

Background Information on the Alaska Board of Fisheries Conflict of Interest Disclosures

Regarding Consideration of HB 41

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Introduction

Compliance with the Executive Branch Ethics Act (AS 39.52) is taken very seriously by the Board of Fisheries. Board members and their supporting staff follow the legal guidelines in the ethics act as they strive to maintain a high level of public credibility in the overall board process. If a member has a significant personal or financial interest in an issue before the board, he or she must refrain from deliberating or acting on that issue.

Procedures

There are several procedures that are followed by the board to help insure that these guidelines are met.

At the very beginning of each regulatory meeting, the board chairman calls on each member to present their ethics disclosure statement. The one-page *Ethics Disclosure* guide sheet (attached) is used as the outline for these disclosures. Board members describe their income sources, list any personal or financial interests they or their family members have in fishing related businesses, and identify any personal or financial interest they or their family members may have in regard to the proposals to be considered at the meeting.

The chairman then invites questions from the other board members, and may also ask for comments from the Department of Law. Following any clarification or discussion, the chairman issues a ruling on the member's eligibility to participate on specific proposals.

A determination by the chairman can be overruled by a vote of the board. When there is a vote to overrule the chair's ruling, the member in question does not vote.

If a board member is found to have a conflict with a given proposal, that member does not participate in the committee discussion, deliberation, or in voting on the particular proposal.

Pattern from last seven years

The board addresses different geographic areas of the state on a three-year cycle and they act on 350 to 450 proposals each year. Overall, 10 percent of the proposals addressed by the board have been subject to a ruling of a conflict of interest.

The frequency of conflicts varies year to year as a function of board composition and geographic focus of the board. Conflicts are typically found when a board member or their family members have a significant economic or personal interest in a fishery, such as when an active charter or commercial fisherman fishes in an area covered in regional board meeting. In some years the conflict rate is as low as 3 percent, in other years as high as 20 percent.

Table 1 is a summary of the six year period from 2001 through 2007. During this period, the board addressed a total of 2,458 proposals, 253 of which had a board member conflict. On average, 410 proposals were addressed each year, 10 percent of which had a board member conflicted.

Table 2 presents data for the period from 2001 through 2008, compiled by board member instead of by meeting. Again, the pattern of conflicts varied as a function of the member's personal and financial interests relative to the topics before the board.

Tables 3 - 10 provide an accounting of the number of proposals where a conflict was found including the detail by meeting and by board member. Each page is a different meeting cycle year, beginning with the 2001/2002 Cook Inlet and Kodiak cycle and continuing through the most recent meeting.

HB 41

House Bill 41 would result in two changes in how the Board of Fisheries approaches conflicts of interests.

First, the definition of "family" would be narrowed (see chart) It would shift away from the definition applied to the *Executive Branch*, as found in AS 39.52.960(11), and move to the definition applied to the *Legislative Branch*, as found in AS 24.60.990(6). No longer included would be a member's child, parent, or sibling when not residing with the member, when not financially dependent, or when not sharing a substantial financial interest. Also deleted would be a grandparent, aunt, uncle, spouse's parent, or spouse's sibling.

Comparison of "family" definitions in state statute (February 2009)

	AS 39.52.960(11) (Executive Branch)	AS 24.60.990(6) (Legislative)
Spouse, Conjugal cohabitant/ Domestic partner	Included	Included
Child (including stepchild and adopted child), Parent, Sibling	Included	Included only if: -resides with person -financially dependent, or -if shares a substantial financial interest
Grandparent, Aunt, Uncle, Spouse's parent, Spouse's sibling	Included	Not included

The second change is that the board member would be allowed to fully participate in the deliberation on a proposal. However, the bill would not change the restriction on a board member voting on a proposal or issue if the board member had a conflict.

Conclusion

Neither the Department of Fish and Game nor the Board of Fisheries has taken a position on HB 41 at this time.

ETHICS DISCLOSURE

To comply with the Alaska Executive Branch Ethics Act (AS 39.52), board members are required to disclose sufficient information on the record of all interests they, or their immediate families, may have that relate to fish (Board of Fisheries members) or wildlife (Board of Game members) to enable the chair of the board to determine whether the involvement may be a personal or financial interest that constitutes a conflict of interest under the Act.

When making public ethics disclosures on the record at board meetings, members must provide sufficient information in response to the following questions to enable the chair to decide if it is necessary to inquire further to determine whether a conflict exists:

1. Explain in general terms what you do for a living:
 - a. primary employer/employment,
 - b. other employment or sources of income,
 - c. other business interests.

