

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**February 20, 2003**  
**9:05 AM**

**TAPES**

SFC-03 # 5, Side A  
SFC 03 # 5, Side B

**CALL TO ORDER**

Co-Chair Gary Wilken convened the meeting at approximately 9:05 AM.

**PRESENT**

Senator Gary Wilken, Co-Chair  
Senator Lyda Green, Co-Chair  
Senator Con Bunde, Vice-Chair  
Senator Ben Stevens  
Senator Lyman Hoffman  
Senator Donny Olson

**Also Attending:** ZACH WARWICK, Staff to Senator Gene Therriault; PAT DAVIDSON, Legislative Auditor, Legislative Finance Division, Legislative Affairs Agency; CAPTAIN ROBERT WINTER, Southeast Alaska Pilots' Association; JEFF BUSH, former Deputy Commissioner, Department of Community and Economic Development, and Member and current Chair of the Board of Marine Pilots; KATE TESAR, Representative, Alaska Yacht Services and Provisioning; PETER CHRISTENSEN, Marine Pilot Licensing Coordinator, Division of Occupational Licensing, Department of Community and Economic Development; PAUL FUHS, Representative, Southwest Alaska Pilots Association

**Attending via Teleconference:** From Offnet Sites: DAVID SOKOL; DOUG GREASON, Delta Marine

**SUMMARY INFORMATION**

SB 20-EXTEND BOARD OF MARINE PILOTS

The Committee heard testimony from the bill's sponsor, the Department of Community and Economic Development and took public testimony. The bill was held in Committee.

#sb20

SENATE BILL NO. 20

"An Act extending the termination date of the Board of Marine Pilots; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

ZACH WARWICK, Staff to Senator Gene Therriault, informed the Committee that this legislation would extend the termination date of the Board of Marine Pilots to June 30, 2007. He noted that, while the Division of Legislative Audit report [copy on file] dated November 1, 2002, supports this extension, the report recommends a review be conducted regarding the current regulation that requires foreign-flagged ships exceeding 300 gross tons to hire marine pilots. In addition, he continued, the report recommends that the marine pilot exemption for Canadian naval ships be further clarified. He noted that the Senate Labor and Commerce Committee (SL&C) considered the recommendations, and reported the bill from committee as presented with the determination that the recommendations should be addressed in separate legislation.

Senator Hoffman asked whether the SL&C committee addressed all four of the Audit recommendations.

Mr. Warwick responded in the affirmative. He reported that the drug testing recommendation has been discussed with the marine pilots associations.

Co-Chair Wilken specified that the Division of Legislative Audit's determinations on the drug testing issue, the Canadian warships issue, and the 300 gross weight tonnage issue would be addressed separately.

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, testified to the four recommendations as follows.

Recommendation No. 1

The Board of Marine Pilots (BMP) should take action to ensure regional pilot associations administer mandatory random drug testing programs in a manner consistent with established regulatory standards.

Ms. Davidson communicated that Recommendation No. 1 addresses the need for adequate drug testing follow-up on missed drug testing as well as further clarification regarding the number of pilots being

tested. She explained that under authority granted in State statute, the Board of Marine Pilots adopted federal regulations that require 50 percent of licensed marine pilots be tested. She continued that the federal regulations further provide for the establishment of professional associations within larger consortiums to increase efficiency in the process, and that the consortiums have drug-testing authority. However, she informed, the audit determined that one of the professional associations within a consortium, did not meet the 50 percent marine pilot drug test sampling requirement. She asserted that the 50 percent mandate, as adopted by the Board, must be adhered to. She noted that while the Department did not agree with the audit's interpretation of the testing sampling requirements, further discussion established that more exact guidelines must be supplied to the consortiums to ensure that the samplings meet the requirements.

Recommendation No. 2

The BMP should establish more informative and comprehensive reporting requirements so the Marine Pilot Coordinator (MPC) can confirm that an appropriate number of licensed pilots are consistently being subjected to random testing.

