer of a license.[6] Additionally, the director is to mail a notice of expiration to each licensee who has not renewed.[7]

   All these documents serve to provide important evidence of, and support for, the board and director's actions. The staff's failure to retain these documents as records supporting the ABC Board's activities may impede the organization's ability to operate effectively, efficiently, and serve the public interest.

[5]Alaska Statute 04.11.295. Criminal justice information and records.
[6]Alaska Statute 04.11.520. Notice to local governing body.
[7]Alaska Statute 04.11.550. Notice of expiration.

2. Licensing Revenues. Licensing fee revenues recorded in the ABC Board's database does not agree with nor is reconciled to the same revenue as it is recorded in the State accounting system. The failure to reconcile has resulted in overpayments to municipalities and missed payments by licensees. Timely, complete, and accurate reconciliation between the two systems would likely resolve these problems and provide information for the board and director to take immediate action regarding noncompliant licensees.

3. Licensing and Administrative Procedures. The ABC Board members and director are not providing appropriate guidance and oversight to staff to ensure compliance with state laws, and with its decisions.

   The ABC Board does not consistently adhere to the statutory requirement of notifying the local governing body within ten days of receipt of an application per AS 04.11.520. This important requirement allows time for the local government to review and possibly protest the issuance, renewal, relocation or transfer of a license.

   The ABC Board is also not enforcing the law requiring the return of caterers and special event permits within 48 hours. Other deficiencies in the ABC Board's licensing files, recordkeeping, database, and administrative processes include:

   - No current written policy and procedures to give guidance in situations where licensees are involved in bankruptcy proceedings.
   - Staff routinely failed to properly use existing checklists for verifying the completeness of licensing applications.
   - Instances where staff had not submitted local government protests in a timely manner to the board for review and action.
   - Significant occurrences of expired and/or unpaid licenses being incorrectly listed as active license holders.
   - Failure to detect instances where required wholesale affidavits had not been filed by wholesale licensees.
   - Municipalities being over or under paid for municipal license fee refunds.
   - The ABC Board's staff is not confirming and enforcing reports that should be filed by municipal law enforcement agencies prior to refunding municipal license fees.
   - The concerns of local governments that the ABC Board's policy and procedures do not include written notification to local governments regarding expired licenses.

   The above activities show that the ABC Board may not be operating effectively and efficiently and is not achieving its potential in furthering the public interest.

4. Enforcement Data Procedures. The ABC Board's investigators inconsistently or inaccurately entered case record information into the Alaska Public Safety Information

Network (APSIN) database. Enforcement staff is not adequately trained, and there are no written procedures to ensure the proper recording of enforcement activities into the database. The quality and completeness of information about enforcement activities entered into APSIN database is critical for analyzing, planning, and managing enforcement activities. Therefore, the lack of procedures governing quality and accuracy of data reported diminishes the ABC Board's ability to evaluate the performance of enforcement staff and the effectiveness of enforcement activities.

5. Statewide Database. The ABC Board's staff is not recording and verifying on a regular basis that all restricted alcohol purchasers[8] are included in the Statewide Database. The Statewide Database[9] is used to track written orders placed with alcohol package stores for shipment to communities with alcohol restrictions. One hundred thirty-four restricted purchasers were not included in the Statewide Database. Six restricted purchasers were listed as authorized purchasers in the database and three of these individuals purchased alcohol through the Statewide Database system since it went online in July 2008.

   Package (retail) stores are required to consult the Statewide Database first before shipping alcoholic beverages to municipalities or established villages that have restrictions on the sale of alcohol beverages. The Statewide Database tracks orders of alcohol purchased by, and shipped to, a person who resides in a municipality or established village throughout Alaska that has restricted the sale (volume) of alcoholic beverages in its community.

   Periodically verifying all restricted purchasers information in the database would help with the compliance and enforcement of the law by reducing the possibilities of package stores unknowingly selling alcohol to restricted purchasers.

6. Public Notice Requirements and Meeting Records. From FY 07 through FY 09, 11 of 16 board meetings were not adequately publicly notified per statute or board policy requirement. Four meetings were not advertised on the State's Online Public Notice system; seven meetings were not advertised in the local newspaper of the board meeting venue, and seven meetings were not advertised timely.

   A review of board meeting minutes showed over 50% of official board meeting records were incomplete and not adequately maintained. The board's agendas and meeting minutes did not adequately document public comment periods. The records also showed the board failed to document its purpose for executive sessions in almost all of their motions which is required under AS 44.62.310(b).

[8]A restricted alcohol purchaser is a person who has been convicted of alcohol violation(s) under Alaska Statute 04.11.010. The ABC Board maintains a list of restricted alcohol purchasers to provide to package stores who are then prohibited from selling alcoholic beverages through written orders to these restricted purchasers under 13 AAC 104.645(1).

[9]Alaska Statute 04.06.095. Statewide Database.

In summary, the ABC Board members and director should ensure written policies and procedures are developed, and followed by staff to ensure compliance with state laws and directives from the board and director. Specific guidance should provide for: (1) conformance with state and agency records retention laws, policies, and procedures; (2) timely reconciliation of licensing revenues and licenses; (3) proper execution and documentation of licensing, permitting, and administrative activities; (4) accurate and complete data entry about enforcement activities into ASPIN; (5) confirmation that all restricted purchases are included in the Statewide Database; and, (6) adequate and timely public notification of board meetings, and accurate recording and record retention regarding board actions.

