

HOUSE FINANCE  
February 9, 2005  
1:41 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:41:12 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Richard Foster  
Representative Mike Hawker  
Representative Jim Holm  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Carl Moses  
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Eric Croft (Teleconferenced)

ALSO PRESENT

Representative Ralph Samuels; Pat Davidson, Legislative Auditor, Legislative Audit Division; Matt Robus, Director, Division of Wildlife Conservation, Department of Fish & Game; Paul Johnson, Guide, Alaska Professional Hunters Association; Tom Wright, Staff, Speaker John Harris; Dan Easton, Director, Division of Water, Department of Environmental Conservation; Rick Urion, Director, Occupational Licensing, Department of Community and Economic Development

PRESENT VIA TELECONFERENCE

Rick Thompson, Director, Division of Mining, Land and Water, Department of Natural Resources, Anchorage; Jim Strandberg, Commissioner, Regulatory Commission of Alaska (RCA), Anchorage; Kim Franklin, Northwest Arctic Borough Planning Department, Kotzebue; Joe Klutsch, President, Alaska Professional Hunters Association, King Salmon; Bob Fithian, Executive Director, Alaska Professional Hunters Association, Lower Tonsina; Pete Schaeffer, Kotzebue Fish and Game Advisory Committee, Kotzebue; Robert Hardy, Mat-Su; Cynthia

Hora, Attorney for the Northwest Arctic Borough, Anchorage;  
Major Howard Starbard, Administrative Commander, Alaska  
State Troopers, Anchorage

SUMMARY

HB 46 An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water supply and wastewater systems.

CS HB 46 (FIN) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Community & Economic Development and a new zero note by the House Finance Committee for the Department of Environmental Conservation.

HB 76 An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services; and providing for an effective date.

HB 76 was HEARD and HELD.

#HB46

HOUSE BILL NO. 46

An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water supply and wastewater systems.

Representative Foster MOVED to ADOPT work draft 24-LS0313\Y, Craver, 2/8/05, as the version of the bill before the Committee. There being NO OBJECTION, it was adopted.

Co-Chair Meyer pointed out that two amendments had been incorporated into the draft. The first clarifies that utilities are owned and operated by a political subdivision of the State. That language was amended in the Senate Resource Committee. He noted that Representative Croft presented Amendment #2, which addresses privately, owned utilities not receiving capital gains.

TOM WRIGHT, STAFF, SPEAKER JOHN HARRIS, stated that the Speaker has no objections to either amendment or the new language in the version currently before Committee members.

Vice-Chair Stoltze inquired if language on Page 2, Lines 26-28 was new. Mr. Wright advised that language resulted from Representative Croft's amendment, however, was slightly modified.

Representative Hawker understood that the intent was to regulate a State or public investment in a utility, regulated by the Regulatory Commission of Alaska (RCA). The language implies that a public utility sold within ten years of receiving a grant, ceases to be regulated and then that grant has to be repaid. He thought that 10-years would be too long of a window, understanding the number was not an issue point. Representative Hawker recommended that the number be changed to 5-years.

Representative Kelly agreed and supported the change. He thought it would benefit the public by using matching grants.

Representative Hawker MOVED a change to the committee substitute, Page 2, Line 24, deleting "10" and replacing it with "5" years. Co-Chair Meyer OBJECTED for discussion purposes.

Representative Croft, (Testifying via Teleconference), asked for an explanation of the proposed change. Representative Hawker repeated that the language provides assurance that public money benefiting a public utility is subject to regulated rates. He questioned if 10-years provides an appropriate restriction, assuming that the grants are to benefit the public. He recommended 5-years.

Representative Croft agreed. The number was not determined through any type of study. He commented that there could be practical difficulty keeping it on the books too long. He added that he did not want to see it become a State grant that moved quickly for individual or private gain.

Representative Weyhrauch asked what would happen if the public utility was sold to a non-regulated utility within the 5 years. Representative Hawker explained that it would only be affected if a non-regulated utility were sold.

Representative Weyhrauch inquired historic precedence for that.

JIM STRANDBERG, (TESTIFIED VIA TELECONFERENCE), COMMISSIONER, REGULATORY COMMISSION OF ALASKA, ANCHORAGE, responded to the question. He indicated that in the six years that he had been with RCA, they had processed many ownership changes, however, he could not provide specific data. Mr. Strandberg stated that certificate transfers almost always come before the RCA if it is a public utility. The RCA regulation is a separate concern and they do monitor the current ownership of certificated utilities.

