

## Thoughts on Alaska Oil & Gas

Brad Keithley's Blog

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### Alaska Oil Policy| SB 21's "Oil & Gas Competitiveness Review Board" needs a fix ...

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As SB 21 moves from the Senate to the House for consideration some will suggest various changes that should be made while in the House. One set of changes that should be made is to the membership of the "Oil & Gas Competitiveness Review Board," a proposal offered and championed by Senator McGuire during the bill's time in the Senate.

I have long been a supporter of such a Review Board and believe I was in the room when it was first discussed. Indeed, one of the earliest pieces I wrote on Alaska oil & gas policy was in support of adopting such a proposal. (*["Alaska's Future: Sen. McGuire's Proposed Competitiveness Review Is Important,"](#)* Feb. 10, 2011).

But the proposed membership in this version is not the same as when the Board was first discussed and the change is for the worse. As the bill travels through the House, the membership of the Board should be modified to reflect a broader constituency.

As originally introduced (as SCR 4 in the 27th Legislature), the Competitiveness Review Board had a far different, largely legislative membership. At that time, the proposed membership was as follows:

*(1) one senator appointed by the president of the senate; (2) one representative appointed by the speaker of the house of representatives; (3) five members of the public, including one member who is a petroleum engineer, one member who is a petroleum geologist, and one member who is an economist, appointed jointly by the president of the senate and the speaker of the house of representatives ...*

As that Legislature proceeded, the original proposal evolved into something broader, and also narrower, when added to the proposed [Committee Substitute for then-SB 85](#) (at Section 4). There, the proposed membership included the following:

*(1) one senator appointed by the president of the senate; (2) one representative appointed by the speaker of the house of representatives; (3) five members of the public appointed by the governor, including one member who is a petroleum engineer, one member who is a geologist, one member who is an economist, and one member who is a member of an environmental or conservation group; (4) the commissioner of natural resources or the*

*commissioner's designee; and (5) the commissioner of revenue or the commissioner's designee.*

As currently proposed (in the version of SB 21 passed by the Senate, at Section 33), the "Oil & Gas Competitiveness Review Board" is to be composed of the following members:

*"(1) two members nominated by the two leading nonprofit trade associations representing the oil and gas industry in the state and appointed by the governor, with one member nominated by each association; (2) the chair of the Alaska Oil and Gas Conservation Commission or the chair's designee; (3) three members of the public appointed by the governor, including one member who is a petroleum engineer, one member who is a geologist, and one member who is an economist; (4) the commissioner of environmental conservation or the commissioner's designee; (5) the commissioner of natural resources or the commissioner's designee; and (6) the commissioner of revenue or the commissioner's designee.*

Essentially, the grouping is a subsection of the Governor's cabinet (Commissioners of Revenue, DNR and ADEC), one independent agency (the AOGCC), three members of the "public," but who are required to have designated, industry-related backgrounds (economist, geologist and engineer), and "two members nominated by the two leading nonprofit trade associations representing the oil and gas industry in the state."

***Or, as Matt Buxton from the Fairbanks News-Miner, not entirely accurately but with some insight, has summed it up, "The competitive review board. The board with two of its five members nominated by the industry. Two more who work for the industry."***

Unlike both versions proposed during the prior legislature, the current version has no legislative membership and the "public" seats are all locked down either by membership or expertise. I believe that is a significant mistake.

One of the problems that Alaska has faced in developing needed revisions to its oil & gas policy over the last several years has been the lack of a forum for developing a broad public understanding and consensus on the nature and depth of the problems that Alaska faces in competing for investments.

While the various sides have developed their own versions of the "facts," there has been no ongoing, broad forum within which to discuss and debate the facts and, if not arrive at a consensus on a way forward, at least work toward a common and well thought out understanding of the challenges Alaska faces.

That would seem to be a useful step for a state that relies on a single industry for 90% of its governmental revenue and a third of its jobs. It would seem critical for a state that faces significant competition in attracting the investment dollars needed to keep that industry strong.

As a state, we are rightfully insistent that industry continually evaluate and adopt global "best practices" in their operations. Yet, we settle for holding only a few hearings during the 90-day

legislative session every year to evaluate whether, as a state, Alaska is doing the same thing at a governmental level.

In a nutshell, that is the problem the Board is designed to address.

With all due respect, however, in its currently proposed form the Competitiveness Review Board will largely be perceived, if not actually operate, largely as the insider "industry" board that Matt Buxton's recent tweet suggests. Its recommendations will not be given the weight that they would if made by a broader, consensus building body. The Board will not benefit from questions and insights brought to and taken away from meetings by those outside the industry, but who nevertheless could play an important role in educating Alaskans more broadly about the competitive environment in which the state's most important industry operates.

Two models were in the room when the Board was first discussed — the National Commission on Fiscal Responsibility and Reform (the so-called "Simpson/Bowles Commission") and various task forces that the state has used over time to address educational issues the state has faced (e.g., Alaska Advisory Task Force on Higher Education and Career Readiness; Joint Legislative Education Funding Task Force

To various degrees, both models mix Executive Branch, Legislative Branch and public members together. The Simpson-Bowles Commission, for example, included 7 members from the public (some of whom were retired Executive Branch officials or legislators) and 12 then-current legislators. The Alaska Higher Ed task force included 13 from the education sector, 5 legislators and 2 from the Executive Branch. The Education Funding Task force included 10 legislators and 1 from the education sector.

In my view, Alaska would benefit from adopting a similar model for the membership of the Competitiveness Review Board. If the Board is going to serve the function of creating a broader understanding within the state of Alaska's competitive position, then the Board itself also needs to be broader based. More perspectives mean a broader public buy in of the Board's recommendations, and ultimately, broader and more credible communication of its results.

If it were me, I would keep the Executive Branch members proposed in the current legislation (Comm's of Revenue, DNR and ADEC). I also would retain the Chair of the AOGCC.

But I would replace the two seats designated for "members nominated by the two leading nonprofit trade associations representing the oil and gas industry in the state" with legislators, one appointed by the President of the Senate and the other appointed by the Speaker of the House of Representatives. The legislature's participation, input and buy in is critical to developing a strong state policy. The members of industry trade groups can participate by testifying before the body.

I also would retain the three members of the public, but eliminate the requirements that they come from certain backgrounds. The Board is not — or at least it should not be — a technical board. It should draw on technical expertise from the various governmental departments, or from consultants, to meet

its technical needs.

Instead, the Board should be composed of members of the public who are capable of asking the hard questions about government policies, understanding the nexus between the Alaska economy and the industry and are capable of making — and then explaining to the public — judgments about changes in policy that are necessary or appropriate to further Alaska's public interest.

By imposing expertise criteria on members, the legislation potentially might exclude as members Alaskans such as [Mark Langland](#) or [Joe Beedle](#) of Northrim Bank, [Betsy Lawer](#) of First National Bank, [Mike Burns](#) of the Permanent Fund Board, Byron Mallott, formerly of the Permanent Fund Board, or former Governor Tony Knowles, all of whom are capable of bringing significant expertise and insight into understanding Alaska's competitive position and, as importantly, then explaining their findings to their fellow Alaskans.

That approach is wrong. The legislation should not from the outset deprive the Governor of the ability to appoint the best Alaskans to meet the objective.

As I have argued since 2010, a "Competitiveness Review Board" is an important step in more fully developing and broadly disseminating Alaska's oil policy. But if it is to succeed, it is important to match the membership to the objective. It isn't now.

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