ANALYSIS OF PUBLIC NEED

The following analyses of the Alcoholic Beverage Control Board's (ABC Board or the Board) activities address both positive and negative conditions related to the public need factors established in AS 44.66.050. These analyses are not intended to be all-inclusive, but rather address those areas we were able to examine within the scope of our review.

To help assess the impact of the Board's programs and procedures, we sent questionnaires to local governing bodies, law enforcement agencies, community councils/groups, and active licensees. The surveys covered a number of issues. Pertinent results are incorporated into applicable areas of this analysis.

Determine the extent to which the board, commission, or program has operated in the public interest.

The ABC Board is operating in the public's interest and protects the public's health, safety, and welfare. The ABC Board has made an effort to allow only qualified applicants to own and operate licensed premises. It conducts background checks to ensure that licenses are not initially granted to individuals with significant criminal records. On an ongoing basis, the Board receives, reviews, and takes action on notification of any reported criminal activity of licensees.

The ABC Board also controls the manufacture and sale of alcohol in designated areas by ensuring compliance and enforcing alcoholic beverage laws. The ABC Board's staff notifies the local governing body of new applications, renewals, transfers, denials, suspensions, and revocations. The board takes into consideration the local government's response or protest in the application review process. The board restricts the number of licenses within population sizes and around churches and schools according to state law. It also provides license regulation and enforcement, investigates complaints, and when warranted, revokes or suspends a license.

From FY 07 through FY 09, the board took individual actions approving 163 new license applications, 303 transfer requests, 101 license waivers, and 25 license resurrections. The board imposes fines and may suspend or revoke licenses or permits previously authorized if it is in the best interest of the public. The disciplinary actions taken by the board are summarized in Exhibit 2.

Exhibit 2

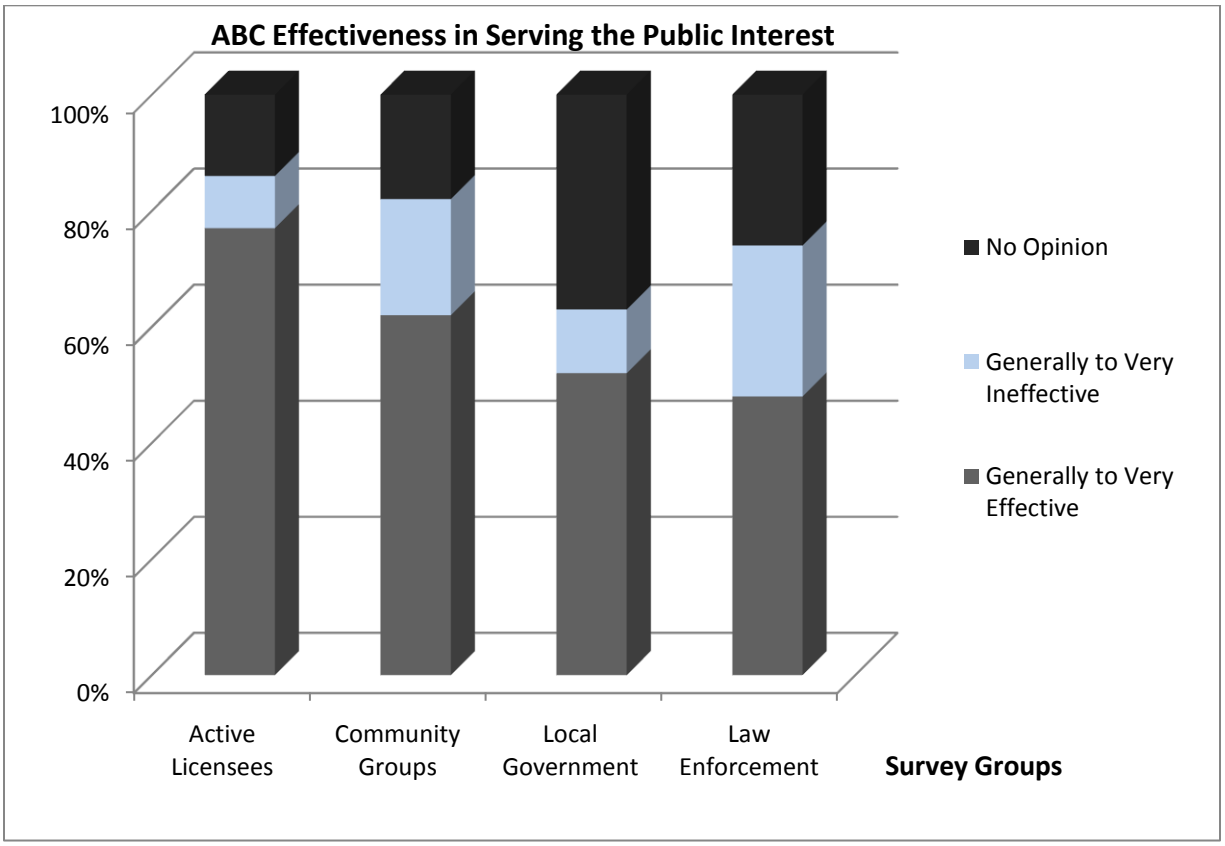
ABC Board Disciplinary Actions FY 07 to FY 09				
Actions	**FY07**	**FY08**	**FY09**	**Total**
Fines	12	5	8	25
Suspensions	17	7	12	36
License Denials	0	0	1	1
Renewals Denied	0	0	2	2
Transfers Denied	0	1	1	2
Waivers Denied	0	2	1	3
Revocations	0	0	0	0
Total	29	15	25	69