Ms. Davidson stated that Recommendation No. 2 specifies that the total number of marine pilots subject to the drug testing requirement, the number tested, and the results of those tests should be reported to the Department's Marine Pilot Coordinator. She specified that it is the responsibility of the Board to address those individuals failing the test.

Recommendation No. 3

The legislature should consider amending current statutes in order to extend mandatory drug and alcohol testing to pilot organization trainees and apprentices.

Ms. Davidson communicated that the third recommendation calls upon the Legislature to determine whether the existing statutes should be modified, specifically as the current regulations address drug testing for licensed pilots but not for trainees or apprentices.

Recommendation No. 4

The Board of Marine Pilots should seek statutory authority to allow the board the discretion to grant waivers of pilotage requirements to large pleasure crafts.

Ms. Davidson continued that the fourth recommendation suggests that the Legislature should consider statutory changes to allow the Board to grant marine pilot exemptions for specified vessels. She voiced the concern "that economic activity is either being diverted

from the State" or vessels are traveling in the State but not complying with existing regulations. She asserted that "there does not appear to be any enforcement activity and it is difficult to have laws on the books" when no one is enforcing them.

Senator Bunde announced that no marine pilot has failed a drug test.

Ms. Davidson affirmed that the audit revealed no problem with marine pilots failing drug tests.

Senator Hoffman asked whether the number of licensed marine pilots is sufficient to service all pleasure crafts, were the marine pilotage regulation enforced.

Ms. Davidson responded that this issue was not addressed in the audit. She noted that, due to insufficient data, it is difficult to determine the potential number of vessels that might require an onboard marine pilot. She stated that Appendix B on page 35 of the audit report depicts the extent of the audit's questioning on this issue.

Appendix B

Department of Community and Economic Development

Board of Marine Pilots

Survey Results

Question 4: Do you think that the licensing requirements are sufficient to ensure a competent pool of marine pilots?

Response	Marine Pilots
Yes	89 %
No	11 %

Co-Chair Wilken directed Ms. Davidson to attend any Committee hearing involving a Division of Legislative Audit report.

Ms. Davidson concurred.

Co-chair Wilken commented that, were modifications to the current regulations considered, the on-going issue regarding whether or not Canadian warships should have a licensed marine pilot onboard should be addressed.

Co-Chair Wilken asked Captain Winter to explain the relationship between United States and Canadian warships as well as US Coast Guard and Canadian Naval warships.

CAPTAIN ROBERT WINTER, Representative, Southeast Alaska Pilots' Association, declared that the US Navy supports an exemption of all

"friendly naval warships" from the marine pilot requirement; however, he announced, the Southeast Alaska Pilots' Association (SEAPA) does not support a blanket exemption because of language barriers and other safety concerns. He expressed that SEAPA would support an exemption for Canadian naval vessels homeported in British Columbia which are familiar with Alaskan waters.

Co-chair Wilken clarified that extending waivers to Canadian naval vessels based in British Columbia would be acceptable to SEAPA.

Captain Winter concurred and voiced that regulations currently provide this exemption. He furthered that "there is a reciprocal agreement" between the United States and Canada that allows, for instance, a US Coast Guard vessel from Alaska to transverse the inside waters of British Columbia provided there is a minimum of two navigational officers onboard who have "a two-trip" experience in those waters. However, he declared, Canadian naval vessels routinely request a marine pilot be on board.

Senator Bunde asked how a Canadian officer would acquire the necessary training to operate in Alaska waters.

Captain Winter replied that Canadian officers could accomplish the required training by serving on ships transversing Alaskan waters. However, he clarified, SEAPA would support a waiver for British Columbia based naval vessels without this documentation.