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Representative Weyhrauch spoke to the transferee and RCA's payment involvement. Mr. Strandberg advised that RCA wants to maintain ownership that is "fit, willing and able", which is the statute definition. For utilities not regulated by the RCA, the rates are not set. He summarized that an acquisition adjustment could only be assured under the utilities economically regulated by the RCA.

Representative Croft voiced concern that State grants might end up being solely for private benefit. He addressed RCA's current restrictions, which could prevent that from happening. A private buyer will only pay so much because of regulations by RCA. He questioned if the amendment language would assure that. Mr. Strandberg believed it could be accomplished incorporating that language.

Representative Croft suggested that it could affect economics in a limited situation. Mr. Strandberg reflected that the amendment prevents private enrichment as a result of that grant.

Vice-Chair Stoltze asked if there is any interest in limiting the utility to State owned rather than foreign owned businesses. Mr. Strandberg replied that he would check the statute for that information. He did not believe that there are utilities foreign owned. Mr. Wright advised that all of the utilities receiving the grants are under the RCA regulations whether they are foreign or not.

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Mr. Strandberg commented that any private owned investor utility would be subject to current regulations. Unless the Legislature changes that, the likelihood of an investor owned utility going into an unregulated status is unlikely.

Vice-Chair Stoltze pointed out that last year, there was legislation that would have removed the utility regulation. He asked the protections in place. Mr. Strandberg explained that bill was a deregulation of a municipality owned utility and was a special case of a large, municipally owned utility. He knew of no other actions to deregulate.

Mr. Wright interjected that it was not the intent of Speaker Harris to get HB 46 involved in that legislation and would object to it. Vice-Chair Stoltze appreciated that.

Representative Holm thought that the payback provision could have unintended consequences. He offered that the benefits incurred could bail out a municipality. Resulting from that, if the pay back provisions were huge, there could be unintended consequences. He believed that if a municipality were getting money through a program, everyone in the municipality would be benefiting.

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Co-Chair Meyer WITHDREW his OBJECTION to Amendment #1. There being NO further OBJECTION, the change from "10" to "5" years was adopted.

Co-Chair Meyer pointed out that the fiscal note for the Department of Environmental Conservation had been zeroed out. He asked for comments regarding that change.

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DAN EASTON, DIRECTOR, DIVISION OF WATER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, explained that there had been an increased workload in developing a small number of grants to the larger amount and that was the base for the fiscal note. The Department of Environmental Conservation anticipates a workload impact and will attempt to do the work with a zero note.

Co-Chair Chenault commented on the fiscal note. He pointed out that in the FY03 budget, the Department had 33 matching grants; in FY04, 12 matching grants; and in FY05, 7 matching grants. He pointed out that the number of employees in the Division staffing those projects had not changed. He supported the fiscal note being zeroed out.

Representative Foster MOVED to report CS HB 46 (FIN) out of Committee with individual recommendations and with the zero fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 46 (FIN) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Community & Economic Development and a new zero note by the House Finance Committee for the Department of Environmental Conservation.

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AT EASE: 2:12 P.M.  
RECONVENE: 2:18 P.M.

[2:18:21 PM](#)

#HB76  
HOUSE BILL NO. 76

An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services; and providing for an effective date.

REPRESENTATIVE RALPH SAMUELS, SPONSOR, noted that HB 76 would re-establish the Big Game Commercial Services Board to oversee an important industry that exists largely on the basis of a healthy wildlife population. The board sunset a decade ago, and in the following years, professional hunters, wildlife biologists, public and private land managers and the hunting public themselves have discovered the problems associated with a decentralized, uncoordinated system of licensing and regulating guides and transporters.

Representative Samuels discussed that an audit commissioned by the 23<sup>rd</sup> Alaska Legislature and released in December 2003, recommended that the Legislature consider re-establishing the board. Auditors concluded after extensive interviews with affected agencies, land owners and hunters that wildlife populations would benefit from more coordinated enforcement of existing laws, and that consumer protection and hunter-client safety could be improved. The Alaska Board of Game has also asked repeatedly that a guide licensing board be re-established.

Representative Samuels summarized that the bill would create a seven-member board within the Department of Community and Economic Development. Two members would represent active registered guide-outfitters, two members would be licensed transporters, the Board of Game would assign one member, one member would represent private landholders, and one member would represent the public. The bill would also increase from \$1,000 to \$5,000 dollars, the maximum civil penalty for disciplinary purposes.

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PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, advised that the purpose of the audit was to determine:

- The impact that the absence of a professional licensing board for guides and transporters has had on the enforcement of guiding statutes;
- The appropriateness of the fines and other enforcement mechanism; and
- The adequacy of the current reporting requirements for transporters.