The lack of revocations is due to the board avoiding the process when possible. The board essentially revokes a license by either denying the renewal or allowing a licensee a set time period to transfer or sell the license. If the license is not transferred within the allotted time period, the license holder must "voluntarily" relinquish it. This is done through an informal settlement process. In the period reviewed, nine licenses were voluntarily relinquished to the board at a meeting.

The ABC Board's enforcement staff conducts premise inspections and compliance checks to ensure license holders are following the alcoholic beverage laws. However, we found the enforcement program lacked overarching goals and a plan to maximize their resources. (See Recommendation No.1)

In addition, the ABC Board's staff monitors the alcohol server training courses and answers questions from members of the public, licensees, law enforcement agencies, and local governments regarding alcoholic beverage controls statutes and regulations. We surveyed four groups (active licensees, law enforcement, local government, and community groups) to ask their overall opinion as to how effective or ineffective the ABC Board is in serving the public interest. The opinions were mixed as is shown in Exhibit 3.

Exhibit 3



Active licensees and community groups provided the most favorable rating. Alternatively, local government (at 11%) and law enforcement (at 26%) gave the least favorable rating regarding the ABC Board's effectiveness in serving the public interest.

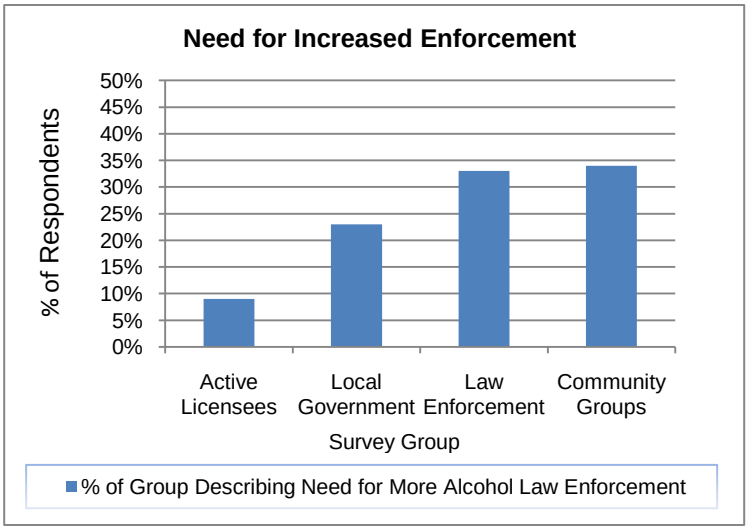
A few community group statements indicated unfamiliarity with the ABC Board. Active licensees reported having more interaction with the Board's staff than the other groups surveyed; mostly about license status, renewals, and clarification of laws. In general, active licensees indicated they found the ABC Board's staff knowledgeable, friendly, and helpful. The ABC Board provides trainings to local law enforcement regarding the enforcement of alcoholic beverage laws. Trainings may consist of conducting formal trainings at police academies, or inquires and requests from local enforcement agencies, licensees, and district attorneys. Forty-two percent of law enforcement respondents indicated they have no contact with the Board. Overall, it appears the ABC Board could do a better job working with and reaching out to educate and raise awareness of their efforts to the various groups through better communications, networking, and trainings.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The ABC Board's mission is to protect the public from alcoholic beverage abuse by enforcing state laws regulating alcoholic beverage commerce. Community and licensee respondents indicated that enforcement regarding the following activities are moderately adequate to very adequate:

- Sale of alcohol sale to minors.
- Sale of alcohol to inebriates.
- Sale of alcohol outside regulated hours of operation.
- Sale of alcohol without an alcohol servers training card.
- Gambling or prostitution on a licensed premise.
- Alcohol purchase limits in communities with alcohol restrictions.

Exhibit 4



It is noteworthy that more than half of the local law enforcement respondents were unaware of the ABC Board's enforcement staff's efforts to prevent and regulate the above activities. Respondents identified their concerns and need for improved or increased enforcement as indicated in Exhibit 4.

The community and law enforcement groups identified drunk driving and bootlegging as their primary concern. It appears that the ABC Board's only established preventative program for combating bootlegging in communities with alcohol restrictions is the Statewide Database.

One-third of local law enforcement respondents in communities with established alcohol restrictions were unaware of the Statewide Database. Of those who were aware of the purpose of the database, only 40% felt it was effective in helping maintain purchasing limits in their jurisdiction. Some of the local governing body respondents were not aware of the purpose of the Statewide Database. We asked active licensee respondents their opinion regarding the effectiveness of the Statewide Database for limiting alcohol purchases in communities. Two-thirds of the respondents who used the database to process orders to

restricted communities thought that the database was effective in managing alcohol purchasing limits.