JEFF BUSH, former Deputy Commissioner, Department of Community and Economic Development, and Member and recent Chair, Board of Marine Pilots testified in support of the BMP extension. He applauded the findings of the audit and urged the Legislature to address the issues raised in the report, specifically the exemption for Canadian naval vessels and the waiver for yachts. He voiced that the Board and the consortiums have discussed the drug testing of 50 percent of marine pilots regulation, and he noted that he is "comfortable" with the progress being made.

Mr. Bush advised that the requirement specifying that vessels exceeding 300 tons must have a marine pilot onboard was enacted in 1995 in response to safety concerns regarding a "quite large" Greenpeace vessel, the Rainbow Warrior, which was operating in Alaskan waters without a marine pilot. He opined that, "that one bad situation" spawned legislation "that created more problems than we needed." He commented that it costs up to \$3,000 a day to have a marine pilot on board, and he asserted, this expense in conjunction with the discomfort of having "a stranger live onboard" a private vessel deters large yachts from visiting the State and negatively affects the State's economy. He voiced that, "it would be

appropriate to address this situation and find a way" to allow these vessels to come to Alaska.

Mr. Bush expressed support for a marine pilot waiver fee being implemented. He communicated that, due to the expense of operating the small Division of Occupational Licensing program, two-year marine pilot licenses cost approximately \$2,500, and he suggested that \$500 would be "a reasonable" waiver fee. He stated that this fee would "alleviate" the expense of the marine pilot license fee and set a precedent for other states. He specified that this fee level would be acceptable to marine pilots.

KATE TESAR, Representative, Alaska Yacht Services and Provisioning, reviewed her professional experience with marine pilot operations and the yachting and cruise ship industries. She informed that she was involved in the "major rewrites" of the Marine Pilot Act of 1991 and 1995, and she spoke in favor of extending the termination date of the Board. She informed the Committee that Alaska Yacht Services and Provisioning has determined that the marine pilot requirement as it applies to foreign-flagged yachts exceeding 300 gross tonnage, is "an impediment" to business. She urged the Committee to modify this regulation, and she echoed earlier testimony that this law, while mandated on the books, "is unenforceable" and is an economic obstruction because vessels are choosing not to visit Alaska.

Ms. Tesar informed the Committee that the 1991 revisions to the Marine Pilot Act were the "direct result" of the Exxon Valdez tanker oil spill "catastrophe," and that prior to the further changes in the Act in 1995, all pleasure craft of domestic or foreign registration were allowed to travel in Alaska without marine pilots onboard. She stressed that this issue must be reevaluated due to the changes in the industry and the unforeseen growth in the number of large yachts being built. She voiced concern about the negative economic impact resulting from the Act and affirmed that the audit report recommendations are valid.

Ms. Tesar reviewed the State of Washington vessel waiver system and noted its inclusion of a waiver application fee. She voiced that a similar fee should be instituted in Alaska to offset the expense of the marine pilot license fee. She furthered that, as part of the waiver application process in Washington, the state evaluates the "authority and expertise" of the vessel's captain. She voiced support for this concept.

Ms. Tesar spoke to the difficulty experienced by pleasure craft crew in coordinating yacht traffic in Alaska. She explained that a vessel must contact the State's piloting associations twenty-four

hours in advance of arrival while large cruise ships schedule approximately a year in advance to ensure that accommodations are in place. She reviewed that each of the 430 cruise ships dockings in Juneau in 2002 required a minimum of one, and more often two, marine pilots on board. She expressed that the volume of ship traffic in the summer months places a tremendous demand on marine pilots.

Ms. Tesar voiced that safety concerns including such things as an event occurring that could negatively affect the tourist industry could be addressed by instituting an intelligence tracking system for vessels traveling between the US and Canada. She stated that US Customs, US Immigration and Nationalization Service (INS), the US Coast Guard and other intelligence agencies are involved in discussions regarding foreign flagged vessels in US waters. She noted, however, that many vessels that are built and owned by citizens of the United States are registered in a foreign country, particularly Great Britain.