Ms. Davidson noted with the termination of the Big Game Commercial Services Board, there has been no professional oversight of licensed guides and transporters. She listed the various land managers in the State who do the monitoring:

1. National Park Service
2. U.S. Fish and Wildlife Service

3. U.S. Forest Service
4. Bureau of Land Management (BLM)
5. Department of Natural Resources (DNR), Division of Mining Land and Water

Ms. Davidson noted that agencies have indicated that they would welcome a more vigorous, centralized licensing and regulatory board to oversee transporters and to a lesser extent, guides. When the Big Game Commercial Services Board sunset, many of the consumer protection and/or best business practice statutes and regulations were also eliminated.

Ms. Davidson continued, guiding activity contributes conservatively \$40 million a year to the State's economy. While most of the client surveys indicate a positive hunting experience, many that did report dissatisfaction, the key concerns were consumer protection issues. Based on the Division's review, it was concluded that statutory changes should include "best business practices" to be warranted. That type of change provides important consumer protection and hunter safety elements. While the re-establishment of a guide board is not essential to making statutory improvements, a reestablished board is likely to provide a more dynamic regulatory regimen. Allowing the revision of regulations on a regular basis intended to enhance professionalism by guides, maintains consumer protection and provides for hunter safety.

Ms. Davidson said if the Legislature considers reestablishing the board, the Division recommends:

- The board be limited to setting the minimum competency requirement for licensure; and
- The board works with the Division of Occupational Licensing to enforce statutory and regulatory requirement for licensees.

Vice-Chair Stoltze asked if the Division of Occupational Licensing had made a good faith effort because he did not want to award bad behavior. Ms. Davidson explained that her comments resulted from providing sunset audits for various boards and commissions over the last 15 years. One of the things that the Division realized was that boards are more active in updating regulations and responding to changes in the profession, which typically does not happen when there is not a board. She concluded that there is no one to screen.

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In response to Vice-Chair Stoltze, Ms. Davidson reported that they did not attempt to analyze what that Division did or did not do. There is nothing in statute or regulations

to address best practices. One of the keys to best practices is to have a written contract. When there is no contract between the client and the guide, then the Division can ask investigators to visit the compliant, however, there will be no written criteria.

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MATT ROBUS, DIRECTOR, DIVISION OF WILDLIFE CONSERVATION, DEPARTMENT OF FISH & GAME, testified in support of the legislation. The Board of Game and the Department of Fish & Game both support the bill, as it would be an aid for proper management. The State needs to have some control over commercial use of wildlife. A board would allow all the industry to come together to form new regulations and change industry standards. When the control resides within a department, there is access but not in an open and centralized format.

Mr. Robus added that the Department of Fish & Game provides expertise to the Board of Game. The Board of Game makes most of the wildlife regulations in the State. He spoke to measures and restrictions. He pointed out that there have been convoluted attempts to write regulations in the State, which address conflict.

Mr. Robus noted that the Department acknowledges that a board would be a good starting compromise. Over time, regulations will address the problems that have surfaced. The Board of Game will manage the biological "side of things" and both guiding and transport will be addressed through legislation.

Vice-Chair Stoltze referenced Section 6, the violations of a State or federal law or regulations that are inconsistent with State law. He stated that he did not want to endorse anything that was in violation of federal law. Mr. Robus responded that the federal government has jurisdiction within some of the conservation system units. There is guiding allowed in certain parts of refuges and reserves, with rules imposed by the federal government, not by the State. He pointed out that there are federal wildlife regulations even on State managed lands. A layering of State and federal wildlife law is in place, which varies depending on the piece of land.

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RICK THOMPSON, (TESTIFIED VIA TELECONFERENCE), REGIONAL MANAGER, DIVISION OF MINING LAND AND WATER, DEPARTMENT OF NATURAL RESOURCES, ANCHORAGE, voiced support for the legislation, which should help the Division do their work more efficiently.

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JOE KLUTSCH, (TESTIFIED VIA TELECONFERENCE), PRESIDENT, ALASKA PROFESSIONAL HUNTERS ASSOCIATION, KING SALMON, testified in support of the legislation. He emphasized that the guiding component facilitates up to \$2 million in private funds, going to tag administration. He observed that guides are subject to multiple regulations by various agencies. Mr. Klutsch stressed that there is a basic disconnect between mission assignments, jurisdiction and something comprehensive that works for all. The Board would allow discussion among the key players and he urged passage of the bill.

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BOB FITHIAN, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, ALASKA PROFESSIONAL HUNTERS ASSOCIATION, LOWER TONSINA, testified in support of the legislation and urged that it be moved from Committee.