Approximately 45% of the licensee respondents reported that they had not been subjected to any inspections or compliance checks and 24% believe the ABC Board's enforcement is not active in their area. The majority of law enforcement respondents also believe the ABC Board's enforcement is not active in their jurisdiction. Some smaller enforcement communities reported their belief that due to their size the ABC Board does not appear to be interested in working with them. A significant number of licensee respondents believe the ABC Board does not enforce the laws equally due to difficulty in traveling to remote locations and to the Board prioritization of addressing public concerns or complaints.

Exhibit 5

Inspections and Compliance Checks Performed on Active Licenses FY 07–FY 09

Region	Active Licenses Per Region	Number of Licenses Inspected	Total Inspections Performed	Number of Licenses Checked	Total Compliance Checks Performed
Southcentral					
Anchorage	458	224 49%	974	341 74%	1,086
Other Areas	447	165 37%	229	219 49%	473
Interior					
Fairbanks	93	71 76%	374	59 63%	147
Other Areas	155	106 68%	373	67 43%	159
Far North					
Nome	17	1 6%	1	16 94%	56
Other Areas	2	0	0	0	0
Southeast					
Juneau	80	55 69%	146	59 74%	153
Other Areas	185	123 66%	266	66 36%	127
Southwest					
Kodiak	22	18 82%	35	19 86%	49
Other Areas	72	17 24%	27	17 24%	25

Note: Table does not include licenses listed as Alaska Waters, Alaska Railroad, Alaskan Skies, and other licenses not identified in a Region.

Source: Enforcement Database

Exhibit 5 identifies the number and frequency of license inspections and compliance checks conducted by the ABC Board's enforcement officers on active licenses from FY 07 through FY 09. The information is presented by region with a breakdown by the primary urban area and other areas in that region. In total 50% of active license holders were inspected or checked for compliance. However, as seen in the exhibit, the highest rates for compliance checks and inspections are in the Interior and Southeast Region, with the Southwest Region having the lowest. Additionally, some licenses were inspected multiple times, while many were not inspected at all. While Exhibit 5 illustrates the enforcement activities, we found the ABC Board continues to be without a systematic strategy to ensure their enforcement resources are used effectively and efficiently. (See Recommendation No. 1.)

The ABC Board's total budget has remained relatively stable from FY 07 through FY 09. (See Appendixes A-C for revenue and expenditure information and for the current fee structure.)

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board did not recommend any statutory changes during FY 07 through FY 09. While numerous statutorily changes were made, the ABC Board only supported language modifications to the winery license type.

In June 2007, a new statute, AS 04.06.095, went into effect that involved the ABC Board creating and maintaining a Statewide Database containing a monthly record of alcohol purchased by, and shipped to, a person who resides in a municipality or established village that has restricted the sale of alcohol beverages. In addition, various restrictions were added to the local option laws. Legislative language was added to AS 04.11.499(b) to restrict the purchase from another person who has sent, transported, or brought alcohol into a municipality or established village that restricted the sale of alcohol. The package store license statute (AS 04.11.150) was also amended to address its responsibilities regarding shipments to restricted alcohol communities and for their use of the Statewide Database.

A destination resort license[10] was added to the licensing statues along with changes and clarifications to other license types. The possession of homebrew ingredients in restricted alcohol areas, AS 04.16.035, was added to prohibited acts. There were also modifications to other prohibited acts, penalties, and forfeitures (AS 04.16) during FY 07 through FY 09.

[10]Alaska Statute 04.11.255. Destination Resort License.

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

The board is required by statute to hold an annual meeting in each of the four judicial districts of the State in order to consider issues from both statewide and various local perspectives. It is also required to provide adequate public notice of these meetings. During FY 07 through FY 09, the board met in Anchorage, Fairbanks, Juneau, and Nome at least once per year; however, the ABC Board continues to have difficulty in providing adequate public notice for every meeting. (See Recommendation No. 2.)

A significant number of active licensee and community survey respondents are not aware they can participate in board meetings in person or by teleconference. This raises concern regarding the adequacy of the ABC Board's public notification and networking to encourage participation in its decision making process.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Survey responses and the lack of adequate public notices indicate that the ABC Board may not always encourage public participation in its decision making process.

As discussed in Recommendation No. 2, the ABC Board does not consistently provide adequate public notice of its meetings. Additionally, approximately 55% of licensee survey respondents reported sporadic or no receipt of timely notification of proposed regulations which would allow them to participate in board meetings. Those same respondents indicated they had not participated in the ABC Board's meetings in the past three years, and a majority did not know they could participate or attend by teleconference.

The majority of local government respondents did not know they could provide public comment on proposed changes to the ABC Board's regulations. These respondents also indicated they did not know they could recommend conditions be placed on specific alcohol licenses according to law. The ABC Board does not consistently adhere to the statutory requirement of notifying the local governing body within ten days of receipt of a license application per AS 04.11.520. This important requirement allows time for the local governing body to review and possibly protest the issuance, renewal, relocation or transfer of a license. Over half of the local government respondents indicated they have never, or only sometimes, received adequate notice of application for new licenses, transfers, relocations, or renewals of existing licenses. Twenty-one percent of these respondents reported they protested a new license or the renewal, relocation or transfer of an existing license. The majority of the protests were related to delinquent taxes and most of those protest respondents indicated they were not notified of when the board would consider their protest.