Ms. Tesar stated that US Customs requires that foreign flagged vessels apply for a US cruising permit. She noted that local intelligence gathering networks are comprised of such entities as the local port authority, port service industries and local businesses that watch for suspicious activity among vessels. She stated that were a waiver system in place, it would provide further intelligence regarding what ships are transversing Alaskan waters.

Ms. Tesar referred the Committee to the Marine Exchange of Alaska information [copy on file] that is included in the members' packets. She explained that this information provides additional tracking system options such as the "Automated Secure Vessel Tracking System" which uses satellite communication to report a vessel's position.

Ms. Tesar asserted that an increase in yacht traffic in the State could infuse "lots of new money" into the economy. She testified that yachts spend approximately "30 percent over the cost of the trip itself in communities" on such things as restaurants, port fees and shopping. She stressed that due to the uncertainty of safe travel in other foreign destinations, Alaska is a "premiere destination" and action should be taken to encourage this traffic. She pointed out the letters of support from tourism businesses in support of the tonnage exemption. She stated that the State should be addressing the recommendations in the Audit report as well as determining "how to attract these desirable independent" vessels to Alaskan waters in a safe navigational manner.

Senator Bunde observed that while foreign flagged vessels over 300 tons are required to have marine pilots aboard, similar sized US

flagged vessels are exempt from the requirement.

Ms. Tesar confirmed that any size private vessel registered in the US is exempt from the marine pilot requirement.

Senator Bunde characterized the gross ton measurement system as "archaic," and he suggested that, were the regulation revised, consideration be given to include the language "length of vessel." He warned that utilizing waiver fees to offset marine pilot license fee should be further explored, as this language would entail dedicated funds.

Senator Hoffman asked whether the number of licensed marine pilots is sufficient to provide pilots for both cruise ships and pleasure crafts.

Ms. Tesar voiced that "anecdotally" she has heard of problems with the availability of a sufficient number of marine pilots, and she spoke of a situation whereby a retired marine highway ferry captain has had to refuse calls to pilot small vessels primarily because he is not a member of a marine pilots association. She continued that there are approximately 37 licensed marine pilots in Southeast Alaska with approximately 13 more licenses to be issued within the next few years. She deferred to yacht boat owners and the marine pilot associations to better answer the question.

Senator Hoffman asked the fee level that would be required for a marine pilot waiver.

Ms. Tesar responded that the waiver fee schedule for the State of Washington, "WAC 363-116-360 Exempt vessels" [copy on file], is included in the member's packets. She clarified that a fee schedule for Alaska has not been established at this time.

DAVID SOKOL testified from an offnet site in Omaha Nebraska. He communicated that the 38-foot, 350-ton private vessel he owns is registered in England, was built in the United States, is exclusively a pleasure craft, and is not for hire. He announced that six of the seven-member crew, including both captains, are American, and that one of the vessel's captains spent over three years piloting in Alaskan waters, and he declared that all members of the crew undergo random drug tests. He affirmed that tonnage calculations could be interpreted a multitude of ways.

Co-chair Wilken interjected that letters from Mr. Sokol to various members of the Alaska Legislature are included in the Members' packets.

Mr. Sokol informed the Committee that even though he had previously traveled in the State, he was unaware of the State's marine pilot tonnage regulations. He continued that upon learning of the requirement, he contacted the State's marine pilot coordinator who referred him to the marine pilots associations to arrange for pilots for the upcoming trip. He was informed that the rates would range between \$1,400 and \$2,200 a day plus room, food and transportation to and from the yacht. He stated that due to an insufficient number of marine pilots being available during his six-week trip timeframe, he was asked to consider changing the dates of his trip. He was informed that another option would be to alter his port of call plans in order to require a marine pilot only when the vessel needed to be moved. He noted that he would be required to pay for the pilot's transportation costs.

