

# LEGAL SERVICES

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## MEMORANDUM

February 12, 2016

**SUBJECT:** Drafting notes (CSHB 112( ); Work Order No. 29-LS0485\E)

**TO:** Representative Louise Stutes  
Attn: Reid Harris

**FROM:** Alpheus Bullard *LAB*  
Legislative Counsel

This memorandum accompanies the bill described above. I have several comments.

### **The commission**

You asked that this draft preserve the Alaska Commercial Fisheries Entry Commission (commission), albeit in a diminished role. This draft curtails the compensation of the commission, mandates that the commission employ an executive director, and requires the commission to provide a monthly report beginning in February 2017.<sup>1</sup> The changes to the commissioners' compensation take effect on January 1, 2017 (*see* sec. 133). While the commissioners' hours and benefits may be reduced without raising constitutional issues, the manner in which you have requested that the commissioners' working hours and benefits be restricted is unusual. I recommend that you consult with the appropriate personnel at the Department of Administration's division of personnel to ensure that the bill's limitations on hours and benefits work in the manner you intend (*see* bill secs. 20 and 21 (amending AS 16.43.060 and 16.43.080) and secs. 111 and 112 (amending AS 39.35.680(22) and AS 39.35.990(16))).

### **Permit fees**

You asked that this bill remove the monetary ceiling that the department may charge for the issuance or renewal of a commercial fishing entry permit, interim-use permit, or vessel based permit. These changes are found at secs. 31 (amending AS 16.43.160(c)) and 76 (amending AS 16.43.511(a)).

### **Vessel permit system for Bering Sea Hair Crab Fishery**

This version of the bill contains a number of new provisions that do not directly relate to the changes you requested. Sections 71 - 80 of the current bill are required to conform AS 16.43.451 - 16.43.521 (Vessel permit system for Bering Sea Hair Crab Fishery) with the transfer of certain responsibilities from the commission to the Department of Fish and

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<sup>1</sup> This version of the bill does not repeal AS 16.43.080(b). This provision permits the commission to contract for certain professional services.

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Game (department). These provisions should have been included in earlier versions.

**Splitting duties between the Commission and the Department of Fish and Game**

You asked that this version "restructure" the commission so that the commission would continue to hold adjudicatory hearings, be responsible for permit transfers and emergency transfers, and conduct its research activities. All of the commission's other duties under AS 16.43 would be transferred to the department.

In statute, the demarcations between the commission's existing duties are not always clear. Consequently, splitting the current commission's duties between the department and a restructured commission raises drafting issues. For example, the commission's continued responsibility for commercial permit transfers and emergency transfers would seemingly implicate the department's duty to determine who is eligible for a permit. To ensure that the duties are divided in a manner consistent with your intent, please review secs. 23, 24, 32 - 35, 72, 73, 89, 98, 99, 104, and 106 of the bill (which relate to the duties of the restructured commission).

Because the commission will retain some of its employees, I added a provision to this version of the bill that requires the commissioner of fish and game, in consultation with the commission, to decide which employee positions are transferred to the department under the act. *See* subsection (b) of sec. 130.

If you have questions, please do not hesitate to contact me.

TLAB:dla  
16-142.dla

Attachment