Additionally, 47% of the local government respondents were not aware they could recommend conditions be placed on license holders. (See Recommendation No. 2.)

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

For the period of FY 07 through April 2009, no complaints were filed with the Office of Victim Rights, Office of the Ombudsman, Boards and Commission, and Department of Public Safety. The current ABC Board director routinely responds to inquires, objections, and complaints about license and enforcement issues.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Overall, the board does an adequate job of regulating entry into the alcohol industry. The board acts on all new, renewal, and transfer applications through approval or denial. The board determines if applicants meet all required statutory qualifications. Some of the requirements include: proving the applicant advertised the location and type of license in a local newspaper; demonstrating the applicant posted the license application on the proposed licensed premises; proving right, title, or interest in the premises; and approval from the local governing body.

Our review of license files indicated appropriate action had been taken on applications made. However, we noted untimely reviews of local governing body protests and found several documentation and policies and procedures issues during this review. (See Recommendation No. 2.)

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We found no evidence that hiring practices or board appointments were contrary to state personnel practices. No complaints were filed with the Human Rights Commission, U.S. Equal Opportunity Office, or Boards and Commission about the ABC Board. The Department of Administration, Division of Personnel and the Department of Public Safety received no formal complaints; however, the agencies responded to informal complaints or accusations appropriately.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Recommendations for operational changes enabling the board to better serve the public interest are described in Recommendations Nos. 1 and 2.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

The ABC Board is generally effective in its objective of regulating the manufacture, sale, barter, and possession of alcoholic beverages in Alaska. The board has protected the general public through the licensing process and administrative actions. It has proposed or supported statute changes to benefit the public, actively inspected licensees to ensure compliance with the alcoholic beverage laws, conduct underage checks, and provides other enforcement activities.

Improvements are still necessary to improve the ABC Board's operations to help provide for better effectiveness and efficiencies as described in Recommendation Nos. 1 and 2. Additionally, the active licensees, law enforcement, local government, and community groups surveyed indicate that the ABC Board is generally effective in serving the public interest. However, the ABC Board could do a better job communicating and networking with these survey groups about its mission and involving them in their decision making process.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

The ABC Board is the only entity in the State that issues licenses for selling alcohol. In this regard, there is no duplication of this activity by another governmental agency or the private sector.

The ABC Board's enforcement efforts include investigation of gambling and prostitution activity, which duplicates state trooper and local law enforcement efforts throughout Alaska; however, our review of the ABC Board's participation in these efforts was minimal. All law enforcement agencies in the State also contribute to the enforcement of alcohol laws; consequently, there is an overlap in jurisdiction. This duplication was the intent of the legislature in creating the ABC Board as a regulatory and quasi-judicial agency.

The perception among the active licensee and local enforcement survey respondents is that the ABC Board's enforcement staff's efforts complement, rather than duplicate their efforts. However, the majority of law enforcement respondents also indicated that the ABC Board's enforcement staff was not active in their jurisdiction.

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APPENDIX A

Department of Public Safety
Alcohol Beverage Control Board
Schedule of Revenues
FY 07 through FY 09
(unaudited)

Revenue (*rounded to nearest hundred*)	FY 07	FY 08	FY 09
License Application Fees	$ 171,900	$ 184,600	$ 179,500
Beverage Dispensary Licenses	750,400	808,500	755,200
Restaurant Licenses	93,900	107,100	98,700
Club Licenses	48,600	52,800	46,800
Brewery Licenses	5,000	3,500	7,000
Package Store Licenses (retail)	288,800	285,800	294,800
Wholesale Licenses	20,000	16,000	30,000
Malt Beverage and Wine Wholesale Licenses	2,400	400	2,800
Common Carrier Licenses	27,000	68,000	35,500
Winery License	2,000	3,000	1,500
Miscellaneous[1]			
Wholesale Annual Fees	150,500	157,800	154,500
Other License Types	14,100	24,900	20,300
Permits	72,000	61,700	55,400
Other	189,300	167,000	150,000
Federal Grant Funds (DHSS)	100,000	99,600	100,000
Total Revenues	$ 1,935,900	$ 2,040,700	$ 1,932,000

Source: Alaska State Accounting System, ABC Board

[1]Miscellaneous includes annual wholesale fees; low volume licenses such as Pub, Golf, and Lodge Licenses; fingerprint fees; waiver fees; as well as fines and penalties and other miscellaneous receipts.

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APPENDIX B
Department of Public Safety
Alcoholic Beverage Control Board
Schedule of Expenditures
FY 07 through FY 09
(unaudited)

Expenditures	FY07	FY08	FY09
(rounded to nearest hundred)			
Personal Services	$ 782,500	$ 817,800	$ 924,000
Travel	44,000	80,900	85,400
Services	275,500	375,300	213,100
Commodities	9,500	39,500	41,700
Capital Outlay	-	-	26,400
Transfers to Municipalities[11]	785,600	889,600	813,400
Total Expenditures	$ 1,897,100	$ 2,203,100	$ 2,104,000

Source: Alaska State Accounting System

[11]In accordance with Alaska Statute 04.11.610, refunds of annual license fees, excluding annual wholesale license fees, collected within a municipality are to be given to the municipality semiannually. The total of these refunds is the "Transfers to Municipalities" amount. This activity is budgeted under the Department of Revenue as shared taxes.