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Mr. Sokol stated that although he is familiar with marine pilot regulations in other areas of the county, Canada, and Central America, he "has never faced a situation" where a marine pilot was required seven days a week on the vessel. He stated that, in addition to the expense factor, supplying a marine pilot with a stateroom would present a hardship because he would be required to reduce the number of guests he could house. Consequently, he stated, due to the cost, the inconvenience, and the moveability restrictions placed on the vessel he opted to cruise to British Columbia (BC) Canada, instead of Alaska. He noted that the vessel, the crew, and the passengers infused approximately \$300,000 into the BC economy through purchases of fuel, food, fishing guide services, reservations, and provisions. He mentioned that Canadian officials granted a marine pilot exemption to his vessel within two weeks of the application being submitted.

Mr. Sokol voiced support for marine safety measures, including insurance requirements; however, he asked that a waiver system be considered to exempt qualified vessels and crews from the marine pilot requirement. He informed the Committee that although yacht owners highly recommend travel to Alaska, and it is known that the marine pilotage regulation is relatively unenforced, he asserted that many yacht owners, including himself, would not risk jeopardizing their vessel or their personal reputation, and would therefore, he opined, decide not to visit the State.

Senator Bunde inquired whether yacht insurance rates might be negatively affected by yachts, "either through ignorance or ignoring the law requiring a marine pilot" incurring an accident in

the State.

Mr. Sokol believed that insurance rates would be negatively affected, as, he attested, most insurance policies require a vessel to be in compliance with the rules and regulations of an area.

Senator Bunde asked for clarification as to when a vessel is required to have a marine pilot onboard.

Mr. Sokol understood that a marine pilot must be onboard a vessel when "the anchor was up or we were away from dock." He commented that the distance between communities in Southeast Alaska "effectively" requires a pilot to be onboard 24 hours a day.

Senator Bunde asked that further clarification be supplied to the Committee.

Co-chair Wilken thanked Mr. Sokol for testifying. He acknowledged that the next testifier's company, Delta Marine, has also submitted written testimony to the Legislature, which is included in the Members' packets.

DOUG GREASON, Delta Marine, testified offnet from Seattle, Washington and voiced agreement with Mr. Sokol's comments. Mr. Greason expressed that yachts "are global vessels with global owners," and as such could travel anywhere in the world. He furthered that when negative issues arise about an area, these vessels just go somewhere else. He asserted that his company relies on refitting and building these global vessels, and that his business is negatively impacted when these vessels do not travel in the Northwest, including Alaska.

Mr. Greason professed that the use of "the archaic" 300 gross tonnage measurement system is inappropriate for international vessels. He clarified that, with the exception of the United States, other countries utilize an "international" tonnage measurement. He stated that the US Coast Guard issues licenses with both US tonnage and international tonnage designations in recognition of this fact. He urged the Committee to incorporate the international tonnage definition into any proposed legislation.

PETER CHRISTENSEN, Marine Pilot Licensing Coordinator, Division of Occupational Licensing, Department of Community and Economic Development, explained that while some Canadian warships are typically granted marine pilot exemptions, he asserted that the State has "really stretched" the law. He read the exemption as written in statute.

Co-Chair Wilken asked whether the Department could produce a draft revision to address this issue.

Mr. Christensen replied in the affirmative.

Senator Bunde asked the Department to clarify under what circumstances a Marine Pilot would be required to be onboard a foreign owned vessel.

Mr. Christensen read the regulation and communicated that the Board has determined that a vessel at anchor or tied to a dock would not require a pilot.

Senator Olson asked whether Canada provides a similar exemption to US naval ships traveling in Canadian waters.

Mr. Christensen responded that Canada reviews whether one of the vessel's officers has, within the previous three or five years, transversed BC waters and issues a determination. He stated that Alaska requires two of the Canadian crew to have experience in Alaskan waters.

Senator Bunde opined that any proposed language change should specifically exempt Canadian warships rather than exempting all "friendly" foreign vessels from the marine pilot requirement.

