

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 20, 2004

3:20 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Carl Gatto, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Alcoholic Beverage Control Board

Billy (William) G. Andrews - Anchorage
Gail M. Niemi - Juneau

- CONFIRMATION(S) ADVANCED

Board of Chiropractic Examiners

R. Clark Davis, D.C. - Ketchikan

- CONFIRMATION(S) ADVANCED

Board of Dental Examiners

Mary Ann Cerney - Fairbanks
Arne R. Pihl, D.M.D. - Ketchikan

- CONFIRMATION(S) ADVANCED

Alaska Labor Relations Agency

Randall C. Frank - Fairbanks

- CONFIRMATION(S) ADVANCED

Board of Marine Pilots

Anthony (Tony) J. Joslyn - Anchor Point

- CONFIRMATION(S) ADVANCED

Robert (Tiny) Schasteen - Unalaska/Dutch Harbor

- CONFIRMATION HELD TO 3/03/04

State Medical Board

Robert A. Breffeilh, M.D. - Juneau

John T. Duddy, M.D. - Anchorage

G. Bert Flaming, M.D. - Glennallen

David M. Head, M.D. - Nome

Michael J. Tauriainen - Soldotna

- CONFIRMATION(S) ADVANCED

Board of Certified Direct-Entry Midwives

Mark E. Richey, M.D., P.C. - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Nursing

Patricia M. Swenson - Anchorage

- CONFIRMATION(S) ADVANCED

Personnel Board

Debra E. English - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Pharmacy

Cindy Bueler - Anchorage

Gary M. Givens - Anchorage

Michael Pauley - Eagle River

- CONFIRMATION(S) ADVANCED

Board of Certified Real Estate Appraisers

Nelida Irvine - Anchorage
Gene H Shafer - Fairbanks

- CONFIRMATION(S) ADVANCED

Real Estate Commission

Lawrence (Larry) J. Bauer - Juneau
Glenn Clary - Anchorage
Rita C. Stuckart - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Veterinary Examiners

David J. Hunt, D.V.M. - Sitka

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 275

"An Act relating to veterinarians and animals."

- BILL HEARING POSTPONED

HOUSE BILL NO. 323

"An Act relating to the care of and cruelty to animals, and to reports of suspected child abuse or neglect by persons who have a duty to investigate animal cruelty, abuse, or neglect."

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

PATRICIA M. SWENSON, Appointee
to the Board of Nursing
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Nursing.

ROBERT (TINY) SCHASTEEN, Appointee

to the Board of Marine Pilots
Unalaska/Dutch Harbor, Alaska

POSITION STATEMENT: Testified as appointee to the Board of
Marine Pilots.

ACTION NARRATIVE

TAPE 04-15, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Anderson, Dahlstrom, Lynn, Rokeberg, Crawford, and Guttenberg were present at the call to order. Representative Gatto arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

Number 0096

CHAIR ANDERSON announced that the only order of business would be confirmation hearings for 25 of the governor's appointments to various boards as listed in the committee calendar. He noted that members had been provided the names and resumes for each appointee. Additionally, Chair Anderson noted that advancing the name out of committee of any of the confirmations did not reflect intent to vote for or against any of the individuals in further sessions for the purpose of confirmation.

CHAIR ANDERSON read the names of the boards and noted that two appointees, Patricia M. Swenson and Robert Schasteen, had been asked to be available for committee questions.

Number 0155

PATRICIA M. SWENSON, Appointee to the Board of Nursing, introduced herself to the committee.

REPRESENTATIVE ROKEBERG opined that she'd be an excellent appointee.

MS. SWENSON testified:

For 13 years I was legislative staff. Before that I was a nurse. I have not been licensed as a nurse for the past 10 years. I am applying for the public member seat on the board, which does not require a

license. Nor does it require any medical background. I am currently employed by the Alaska Workforce Investment Board, Alaska Department of Labor and Workforce Development. Before I applied for this position, I talked to the state ethics attorney to ask if this would, in any way, be in conflict. I was told that my job, and the scope of it, would not be.

REPRESENTATIVE ROKEBERG opined that Ms. Swenson was uniquely experienced because of her nursing background.

Number 0366

REPRESENTATIVE GUTTENBERG asked if the Alaska Workforce Investment Board does any training of nurses.