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APPENDIX C
Department of Public Safety
Alcoholic Beverage Control Board
Licenses, Permits, and Fees
FY 07 through FY 09

Type	Amount
Application Filing Fees – new, transfer, or relocation of premises	$100
Application Filing Fees – renewal	200
Beverage Dispensary License	2,500
Beverage Dispensary License – Duplicate	2,500
Beverage Dispensary License – Seasonal	1,250
Beverage Dispensary License – Tourism	2,500
Beverage Dispensary License – Tourism Seasonal	1,250
Beverage Dispensary License – Public Convenience	2,500
Brewery License	1,000
Brewery License – Seasonal	500
Brewpub License	500
Brewpub License – Seasonal	250
Club License	1,200
Club License – Seasonal	600
Common Carrier License	1,000
Common Carrier License – Seasonal	500
Common Carrier License – Multiple Destination	2,000
Common Carrier License – Multiple Destination Seasonal	1,000
Destination Resort License	1,250
Destination Resort License – Seasonal	625
Distillery License	1,000
Golf Course License	400
Lodge License	1,250
Lodge License – Seasonal	625
Package Store License	1,500
Package Store License – Community License	1,500
Package Store License – Seasonal	750
Pub License	800
Permit, Caterers	50
Permit, Club	100
Permit, Conditional Contractor's – Provisional	1,200
Permit, Special Events (per day)	50
Recreational Site License	800
Recreational Site License - Seasonal	400
Restaurant/Eating Place License	600
Restaurant/Eating Place License – Seasonal	300
Restaurant/Eating Place License – Tourism	600
Restaurant/Eating Place License – Exempt	600
Restaurant/Eating Place License – Public Convenience	600
Restaurant/Eating Place License – Public Convenience Seasonal	300
Theatre License	600
Wholesale License – General	2,000
Wholesale License – Malt Beverage and Wine	400
Winery License	500
Winery License – Seasonal	250

Source of Information: Alcohol Beverage Control Board

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State of Alaska
Department of Public Safety
Alcoholic Beverage Control Board

Sean Parnell, Governor
Joseph A. Masters, Commissioner

August 21, 2009

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AUG 27 2009
LEGISLATIVE AUDIT

Pat Davidson
Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
PO Box 113300
Juneau, Alaska 99811-3300

RE: Response to Preliminary Report Department of Public Safety, Alcoholic Beverage Control Board, Sunset Audit

To the Committee:

I have reviewed your preliminary report regarding the sunset audit conducted over the past several months of the Alcoholic Beverage Control Board. I appreciate you and your staff taking the time to conduct such a thorough audit. The Board of Directors will use your findings as an excellent tool to refine our processes. I have met with ABC Board Director Shirley Gifford and she has shared with me the numbers of issues that were "fixed" during the time your auditors were gathering their findings. I feel assured that all other areas brought forward will be taken care of in the same manner, and with the same level of diligence and dedication.

Many of the issues raised are critically important to running the agency effectively and proficiently. Fortunately, most corrections can be made with a dedicated effort of the current staffing level. Others may only be corrected with an increase in staff. In any event capturing proper statistics and developing a strategic plan will help to utilize staff in the best way possible. The written order database was a monumental project implemented during this period of review and it appears as though some errors have occurred that will be minimized in the future with a system of verification as you have recommended.

Since Director Gifford was appointed January 5, 2009 she has made progress in some areas that had been neglected in the past. She has implemented a method for capturing the activities of licensing and enforcement staff and in addition to sharing the figures with the Board of Directors she will use the figures in developing the strategic plan. Other areas where she has brought improvement include the purchase and upgrade of equipment necessary for staff to adequately perform their duties; training and education from and for staff; many policies and procedures written for the enforcement unit, licensing, and ABC Board administration; and refinement in processes that include an inspection tracking form and the consolidation of three permit

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applications into one. Director Gifford started the strategic plan a couple of months ago and now with the audit complete will focus on the plan. She has already identified the goals and objectives and will ensure the issues raised in past audits will be addressed. Prior audit recommendations 1, 2, and 3 are included within your current recommendations and will be addressed under those headings. Prior audit recommendation no. 4 was not included in the current recommendation; however, steps have been taken to rectify this recommendation entitled, "The legislature should consider amending Title IV to remove the voting ability of the board's director." Director Gifford and I have met and whereas a solution had not been found I believe the solution comes with a tie vote resulting in a vote taken later if a voting member is absent, or in the event a member is recused the issue under consideration may be taken to an administrative hearing officer and superior court. This allows for the process to remain in the quasi-judicial and judicial process with no overlap with the executive branch of government. Director Gifford has met with Commissioner Masters regarding this proposal.

I will respond to the specific issues under Recommendations No. 1 and No. 2 in your letter:

Recommendation No. 1

The members of the ABCB and executive director should establish quantifiable and objective enforcement goals and develop a clear plan by which they will direct its enforcement resources to most efficiently and effectively accomplish those goals in a verifiable manner.