For the following questions, “member of your family” includes spouse, conjugal cohabitant, child (including step-child and adopted child), parent, sibling, grandparent, aunt, uncle, and spouse’s parent and sibling.

2. List all personal or financial interests you, or any member of your family, have in any business or organization relating to fish or wildlife resources.
3. Describe generally any interest you, or any member of your immediate family, have in a business or fish or wildlife organization that may be affected by any of the proposals to be discussed.
4. Describe generally any other interests of a personal or financial nature you, or any member of your immediate family, have that may be affected by any of the proposals to be discussed.
5. List all lawsuits that you, a member of your immediate family, or any organization you belong to, are involved in against the state, the board or the Department of Fish and Game, or where the state, the board, or the department is a party to the lawsuit.

If you, or a member of your immediate family, are a member of any organization or corporation that is involved in a such a lawsuit, briefly explain what the organization is, the size of its membership and whether you, or an immediate family member, are on its board or hold some other executive or policy making position.

You must certify that your disclosure statement is “true, correct and complete.”

Under the Ethics Act the chair of each board has the duty to determine whether a member's involvement in a matter violates the Act (AS 39.52.220). After each individual disclosure, the chair will rule on whether the board member has a conflict. If the chair determines that a conflict will exist if the member participates, the member must refrain from voting, deliberating, or participating in the matter. If the chair determines no conflict will exist, the member can participate fully.

Summary of Board of Fisheries Vote Abstentions

TABLE 1. SIX YEAR SUMMARY OF BOARD OF FISHERY PROPOSALS

	01/02	02/03	03/04	04/05	05/06	06/07	Total	Annual Average
TOTAL NO. OF PROPOSALS FOR CYCLE:	520	496	231	532	420	259	2,458	410
NUMBER OF PROPOSALS WITH CONFLICT:	42	35	7	49	67	53	253	42
PERCENT OF PROPOSALS WITH CONFLICT:	8%	7%	3%	9%	16%	20%	10.3%	
TOTAL NUMBER OF VOTES CAST:	3,640	3,472	1,617	3,724	2,940	1,813	17,206	2,868
NUMBER OF VOTES WITH CONFLICT:	42	35	7	49	67	53	253	42
PERCENT OF VOTES WITH CONFLICT:	1%	1%	0%	1%	2%	3%	1.5%	

TABLE 2. BOARD OF FISHERIES VOTE ABSTENTIONS, BY MEMBER (Oct. 2001 - Dec. 2008)

Board member	Time period	Total number of meetings	Number of meetings with conflict	Percent of meetings with conflict	Total number of proposals	Number of proposals with conflict	Percent of proposals with conflict
Grant Miller (Sitka)	Oct. 2001* - Jun. 2002	7	1	14%	520	3	1%
Virgil Umphour (Fairbanks)	Oct. 2001* - Jun. 2002	7	0	0%	520	0	0%
John White (Bethel)	Oct. 2001* - Oct. 2002	9	0	0%	525	0	0%
Dan Coffey (Anchorage)	Oct. 2001* - Dec. 2002	7	0	0%	520	0	0%
Larry Engel (Palmer)	Oct. 2001* - Jun. 2003	17	0	0%	1,016	0	0%
Russell Nelson (Dillingham)	Oct. 2001* - Apr. 2004	25	0	0%	1,247	0	0%
Ed Dershaw (Anchor Point)	Oct. 2001* - Mar. 2005	36	4	11%	1,779	48	3%
Eric Jordan (Sitka)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Andy Szczesny (Soldotna)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Oliver Holm (Kodiak)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Fred Bouse (Fairbanks)	Oct. 2003 - May 2006	28	0	0%	1,182	0	0%
Rupe Andrews (Juneau)	Jan. 2003 - Feb. 2007	41	0	0%	1,888	0	0%
Mel Morris (Kodiak)	Jan. 2003 - Dec. 2008	51	4	8%	2,506	28	1%
John Jensen (Petersburg)	Jan. 2003 - Dec. 2008	51	5	10%	2,506	101	4%
Art Nelson (Anchorage)	Jan. 2003 - Jun. 2007	42	3	7%	1,917	12	1%
Robert Heyano (Dillingham)	July 2004 - Jun. 2007	27	7	26%	1,211	61	5%
Jeremiah Campbell (Seward)	Oct. 2005 - Nov. 2008	24	0	0%	1,070	0	0%
Bonnie Williams (Fairbanks)	July. 2006 - Dec. 2008	16	0	0%	848	0	0%
Larry Edfelt (Juneau)	Mar. 2007 - Jun. 2008	7	0	0%	420	0	0%
Howard Delo (Big Lake)	Jul. 2007 - Dec. 2008	9	1	11%	589	1	0%
Vince Webster (King Salmon)	Jul. 2007 - Dec. 2008	9	0	0%	589	0	0%
Bill Brown (Juneau)	Jul. 2008 - Dec. 2008	3	0	0%	198	0	0%
Karl Johnstone (Anchorage)	Dec. 2008 - Dec. 2008	0	0	0%	0	0	0%

