

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

April 13, 2005
8:39 a.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Co-Chair
Representative Bill Thomas, Co-Chair
Representative Jim Elkins
Representative Woodie Salmon
Representative Peggy Wilson
Representative John Harris

MEMBERS ABSENT

Representative Mary Kapsner

COMMITTEE CALENDAR

HOUSE BILL NO. 252

"An Act providing for a sport fishing facility surcharge on sport fishing licenses; providing for the construction and renovation of state sport fishing facilities and for other projects beneficial to the sport fish resources of the state as a public enterprise; and authorizing the issuance of revenue bonds to finance those projects."

- MOVED HB 252 OUT OF COMMITTEE

HOUSE BILL NO. 241

"An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

- MOVED CSHB 241(FSH) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 252

SHORT TITLE: SPORT FISHING FACILITY REVENUE BONDS

SPONSOR(S): REPRESENTATIVE(S) HOLM

04/05/05	(H)	READ THE FIRST TIME - REFERRALS
04/05/05	(H)	FSH, RES, FIN
04/13/05	(H)	FSH AT 8:30 AM CAPITOL 124
04/13/05	(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 241

SHORT TITLE: BOARD OF FISHERIES CONFLICTS OF INTEREST

SPONSOR(S): REPRESENTATIVE(S) WILSON

04/01/05 (H) READ THE FIRST TIME - REFERRALS
04/01/05 (H) FSH, RES
04/13/05 (H) FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE JIM HOLM
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 252 as sponsor.

DOUG VINCENT-LANG, Assistant Director
Division of Sport Fish
Alaska Department of Fish and Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 252.

SARAH GILBERTSON, Legislative Liaison
Office of the Commissioner
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 252.

TOMAS BOUTIN, Deputy Commissioner
Alaska Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 252.

JIM DERRINGER, Staff
to Representative Holm
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 252.

RUSSELL THOMAS
Alaska Sportfishing Expeditions
Ketchikan, Alaska

POSITION STATEMENT: Testified in opposition to HB 252.

KELLY HEPLER, Director
Division of Sport Fish
Alaska Department of Fish & Game (ADF&G)

Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 252.

STEVEN DAUGHERTY, Assistant Attorney General

Alaska Department of Law (DOL)

Anchorage, Alaska

POSITION STATEMENT: Suggested amendments to HB 241.

PAUL SHADURA

Kenai Peninsula Fishing Association, (KPFA)

Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 241.

ROLAND MAW, Executive Director

United Cook Inlet Drift Association (UCIDA)

Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 241.

CARL CROME

Petersburg, Alaska

POSITION STATEMENT: Testified in support of HB 241.

DON FOX, Secretary

Kodiak Fish and Game Advisory Committee

Kodiak, Alaska

POSITION STATEMENT: Testified in support of HB 241.

ART NELSON, Chair

Board of Fisheries

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 241.

JERRY McCUNE, Lobbyist

United Fisherman of Alaska (UFA)

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 241.

ACTION NARRATIVE

CO-CHAIR GABRIELLE LEDOUX called the House Special Committee on Fisheries meeting to order at [8:39:15 AM](#). Representatives Wilson, Thomas, Elkins, and LeDoux were present at the call to order. Representatives Salmon and Harris arrived as the meeting was in progress.

HB 252-SPORT FISHING FACILITY REVENUE BONDS

8:39:52 AM

CO-CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 252, "An Act providing for a sport fishing facility surcharge on sport fishing licenses; providing for the construction and renovation of state sport fishing facilities and for other projects beneficial to the sport fish resources of the state as a public enterprise; and authorizing the issuance of revenue bonds to finance those projects."

8:39:58 AM

REPRESENTATIVE JIM HOLM, Alaska State Legislature, presented HB 252 as sponsor. He explained that this bill proposes to establish funds in order to build a fish hatchery in Fairbanks and to rebuild the fish hatchery at Fort Richardson in Anchorage. He pointed out that as of October 2005 the current Fort Richardson hatchery will no longer function properly. He said:

There's been some urgency to either fund a new hatchery or figure out some way to do it with a mechanism that will allow us to have these hatcheries available so we can increase the number of sport fish that will be able to be utilized by the people that come to Alaska.

REPRESENTATIVE HOLM stated that in the committee packet, there is a schematic showing how the funds would be used by the revenue bonds. The amounts of the proposed sport fishing facility surcharges are listed on page 3, lines 18-28 of the bill. He estimated that the surcharges will raise about \$6.1 million: \$1.1 million from residents and \$5 million from nonresidents.