MS. SWENSON replied that it works with the university in training nurses. However, her position has no connection to grant monies, and she doesn't review or approve grants. She has worked with Providence Hospital, Native organizations, the University of Alaska Anchorage, and others.

Number 0496

ROBERT (TINY) SCHASTEEN, Appointee to the Board of Marine Pilots, introduced himself.

REPRESENTATIVE DAHLSTROM said she'd reviewed Mr. Schasteen's resume, noting that he was with Offshore Systems, Inc. (OSI). She asked him to clarify the types of services this company provides.

MR. SCHASTEEN replied that his company's biggest customers were various fishing vessels. He added, "We provide them with berthing, cold storage, warehouse space. Anything that they need, we try to perform for them. It's like a one-stop shop." In further response, he said, "Aleutian Fuel Services is a separate company, but primarily the same owners. We provide Aleutian Fuel Services, which I also supervise, to provide fuel and lube and filter supplies to the vessels. We don't have any other subsidiary companies."

Number 0636

REPRESENTATIVE DAHLSTROM asked Mr. Schasteen if he had any ownership interests in OSI or Aleutian Fuel Services.

MR. SCHASTEEN said no.

REPRESENTATIVE DAHLSTROM asked if he'd applied for the position on the Board of Marine Pilots independently or was asked to apply for the position by someone else.

MR. SCHASTEEN answered that he was called and notified by Paul Axelson (ph) that the position was open, and decided to apply. He said he'd applied to be on this board one other time.

REPRESENTATIVE DAHLSTROM referred to some photos she had of the OSI dock showing some large ships, trawlers, and cargo ships tied up there. She asked if Mr. Schasteen was aware that the Board of Marine Pilots sometimes has to make decisions that would have a financial impact on ship owners.

MR. SCHASTEEN replied yes.

Number 0725

REPRESENTATIVE DAHLSTROM continued, "So, your customers at OSI are large ships and, potentially, you could be asked to vote on questions that would have a financial impact on your customers. How do you feel about that?"

MR. SCHASTEEN replied that his customers were the fishing vessels. He said:

The large ships that you see there, they're at my berth at the request of either the fishing vessel -- which is not normally the case. More likely, it's the person who buys the fish from the fishing vessel. Normally, the fish is sold as soon as it hits whatever transportation mode it's using, whether it's vans, ships, or barges; usually, the product is sold upon arrival on that vessel. So the buyer of the product determines how it's shipped.

Number 0799

REPRESENTATIVE DAHLSTROM asked if he saw any conflict [of interest] or felt comfortable being put in that position.

MR. SCHASTEEN replied, "Absolutely, no problem at all."

CHAIR ANDERSON said the Board of Marine Pilots has two seats for pilots, two for shipping industry representatives, and two

public members that aren't supposed to have connections to either piloting or shipping. He said the final seat on the board is for the commissioner of commerce or his/her representative. He said:

As the public policymakers, as the legislature, we expect the pilots to serve from a pilot's perspective, and we expect the agents to serve from the shipper's perspective. Obviously, you see where I'm going. But the public members, we expect them to be looking out for the public, kind of a more neutral, nonaffiliated role. ...

With your paycheck, your income tied to ships docking at OSI, I want you to convince me that you would ignore what is essentially your boss, the big shippers, and look out for the public. That's why you were called today. There was just a concern - nothing personal, but we have to analyze all the aspects of a person's qualifications and make sure there's no conflict of interest. There seems to be some concern from the industry that there could be, with yours. So that's why we wanted you to talk to us today.

Number 0903

MR. SCHASTEEN referred members to AS 08.01.025, which states:

Sec. 08.01.025. Public members. A public member of a board may not

(1) be engaged in the occupation that the board regulates;

(2) be associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation; or

(3) have a direct financial interest in the occupation that the board regulates.

MR. SCHASTEEN said he was not engaged in the occupation that the board regulates, wasn't associated with any members through legal contracts, and had no direct financial interest in the occupation that the board regulates. He referred to AS 08.62.010, which states in part:

Sec. 08.62.010. Creation and membership of board.