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KIM FRANKLIN, (TESTIFIED VIA TELECONFERENCE), NORTHWEST ARCTIC BOROUGH PLANNING DEPARTMENT, KOTZEBUE, testified in support of the legislation, which would strengthen the oversight of guides and transporters. Such legislation should ensure that it has significant public participation from private landowners, municipal and borough governments, where guides and transporters go to hunt big game. She recommended that regulations be adopted only after significant input by affected villages, boroughs and municipalities.

Ms. Franklin noted that the Borough is concerned about the impact that the current unregulated hunts would have on the resources within the Northwest Arctic Borough. She suggested that the current trend would lead to a huge negative impact on resources and ability for local residents to obtain food in the future.

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PETE SCHAEFFER, (TESTIFIED VIA TELECONFERENCE), KOTZEBUE FISH AND GAME ADVISORY COMMITTEE, KOTZEBUE, testified in support of the legislation. He stated that the legislation includes a methodology for adequate resource management. He noted the current lack of enforcement options, which adds to the significant transporting issues. He pointed out a concern with transporters in the delicate watershed areas. Mr. Schaeffer advised that the title lacked any mention of transporters, and questioned if there was an implied inclusion.

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ROBERT HARDY, (TESTIFIED VIA TELECONFERENCE), MAT-SU, warned that boards could move from one extreme to another and that members of the public would then become disenfranchised as the board becomes more politicized. He pointed out that the proposed board appeared to be weighted toward industry with insignificant public participation. Mr. Hardy thought that the ability to redraft guide areas could become divisive and that predatory control could also be controversial.

Mr. Hardy thought that the reporting requirement for suspected violations is too lenient and that he would like to see a tighter timeframe. He added that as written, the legislation doesn't decrease or restrict expansion of the industry, nor does it enhance opportunities. He stressed that the industry is highly competitive and that he would like to see industry contribute more to the development of resources. He recommended "trophy fees" for individual guides.

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CYNTHIA HORA, (TESTIFIED VIA TELECONFERENCE), ATTORNEY REPRESENTING THE NORTHWEST ARCTIC BOROUGH, ANCHORAGE, noted that she would make suggested changes to the text of the bill. She spoke to the board's composition. The Borough supports the concept of limited industry representation. Ms. Hora understood that there would be an amendment proposed that would require 4 members from the industry and 5 members not representing the industry; the Borough would support that amendment. The Borough would recommend that the 2 public members not hold a license under this chapter. Ms. Hora recommended that a member should have resided in Alaska for at least ten years, requirements of the original board.

Ms. Hora referenced Section 5, which involves the board's authority to adopt regulations. She recommended incorporating language from Pages 17 & 19, which refers to the board's ability to amend. Additionally, Section 30, Subsection G, language be moved to the board's authority to adopt regulations. She addressed Section 6, noting Legislative Audit's concern with game management and consumer protection. Ms. Hora added that the Borough is also concerned with environmental aspects, and offered suggested language in Section 6 to address environmental violations. Section 8, #2, adds language "in Alaska".

Section 25, Subsection 4, adds language "borough land" and in Section 35, which addresses requiring permission, the Borough would like to be included. In addition to requiring permission, Ms. Hora recommended that the statute require

proof in the initial application phase. In Section 31, the Borough supports adding language a "political subdivision".

Ms. Hora summarized concerns that the Northwest Borough has voiced and that the term guide/outfitter has not been defined. She offered to work directly with Representative Samuels and Representative Joule's staff.

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Representative Weyhrauch asked if amendments would be incorporated. Co-Chair Meyer replied that there are presently two amendments before the Committee.

Vice-Chair Stoltze requested that someone from the industry be present to address the regulatory amendments.

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PAUL JOHNSON, ALASKA PROFESSIONAL HUNTERS ASSOCIATION, GUIDE, JUNEAU, stated that he has been an Alaskan guide for over 30-years. He acknowledged that there is no perfect legislation but urged that the bill move forward. It has been 10 years since there was a board and during that time, there have been many problems. He mentioned the private landholders who have been responsive and involved in the industry.

Mr. Johnson recommended that the board be kept at 7 members for cost reasons, eliminating public members. He urged that the legislation quickly pass from Committee.

Vice-Chair Stoltze clarified that the board intends to pay for itself. Mr. Johnson acknowledged that was correct; the guides will pick up most of the costs. He added that this is "one stop shopping" for the Department and boards. When every business promotes regulations, the result is that it becomes very scattered. He guaranteed that the legislation would save the State administrative costs. In response to Vice-Chair Stoltze, Mr. Johnson reiterated that he supported a 7-member board, which would be more efficient and cost effective.