I agree with this recommendation. A strategic plan is being developed to capture specific, measurable, attainable, realistic, and timely (S.M.A.R.T.) goals. An inspection form has already been created and distributed to the investigators to ensure the best and most fair coverage for inspections. When a licensee fails an inspection we expect a follow-up inspection is conducted to ensure compliance; therefore, I expect more than one inspection of some premises within the year. When inspections over two in a single year occurred we found investigators were capturing "walk-throughs" in the database as inspections. As many walk-throughs that can be conducted are encouraged by the board of directors. Many areas are not easily accessible; however, the travel budget has been increased and many of these areas are now being inspected.

I appreciate your recognition that a plan will maximize the enforcement resources and expect direction will be given to the investigators "...to ensure they are performing their duties effectively and efficiently and according to the direction of the board and director."

Recommendation No. 2

The members of ABCB and executive director should develop and enforce written policies and procedures to ensure staff's compliance with state laws and decisions made by the board and director.

I agree with this recommendation. I fully expect the director will provide oversight and hold staff accountable for "their activities to ensure compliance with state laws and decisions made by the board and director." I appreciate you providing specific issues with which to address:

1. Records Retention. Records retention laws will be reviewed and written into the ABC Board Standard Operating Procedure (SOP)

a. Inspection reports and notices of violation will become part of the licensing file as opposed to keeping the documents in separate enforcement files. Criminal history records will be kept in a secure confidential file after the director has summarized the contents when necessary for the board to make decisions regarding the issuance, transfer, or renewal of a license.
b. The permit applications are now being copied onto the back of the permit with a copy kept in the permit file before presenting the permit to the licensee.
c. Notification letters will be sent to local governing bodies within 10 days after receipt of an application. This procedure will be written into the current procedures regarding notification. The director will also mail a notice of expiration to each licensee who has not renewed.

2. Licensing Revenues. Timely, complete, and accurate reconciliation between the two systems will be written into procedure and followed in an effort toward immediate action regarding noncompliant licensees.

3. Licensing and Administrative Procedures. The director takes full responsibility for not following this statutory requirement. The director believes taking care of this issue will assist local governing bodies to make timely decisions regarding licensees in their communities as well as improve the image of the ABC Board. Representatives of the local governing bodies generally take licensing seriously and count on the ABC Board staff to provide them with the information necessary to properly govern their areas. This procedure will be written and enforced. The licensing supervisor is responsible for this action and may have to delegate some of her other duties to ensure this is followed.

   A new procedure is being developed to deal with the return of caterers and special events permits. A spreadsheet will be created showing returns and notices. The director will be seeking direction from the board for a procedure as statute reads, "Failure to surrender the permit is cause, in the discretion of the board for denial of future permits."

   a. Other deficiencies to be addressed and resolved by staff:
      i. Bankruptcy proceedings
      ii. Licensing checklist applications
      iii. Local government protests to the board
      iv. Accuracy of active license holders
      v. Wholesale affidavits
      vi. Municipal revenue sharing
      vii. Notification to local governing bodies of expired licenses

4. Enforcement Data Procedures. I agree with the importance of these procedures and believe not only the incorporation of procedures to govern quality and accuracy but training to ensure all investigators understand the procedures and are uniformly entering data. Once the procedures and the training are complete the ability to evaluate performance will be enhanced.

   The APSIN database logs case numbers with their associated activity code. When investigators performed "walk throughs" of premises, they were obtaining case numbers

and activity codes for inspections, which would indicate some establishments had been inspected numerous times.

The only way to differentiate between an actual inspection and a walk through would be to hand count the APSIN activity entries and look for which inspections were checked IR (report generated) or IL (log only). If the activity was an IR, it meant an actual inspection was conducted and an inspection report generated. An IL would indicate a walk through; log only.

Procedures have been put in place and are being adhered to requiring inspection reports and NOV's be placed in the licensee file, along with an electronic inspection tracking form on our internal K drive to log inspections. An activity code for walk throughs in APSIN will be pursued. Procedures governing quality and accuracy of data will enhance the ability of the director to evaluate the performance of enforcement staff and the effectiveness of enforcement activities.

5. Statewide Database. Last year the enforcement staff hand entered all the names and information from the restricted purchaser list into the database software. Apparently, one entire section of the list did not get entered. Nevertheless, package stores were provided with an updated restricted purchaser list. The licensees who sold to restricted purchasers were in violation of Title IV. Since this has been revealed through the audit an investigation of the licensees is being conducted as licensees should have been in possession of the list of restricted purchasers. A periodic verification will be conducted to ensure the list is accurate.

6. Public Notice Requirements and Meeting Records. Policies and procedures were written by the previous director dated October 31, 2006 and were found included in the board of directors' packet for the meeting of November 29, 2006, along with the 2006 audit report. Unfortunately, these were not compiled in a book specifically labeled policies and procedures with no availability to staff as a quick reference. The policies and procedures dictate, "The date, time, location, and contact information will be noticed in at least one newspaper of general circulation within the municipality where the meeting is to be held at least 5 and no more than 14 days prior to the meeting." Director Gifford is developing with staff a "check list" of actions necessary before each board meeting. This item is on the check list and the director will go over the list with the employees responsible for specific parts of the organization of the meeting.