There is created the Board of Marine Pilots. It

consists of two pilots licensed under this chapter who have been actively engaged in piloting on vessels subject to this chapter, two registered agents or managers of vessels subject to this chapter who are actively engaged in the procurement of pilotage services, two public members in accordance with AS 08.01.025, and the commissioner or the commissioner's designee.

MR. SCHASTEEN said he is not a pilot and has never hired a pilot. He elaborated:

To put it in layman's terms, I don't have a say what cargo goes where. I'm not involved in that process, even if I wish to be. There's no way they can assert power over me. My concern is the fishing vessels. I'll do whatever it takes to take care of my customers as far as operating offshore systems, but the ships really have no effect on that. If we passed a regulation that prevented a ship from coming in, they would just find some other way to ship. I wouldn't do that; my customers would. It just wouldn't affect me. And, of course, having berthing and docking facilities, my concern for offshore systems is in line with the pilots: safety is the number-one issue.

Number 1111

CHAIR ANDERSON noted that OSI operates a fuel dock and is a service provider for the fishing fleet in Dutch Harbor, and that pilots do dock.

MR. SCHASTEEN said designated cargo goes from the fishing vessel to the freighter, generally by way of a foreign buyer.

CHAIR ANDERSON commented that this confirmation wasn't easy, since there was a concern from the marine pilots and others who wanted the seat filled by someone with a neutral viewpoint. He said:

When I asked you a question about "can you ignore," ... you make money from the industry, and this position is supposed to be the public-member position. Can you ignore that? That's my concern. It's not directed at you personally, but it's directed at the circumstance upon which, and the cases from which, you have to rule and decide. Sometimes it's impossible to

be neutral due to past experience and pressures, to be in circumstances, including employment, and, like we said, monetary or fiduciary roles. That's my concern.

I don't want to speak for Representative Dahlstrom, but it sounds like that could be hers as well, and that's why the original board was made up and has remained consistent with two pilots and two shipping industry representatives and then the two public members, with the seventh being the commerce commissioner or the representative. That really distinguishes a difference.

Number 1196

MR. SCHASTEEN told members he is looking forward to bringing his experience to help make good judgments for the people of Alaska.

REPRESENTATIVE GUTTENBERG asked what seat Mr. Schasteen had applied for previously, and if he knew why he didn't get it.

MR. SCHASTEEN replied that it had to be the public seat, since he doesn't qualify for any other seat. He said he didn't know why he didn't get that seat on the board.

Number 1248

REPRESENTATIVE ROKEBERG said it seemed to him that, according to the definition in the law, a public member may not be associated by legal contract with a member of the occupation that the board regulates, except as a consumer. He said the concerns raised by the Alaska State Pilots' Alliance seem to imply that there's a potential conflict of interest because Mr. Schasteen has a docking facility. He said, "I don't know if docks need marine pilots to run them. Is there any truth to that rumor, Mr. Schasteen?"

MR. SCHASTEEN replied that he'd never hired or contracted with the marine pilots; they contract with some of the ships that come into his dock.

CHAIR ANDERSON said he thinks AS 08.01.025(3) states that having a direct financial interest can cause a problem.

REPRESENTATIVE ROKEBERG said:

If you go to your dentist and have him drill on your teeth, you can be a consumer of this practitioner's profession. It seems to me, if there's a contractual obligation it arises between a public member and the occupation regulated, then you have the appearance of a potential conflict of interest. I think that's the intention. There is an exception, right in the statute. I'm just wondering how the statute applies since that seems to be the point of contention here.

Number 1463

CHAIR ANDERSON announced that Mr. Schasteen's name would be held until the committee received additional legal information. He began to read the names on the appointees, again stating that this doesn't reflect an intent by any member to vote for or against these individuals during the joint floor session.

Number 1508

REPRESENTATIVE ROKEBERG objected for purposes of discussion, asking if Chair Anderson intended to read the names into the record on an individual basis.

CHAIR ANDERSON replied that he did.

The committee took an at-ease from 3:42 p.m. to 3:43 p.m.

REPRESENTATIVE ROKEBERG removed his objection.

CHAIR ANDERSON read the names from the list of appointees [also provided in the committee calendar for these minutes]. He said Mr. Schasteen's name would be held [until 3/03/04] awaiting further information. He requested that members sign the committee report. [No formal motion was made, but the confirmations of all the appointees except Mr. Schasteen were advanced.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:50 p.m.