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Vice-Chair Stoltze asked about enforcement fines and penalties associated with the bill.

Representative Foster mentioned faxed testimony received from a member of his district and asked that it be included in member's packets.

Representative Samuels commented that the biggest concern he heard voiced was reference to exclusive use areas. He

stressed that HB 76 has nothing to do with that. HB 76 takes only the licensing duties and moves them to a board with some expertise. He acknowledged that there is inherent conflict between the guides and the transporters. The board would simply create a forum to address problems that come up.

Representative Samuels indicated that the exact wording of the bill passed the Senate last year. A lot of work has already gone into the bill. He offered to work with members of the Committee to address their concerns. He reiterated intent to establish only a framework.

Vice-Chair Stoltze referenced language in Section 6, Line 23, "fined more than \$1,000 dollars in the previous 12 months". He asked if it would be considered a serious offense and thought the language might be too strict.

MAJOR HOWARD STARBARD, (TESTIFIED VIA TELECONFERENCE), ADMINISTRATIVE COMMANDER, ALASKA STATE TROOPERS, ANCHORAGE, responded to Section 6, indicating that the federal section was added and was not limited to Alaska as there are many guides who come from the lower 48, who have extensive records. The State has no authority to keep them from guiding in Alaska. It is not restricted.

Major Starbard addressed the tiered system penalty. If a person is convicted of a violation of the law and they are fined more than \$1,000 dollars and/or imprisoned for 5-days or more, they could not renew their licenses for 5-years. The tiered system has made that more reasonable so if during that 5-year sentence, instead it would be changed to 1-year. He noted that the point system would be similar to that used for a driver's license.

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Major Starbard continued that the proposed system would be much more reasonable. He pointed out that in many cases, guides are fined just under the \$1,000 dollars simply because their livelihood would be lost for 5-years at the \$1,000 level.

Vice-Chair Stoltze asked Representative Samuels to address his intent. Representative Samuels replied that the penalty would be spread out. Vice-Chair Stoltze asked if it would have to be a hunting violation. Representative Samuels replied that it would have to be a State or federal hunting violation. He emphasized that the language had not been changed.

Vice-Chair Stoltze was concerned how the decisions and penalties would affect "real people and real lives". He stated that the \$1,000 fine was a lot. Representative

Samuels reiterated that none of the definitions have been changed, however, the fine structure was changed slightly. Vice-Chair Stoltze requested that someone from the industry testify.

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Mr. Johnson pointed out that the courts have been holding the fines at \$999 dollars so that the license would not be revoked. He acknowledged that situations do happen but urged that the bill not be held up.

Vice-Chair Stoltze maintained his concern with the possibilities, which could be fined.

Representative Joule asked about the fiscal note submitted from the Department of Community & Economic Development. He elaborated that most hunting activities come from areas not represented in the note.

RICK URION, DIRECTOR, OCCUPATIONAL LICENSING, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, replied that the staff that prepares the notes has had years of experience in government. Representative Joule indicated that he wanted to be guaranteed that the "rest" of Alaska does not get "lost" and that the Board represents interests in all parts of Alaska.

Mr. Urion assured members that the person that wrote the note did not intend to slight any portion of the State. Representative Joule reiterated his concern. Representative Samuels commented that the distances were similar as between Ketchikan and Juneau to Anchorage and Barrow and Kotzebue to Anchorage for scheduled meetings. Representative Joule hoped that was the case.

Mr. Urion clarified for the record that the Department and the Division have aggressively attempted to change the current situation. He pointed out that only his Division had submitted amendments last year.

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Representative Weyhrauch inquired if board members would be able to make decisions. Mr. Urion understood that was the intent.

Representative Weyhrauch asked if language should be included that specifies that members deliberate and vote. Representative Samuels replied that it would be the same noting the inherent conflict between the transporters and the guides. He acknowledged that there are other concerns that Representative Joule's amendments would address.

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Co-Chair Meyer stated that the bill would be heard on the February 10, 2005 meeting and he anticipated that it would move from Committee at that time.

Representative Foster asked about fines for littering. Representative Samuels did not think those would be included, as they are not hunting violations.

Representative Foster discussed hunters leaving messes and if they would be fined for that. Representative Samuels acknowledged the conflict between transporters and guides is a major issue. He emphasized that the legislation does not change the definition of a transporter and the exclusions included in that category guarantee that the 135 operators are not included in the bill's language.

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HB 76 was HELD in Committee for further consideration.  
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ADJOURNMENT

The meeting was adjourned at 3:35 P.M.