* term started prior to Oct. 2001

TABLE 3. 2001/2002 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict						Comments
			<u>Engel</u>	<u>Coffey</u>	<u>Miller</u>	<u>White</u>	<u>R. Nelson</u>	<u>Dershaw</u>	
Oct. 11-13, 2001	Worksession (17 ACRs)	0	0	0	0	0	0	0	0
Nov. 8-12, 2001	Lower Cook Inlet	44	0	0	0	0	0	12	0
Nov. 13-14, 2001	Groundfish, Crab	7	0	0	0	0	0	0	0
Jan. 7-14, 2002	Kodiak and Chignik finfish	69	0	0	0	0	0	0	0
Feb. 6-20, 2002	Upper Cook Inlet finfish	291	0	0	0	0	0	27	0
Mar. 14-21, 2002	Statewide king and Tanner crab, supplemental issues	107	0	0	3	0	0	0	0
Jun. 16, 2002	VMS, Kenai chinook	2	0	0	0	0	0	0	0
all meetings		520	0	0	3	0	0	39	0

TOTAL NUMBER OF PROPOSALS FOR CYCLE:

NUMBER OF PROPOSALS WITH CONFLICT:

PERCENT OF PROPOSALS WITH CONFLICT:

TOTAL NUMBER OF VOTES CAST:

NUMBER OF VOTES WITH CONFLICT:

PERCENT OF VOTES WITH CONFLICT:

TABLE 4. 2002/2003 PWS AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict						<u>Comments</u>
			<u>Engel</u>	<u>Jordan</u>	<u>White</u>	<u>Szczesny</u>	<u>R. Nelson</u>	<u>Dershaw</u>	
Oct. 17-19, 2002	Worksession (36 ACRs)	0	0	0	0	0	0	0	0
Oct. 20-21, 2002	Groundfish, Chinook	5	0	0	0	0	0	0	0
Dec. 5-6, 2002	Chinook	16	0	0	vacant	0	0	0	0
Jan. 20-28, 2003	Southeast herring, groundfish, Dungeness crab, shrimp, misc. shellfish	174	0	0	19	<u>Jensen</u>	<u>A. Nelson</u>	<u>R. Nelson</u>	<u>Andrews</u>
Jan. 31-Feb. 5, 2003	Prince William Sound and Copper River finfish	104	0	0	0	0	0	0	0
Feb. 20-28, 2003	Southeast and Yakutat finfish	122	0	0	16	0	0	0	0
Mar. 17-25, 2003	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	71	0	0	0	0	0	0	0
Apr. 30, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0
May 14, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0
Jun. 24, 2003	Bristol Bay red king crab	2	0	0	0	0	0	0	0
	all meetings	496	0	0	35	0	0	0	0

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 496
 NUMBER OF PROPOSALS WITH CONFLICT: 35
 PERCENT OF PROPOSALS WITH CONFLICT: 7.1%