PAUL FUHS, Representative, Southwest Alaska Pilots' Association, spoke in support of the extension of the Board of Marine Pilots. He recounted occasions in which the Board was responsive to Association members' concerns. He stated that "in addition to providing safe pilotage of vessels in this time of increased concerns about security, the marine pilots" serve as a first line of defense because they are usually the first American citizen onboard a foreign vessel. He continued that while the Association does not object to exempting Canadian warships from the marine pilot regulation; he noted that US warships historically request a marine pilot be onboard their vessels when in Alaskan waters even though it is not required.

Mr. Fuhs stated that the pilots associations are working with the bill's sponsor to address the pilotage exemption waiver and other security concerns in separate legislation. However, he voiced, the State should retain the ability to make decisions regarding these issues.

Senator Bunde questioned how unforeseen issues might be addressed were a marine pilot waiver system in place.

Mr. Fuhs expressed that requiring the Board to be an active participant in the waiver process as well as requiring a marine pilot to board a vessel on its initial voyage to the State would ensure that safeguards "would be in place, both for national security issues" and to validate the competency of the crew and the vessel.

Captain Winter testified that, in his professional opinion, the Board of Marine Pilots conducts essential responsibilities. He voiced support, on behalf of the marine pilots association, for the bill as presented. He proclaimed that Alaska's Marine Pilotage Act "serves the shippers, the cruise industry, and the public well." He stated that the Act "is the envy of many other states" and that the State's marine pilots "serve to protect the integrity" of the Act.

Captain Winter responded to questions that arose during other committee hearings on this bill; specifically that the marine pilots associations are addressing the drug-testing recommendations outlined in the audit report and that the audit report did not identify that drug testing is mandatory for anyone undertaking marine pilot training or apprenticeship programs.

Co-Chair Wilken asked Ms. Davidson to provide a Division response regarding the mandatory drug testing for trainees.

Captain Winter agreed with previous testimony that determining the length of a vessel is easier than determining the tonnage weight of a vessel. He voiced support for establishing 100 feet as the maximum length of a foreign flagged vessel that could apply for a marine pilot waiver as, he continued, the association is concerned about navigational safety issues that could be presented by ships exceeding that length. He stated that the association prefers the word "waiver" rather than "exemption" to ensure that the Board would be involved in the determination; and he asserted that the association would continue to work with the Board on addressing these concerns.

Senator Olson asked the accident rate of foreign flagged vessels in the State.

Captain Winter responded that most accidents in the State have involved vessels that are familiar with Alaska's waters; therefore, he contended, there is concern regarding vessels that are unfamiliar with the State's waters. He mentioned that small US vessels that carry paying passengers are required to have a marine pilot on board for the first three sailings into an area. He specified that international tonnage is the preferred unit of measurement.

Senator Olson asked, due to the occurrence of accidents, the safeguards provided by requiring marine pilots to be onboard vessels.

Captain Winter replied that he is unaware of a single yacht accident occurring while a marine pilot was onboard. However, he stated, not all accidents might be reported.

Senator Olson countered that an accident must be reported if an insurance claim is made.

Co-Chair Wilken asked whether the simulator at the Alaska Vocational and Technical Education Center (AVTEC) is beneficial in pilotage training.

Captain Winter responded that it is a "small" Alaska resource. However, he noted, new features could be added to the simulator to expand its abilities to the point where it could be effectively used for training.

Co-Chair Wilken surmised that the State might be required to invest more funding into AVTEC.

Captain Winter replied that this would be beneficial.

Co-Chair Wilken inquired how many marine pilots have failed random drug testing.

Captain Winter replied, none.

Senator Bunde voiced that the waiver issue should be addressed in separate legislation.

Co-Chair Wilken affirmed that the issue would be addressed either in this bill or in another bill.

Co-chair Wilken ordered the bill HELD in Committee.

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#### **ADJOURNMENT**

Co-Chair Gary Wilken adjourned the meeting at 10:19 AM