   Two meetings in 2006 and two meetings in 2007 were not advertised on the state's Online Public Notice system; however, the noticing on this system has been consistent since 2007. The current procedure dictates that, "At least 30 days prior to the next ABC Board meeting, the Administrative Assistant will forward to the appropriate person identified in the Commissioner's Office of the Department of Public Safety the meeting notice for publication on the Alaska Online Public Notice System. If this notice is transmitted by email, the Director is to be copied so that he may verify the timely forwarding of the notice." This procedure has recently been followed and will continue to be followed. The administrative assistant is now using Microsoft Outlook Calendar to set reminders for advertising requirements.

A frame has been installed in the lobby of the ABC Board office which will hold an inserted page showing the upcoming location, date, and time of the meeting as the meetings are set by the board of directors. The director has sent and will continue to send notice to staff of the next meetings in order that all employees are aware and can inform the public.

All of the board meeting minutes are now as complete as possible with an effort to create the files from existing files in offices other than the administrative assistant's, and will be adequately maintained. The files should include the sign-in sheet (the sheet was not signed in Juneau at the February 24, 2009 meeting), the minutes, a copy of the board packet, and the recording of the meeting.

Public testimony is allowed and encouraged in every board of directors meeting. Documentation of this will be provided in addition to what the recordings have provided. Public testimony was not specifically listed on the agenda but was listed for the July 14, 2009 meeting in Juneau and will continue to be listed for future meetings.

ANALYSIS OF PUBLIC NEED

Several issues identified through questionnaires provided to local governing bodies, law enforcement agencies, community councils/groups, and active licensees were addressed in the recommendations; therefore, I will address the findings that were not previously addressed. I am pleased that this audit shows that the ABC Board is operating in the public's interest and protects the public's health, safety, and welfare; that the ABC Board is controlling the manufacture and sale of alcohol in designated areas by ensuring compliance and enforcing alcoholic beverage laws; and that individual disciplinary actions are acceptable for licensees. Some issues that come before the board are complex and staff has provided the board with the information necessary to make good decisions on behalf of licensees, potential licensees, local governing bodies, and the communities affected. The statutes are difficult to reference and translate at times. Debate, conflict, and confrontation, although not every day occurrences are handled professionally and timely.

The ABC Board director and staff are making concerted efforts to provide education and training. Within the past six months the following presentations have been provided:

- Fire and Life Safety Building Inspectors Forum
- Anchorage International Airport Police
- Hoonah Police Department
- Tanana Valley Campus Police Academy
- Alaska Peace Officers Association Anchorage Chapter
- Alaska Association of Chiefs of Police semi-annual meeting
- Alaska Peace Officers Association Newsletter

The director is scheduled as a keynote speaker at the Alaska CHARR Convention in September as well as patrol briefings for the Anchorage Police Department. The effort to educate, improve communications, and network will continue throughout the state.

The mission of the ABC Board is to protect the public from alcoholic beverage abuse by enforcing state laws regulating alcoholic beverage commerce. Although pleased that the

ABC Board is seen to be "generally" effective in its objective of regulating the manufacture, sale, barter, and possession of alcoholic beverage in Alaska and "generally" effective in serving the public interest with the adoption of the recommendations I look forward to increasing the level of effectiveness.

Director Gifford has shared with me your positive approach to a critical process and that she and the staff enjoyed working with you and your group of professionals. I also appreciated you taking the time to talk with me about the performance of the ABC Board. I appreciate you making allowances for the many issues that were resolved during the audit. Certainly, that was your prerogative and to focus on those issues left outstanding is appreciated by all involved.

Sincerely,

Robert Klein
Chair
Alcoholic Beverage Control Board

cc: Joseph A. Masters, Commissioner, DPS
Shirley A. Gifford, Director, ABC Board

State of Alaska
Department of Public Safety

Sean Parnell, Governor
Joseph A. Masters, Commissioner

September 4, 2009

Pat Davidson
Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

RECEIVED
SEP 10 2009
LEGISLATIVE AUDIT

RE: Response to Preliminary Report on a Sunset Review on the Department of Public Safety, Alcoholic Beverage Control Board, August 14, 2009

Dear Ms. Davidson:

I have reviewed your preliminary report on the Alcoholic Beverage Control Board (ABCB), Sunset Audit and concur with the report's conclusion that the ABCB should continue.

Your audit made two recommendations and I agree with both.

Recommendation No. 1

The members of the ABCB and executive director should establish quantifiable and objective enforcement goals and develop a clear plan by which they will direct its enforcement resources to most efficiently and effectively accomplish those goals in a verifiable manner.

Recommendation No. 2

The members of ABCB and executive director should develop and enforce written policies and procedures to ensure staff's compliance with state laws and decisions made by the board and director.

Your audit notes that both recommendations contain unresolved elements of prior audit recommendations. As you know, since your last audit the department has been actively involved with the ABCB and its staff in an attempt to improve business practices of the board. Those efforts met with limited success until recently.

The development and implementation of appropriate solutions are under the direct and immediate control of the Alcoholic Beverage Control Board and the Executive Director. As your audit notes, significant improvements have been made since the current executive director assumed her duties. I have every reason to believe this improvement will continue.

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I have reviewed the response to each of your recommendations by the ABCB Chair, Bob Klein. I agree that these responses are appropriate for the recommendations. The department will work with the ABCB and its staff to assist them in implementing corrective action.

Sincerely,

Joseph A. Masters
Commissioner

Cc: Bob Klein, Chair, Alcoholic Beverage Control Board
Shirley A. Gifford, Director, ABC Board

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