TOTAL NUMBER OF VOTES CAST: 3,472
 NUMBER OF VOTES WITH CONFLICT: 35
 PERCENT OF VOTES WITH CONFLICT: 1.0%

TABLE 5. 2003/2004 BRISTOL BAY, A-Y-K, ALASKA PENINSULA CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict						Comments
			Morris	A. Nelson	Jensen	Andrews	R. Nelson	Dershaw	
Oct. 1-3, 2003	Worksession (24 ACRs)	0	0	0	0	0	0	0	0
Oct. 4, 2003	Pribilof Islands blue king crab	1	0	0	0	0	0	0	0
Nov. 12-17, 2003	Statewide finfish	31	0	0	1	0	0	0	Jensen conflict on Area A registration
Nov. 18-19, 2003	Chignik purse seine coop fishery	6	0	6	0	0	0	0	Nelson conflict on all proposals
Dec. 9-17, 2003	Bristol Bay finfish	75	0	0	0	0	0	0	
Jan. 12-19, 2004	Arctic-Yukon-Kuskokwim finfish	32	0	0	0	0	0	0	
Feb. 15-26, 2004	Alaska Peninsula/Aleutian Islands finfish	84	0	0	0	0	0	0	
Apr. 4-5, 2004	Prince William Sound allocation plan	2	0	0	0	0	0	0	
	all meetings	231	0	6	1	0	0	0	0
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		231							
NUMBER OF PROPOSALS WITH CONFLICT:		7							
PERCENT OF PROPOSALS WITH CONFLICT:		3.0%							
TOTAL NUMBER OF VOTES CAST:		1,617							
NUMBER OF VOTES WITH CONFLICT:		7							
PERCENT OF VOTES WITH CONFLICT:		0.4%							

TABLE 6. 2004/2005 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict						Comments
			Morris	A. Nelson	Jensen	Andrews	Heyano	Dershaw	
Jul. 1, 2004	Teleconference re Kasiliof sockeye	1	0	0	0	0	0	0	0
Jul. 5, 2004	Teleconference re Kasiliof sockeye	1	0	0	0	0	0	0	0
Jul. 19, 2004	Teleconference re Kasiliof and Kenai late-run sockeye	1	1	0	0	0	0	0	Morris conflict on emergency petition re Cook Inlet
Aug. 4, 2004	Teleconference re Cook Inlet eastside commercial and Kenai personal use	1	0	0	0	0	0	0	0
Sep. 28, 2004	Teleconference re Kenai River coho	1	0	0	0	0	0	0	0
Oct. 5-7, 2004	Worksession (24 ACRs)	0	0	0	0	0	0	0	0
Nov. 11-13, 2004	Lower Cook Inlet finfish	34	0	0	0	0	0	3	6
Nov. 14-17, 2004	Chignik finfish	33	0	0	1	0	0	0	0
Jan. 7-10, 2005	Kodiak finfish	134	0	0	0	0	3	0	Jensen conflict with emergency petition re Dungeness crab in southeast.
Jan. 17-29, 2005	Upper Cook Inlet finfish	258	25	0	0	0	0	3	0
Mar. 7-13, 2005	Statewide king and Tanner crab, supplemental issues	68	0	0	3	0	4	0	0
all meetings		532	26	0	4	0	10	9	0

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 532
NUMBER OF PROPOSALS WITH CONFLICT: 49
PERCENT OF PROPOSALS WITH CONFLICT: 9.2%
TOTAL NUMBER OF VOTES CAST: 3,724
NUMBER OF VOTES WITH CONFLICT: 49
PERCENT OF VOTES WITH CONFLICT: 1.3%

TABLE 7. 2005/2006 PWS AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict						Comments
			Morris	A. Nelson	Jensen	Andrews	Heyano	Campbell	
Oct. 13-14, 2005	Worksession (45 ACRs)	0	0	0	0	0	0	0	0
Oct. 15-16, 2005	State-waters trawl	3	1	0	0	0	0	0	0
Nov. 15-16, 2005	Chignik salmon	1	0	0	0	0	0	0	0
Dec. 1-6, 2005	Prince William Sound and Copper River finfish	84	0	0	0	0	2	0	0
Dec. 29, 2005	Teleconference re Adak P-cod	0	0	0	0	0	0	0	0
Jan. 22-Feb. 1, 2006	Southeast and Yakutat finfish	142	0	0	39	0	0	0	0
Feb. 20-26, 2006	Southeast groundfish, dungeness crab, shrimp, misc. shellfish; plus Aleutian Island P-cod	82	0	1	22	0	0	0	0
Mar. 17-23, 2006	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	107	0	1	0	0	1	0	0
May 3, 2006	Bering Sea crab	1	0	0	0	0	0	0	0
	all meetings	420	1	2	61	0	3	0	0

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 420
 NUMBER OF PROPOSALS WITH CONFLICT: 67
 PERCENT OF PROPOSALS WITH CONFLICT: 16.0%