8:43:56 AM

REPRESENTATIVE HOLM explained how the surcharge revenue will be used as follows:

Crystal Lake, which is by Wrangell, would receive \$193,000 over 10 years, and \$500,000 deferred, or roughly \$2.5 million. Skagway would receive \$1.6 million over 10 years, \$160,000 per year. And [Northern Southeast Regional Aquaculture Association (NSRAA)], which is Sitka, Haines, will receive \$1.4 million over 10 years ... and that's \$5.5 million.

Then ... in the \$69 million there's \$3.5 million in reserves, there's \$45 million for the Anchorage Fort Richardson hatchery, and \$15 million for the Fairbanks [hatchery]. We already have \$10 million in federal receipts that are available.... The projects look like they're in a good position to be built.

[8:45:55 AM](#)

REPRESENTATIVE ELKINS remarked that it sounds like Representative Holms has taken care of everyone pretty well. He said, "It makes it easier for Southeasterners to support this."

REPRESENTATIVE HOLMS replied that he is trying to build consensus by helping out several regions of the state.

REPRESENTATIVE WILSON noted that the application of the funds is not actually in the bill. She voiced concern that the funds might later be diverted to a different project if they weren't somehow "locked up."

[8:47:30 AM](#)

DOUG VINCENT-LANG, Assistant Director, Division of Sport Fish, Alaska Department of Fish and Game (ADF&G), explained:

There's three parts to this bill. There's a piece that deals with the surcharge, which is the revenue generation. There's a piece that builds up the revenue structure to issue the bonds, and that's in the bill before you. There's also a [capital improvement project (CIP)] request. That CIP request contains the authority to give the department the authority to expend money to spend on the bond, which has three pieces in it; it has the capital budget pieces into it, so that Fort Richardson hatchery is part of the bond, the Elmendorf hatchery is part of the bond, and the things that we could do with capital improvements are part of the bond in Southeast Alaska. That debt service payment will be about \$5.2 million to \$5.3 million per year. The operational costs will come from the revenue difference between \$6 million and \$5.3 million, and the authority to expend the projects we're talking about operational in Southeast Alaska are included in that CIP as part of operational costs for the next 10 years.

8:48:38 AM

REPRESENTATIVE WILSON asked if that would have to be put in the budget every year or if it would be automatic.

MR. VINCENT-LANG offered his understanding that every year [ADF&G] will need to be given the authority by the legislature to expend the debt service. "But once we have that CIP request that's gone through, we'll have the authority for those projects for the life of their projects."

REPRESENTATIVE WILSON asked if the next legislature could decide to use that money for a different project.

MR. VINCENT-LANG replied, "My understanding is that they couldn't because the CIP request will have gone through."

8:49:36 AM

SARAH GILBERTSON, Legislative Liaison, Office of the Commissioner, Alaska Department of Fish & Game (ADF&G), offered her understanding that the \$62 million that's part of the bond is in the CIP request for this year; that does not need to be approved annually. However, the \$3.5 million in operating costs for Crystal Lake will need to be approved annually by the legislature. She remarked that the ADF&G commissioner has submitted a letter to the bill sponsor which outlines the department's intentions to "fight for that money every year."

8:50:30 AM

REPRESENTATIVE HOLM noted that copies of the letter from the ADF&G commissioner are in the committee packet. He said that the letter spells out how and where the money would be spent.

REPRESENTATIVE WILSON responded that she is not comfortable with [the bill]. She asked if there is any way to lock that money in to specified projects.

MR. VINCENT-LANG replied:

I believe that when this is within the CIP budget request that you have told us, by approving that CIP budget request, that those are the projects that you would like to have done for the life of their projects. Now you might need to annually appropriate the money for those projects, but ... you would have

to end those projects by not approving those expenditures. ... Just like the debt service payment: you as a legislator have to expend the funds to make that debt service payment. In this case you would also have to annually appropriate the funds to those projects because we can't dedicate those things for the next 10 years; that's the legislature's prerogative, to dedicate funds. But we're committed to that, that's why we put it in there for the life of those projects....

[8:52:59 AM](#)

REPRESENTATIVE WILSON asked if this money is different than the regular money that was in the budget that "someone was able to take out and totally use it for something totally different."

MR. VINCENT-LANG replied that this was his understanding as well and that's why it is within the CIP request.

[8:53:16 AM](#)

REPRESENTATIVE ELKINS commented:

If it's bond money and the bonds are sold to do specific things, then the money raised from those bonds, theoretically, can only be used for those things. So if we wanted to protect [that money] ... we would want to be sure that when we sell those bonds that those projects are designated in the bond.