TOTAL NUMBER OF VOTES 2,940
 NUMBER OF VOTES WITH CONFLICT: 67
 PERCENT OF VOTES WITH CONFLICT: 2.3%

TABLE 8. 2006/2007 BRISTOL BAY, AYK, ALASKA PENINSULA CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict						Comments
			Morris	A. Nelson	Jensen	Andrews	Heyano	Campbell	
Oct. 12-13, 2006	Worksession (29 ACRs)	0	0	0	0	0	0	0	0
Oct. 14-15, 2006	State-waters trawl	6	1	0	0	0	0	0	Morris conflict on Cook inlet Pollock
Oct. 31, 2006	Teleconference re Adak pollock	0	0	0	0	0	0	0	0
Dec. 4-12, 2006	Bristol Bay finfish	120	0	0	0	0	38	0	0
Jan. 31-Feb. 5, 2007	Arctic-Yukon-Kuskokwim finfish	56	0	4	0	0	0	0	Heyano conflict on Nushagak River salmon, herring
Feb. 6-11, 2007	Alaska Peninsula/Aleutian Islands finfish	48	0	0	0	0	10	0	Nelson conflict on Kuskokwim River proposals
Mar. 9-13, 2007	Statewide finfish	29	0	0	0	0	0	0	0
all meetings		259	1	4	0	0	48	0	0

TOTAL NUMBER OF PROPOSALS FOR CYCLE:

NUMBER OF PROPOSALS WITH CONFLICT:

PERCENT OF PROPOSALS WITH CONFLICT:
20.5%

TOTAL NUMBER OF VOTES CAST:

NUMBER OF VOTES WITH CONFLICT:

PERCENT OF VOTES WITH CONFLICT:
2.9%

TABLE 9. 2007/2008 COOK INLET/KODIAK CYCLE

<u>Meeting dates</u>	<u>Topics</u>	Total number of proposals	Number of proposals with conflict						<u>Comments</u>
			<u>Morris</u>	<u>Delo</u>	<u>Jensen</u>	<u>Edfelt</u>	<u>Webster</u>	<u>Campbell</u>	
Oct. 9-11, 2007	Worksession (25 ACRs)	0	0	0	0	0	0	0	0
Nov. 13-15, 2007	Lower Cook Inlet	22	0	0	0	0	0	0	0
Jan. 10-12, 2008	Chignik Finfish	12	0	0	0	0	0	0	0
Jan. 14-18, 2008	Kodiak Finfish	38	0	0	0	0	0	0	0
Feb. 1-12, 2008	Upper Cook Inlet	286	1	0	0	0	0	0	58 proposals reviewed for Delo, 48 proposals reviewed for Morris. Both found to have conflict with #148, a proposal to reallocate from commercial uses.
Mar. 3-9, 2008	King and Tanner Crab	33	0	0	0	0	0	0	0
<u>all meetings</u>		<u>391</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		391							
NUMBER OF PROPOSALS WITH CONFLICT:		2							
PERCENT OF PROPOSALS WITH CONFLICT:		0.5%							
TOTAL NUMBER OF VOTES CAST:		2,737							
NUMBER OF VOTES WITH CONFLICT:		2							
PERCENT OF VOTES WITH CONFLICT:		0.1%							

TABLE 10. 2008/2009 PWS AND SOUTHEAST CYCLE

<u>Meeting dates</u>	<u>Topics</u>	Total number of proposals	Number of proposals with conflict						<u>Comments</u>
			<u>Morris</u>	<u>Delo</u>	<u>Jensen</u>	<u>Brown</u>	<u>Webster</u>	<u>Campbell</u>	
Oct. 8-10, 2008	Worksession (12 ACRs)	0	0	0	0	0	0	0	0
Dec. 1-7, 2008	Prince William Sound	132	0	0	0	0	0	0	0
Jan. 21-27, 2009	Southeast Shellfish	66	0	0	9	0	0	0	Johnstone
Feb. 17-27, 2009	Southeast Finfish								
Mar. 16-20, 2009	Statewide Shellfish								
<u>all meetings</u>		198	0	0	9	0	0	0	0
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		198							
NUMBER OF PROPOSALS WITH CONFLICT:		9							
PERCENT OF PROPOSALS WITH CONFLICT:		4.5%							
TOTAL NUMBER OF VOTES CAST:		1,386							
NUMBER OF VOTES WITH CONFLICT:		9							
PERCENT OF VOTES WITH CONFLICT:		0.6%							

Jensen conflicted on crab proposals 149, 150, 158, 177, 180, 181, 182, and 185