MR. VINCENT-LANG stated that ADF&G has been told by the Alaska Department of Revenue that it can't include operational costs within a bond package, but can include it within the CIP request.

[8:54:03 AM](#)

REPRESENTATIVE ELKINS remarked that the money is for construction and renovation, not operations.

REPRESENTATIVE WILSON disagreed and said that there are operational costs included as well.

CO-CHAIR LEDOUX pointed out there is nothing in the bill for Kodiak. She asked if the sponsor had thought of adding something for the Kodiak area.

REPRESENTATIVE HOLM replied that he had not.

[8:55:11 AM](#)

MR. VINCENT-LANG responded:

Our ability to produce fish in Kodiak is highly dependent upon the ability for the ... Anchorage hatcheries to produce fish over the next 10-15 years. ... We're not able to meet current production needs, and Kodiak currently gets stocked with about a third of a million fish, a variety of different species. We're going to decrease stocking, probably, in the Kodiak area because we can't simply meet the production with the current hatchery facilities we have. If we ... build a new hatchery in Anchorage, we're going to build that hatchery to meet the projected demand for the next 20 years. Some of that demand is going to be down in Kodiak, so we're going to produce more fish down in the Kodiak area based on the ... five-year stocking plan, which drives us in Kodiak.

[8:56:01 AM](#)

CO-CHAIR LEDOUX asked what is stocked in Kodiak.

MR. VINCENT-LANG replied that coho salmon, chinook salmon, and rainbow trout are stocked in many of the lakes. He noted that the stocking plan is locally driven; every five years ADF&G puts the stocking plan out for public review and input.

[8:56:43 AM](#)

REPRESENTATIVE WILSON asked if there is any way [the appropriation of funds to particular projects] can be put into statute.

MR. VINCENT-LANG answered:

I think we want to keep this bond package as clean as possible from [the Department of Revenue's] perspective. I agree with what you're saying and I think that's why you want to keep that language direction in the CIP budget request, which is for the

life of the project. That's why we do CIP budget requests; they're for the term of the projects.

8:58:09 AM

REPRESENTATIVE WILSON pointed out that the legislature has CIP budget requests with Alaska Department of Transportation and Public Facilities, but those requests get "changed around all the time."

REPRESENTATIVE HOLM stated:

We're appliers of funds, we're not allocators of funds, and because of that we're frustrated.... But this particular bill is about building two fish hatcheries and we've incorporated in addition to that some help for Southeast and some help for these other areas. And so it hasn't been a major focus; it's been an add-on, and we've tried to accommodate those areas. You could certainly have some intent language in here, but the intent is already here from [ADF&G] to do this. And as in all of our budgetary processes ... we cannot go to another legislature and bind them. And ... we can't bind another [ADF&G] if it takes another course.

8:59:52 AM

TOMAS BOUTIN, Deputy Commissioner, Alaska Department of Revenue said:

There's a much stronger commitment for a capital project that's in bond documents, for which bonds have been sold to bond holders, ... than if bonds hadn't been issued. And so the projects for which the bonds are issued, the hatcheries and deferred maintenance included, those capital projects will be part of the bond documents.... Typically people in a community that's going to receive the benefit of those projects will tend to buy the bonds at retail; we can only surmise partly because they're interested in those projects. And so the state bond committee could not allow ... the projects to change once the bonds have been issued. The bond indenture is actually the contract between the state bond committee and the bondholders. And so for the capital projects, which is the deferred maintenance and the hatchery

construction in the different parts of the state, it would be problematic if after the bonds were sold there was an attempt to divert the money to some project not in the bond documents.

9:01:56 AM

MR. VINCENT-LANG pointed out that the legislature has to annually appropriate the debt service payment as well. He said, "To the same extent that you're worried about future legislatures not funding projects in Southeast Alaska, [future legislatures] could make us default on our bond, theoretically, by not paying for the debt service payment." He reiterated that ADF&G has made the commitment to follow through with these proposed projects.

9:02:52 AM

CO-CHAIR THOMAS asked if the debt can be retired sooner if the number of sport fishing licenses sold increases.

MR. VINCENT-LANG replied that the money generated from increased license sales will go into the pot of ADF&G money that can be allocated by the legislature to do any variety of projects regarding sport fish management or research. He said, "The percent on the surcharge will be available for debt reduction or any kind of other project. But I think it would be out intention to pay down that debt as quickly as possible."

CO-CHAIR LEDOUX confirmed that the bill would fund hatcheries in Anchorage, Fairbanks, and Skagway, and then asked for further information about the proposed projects in Southeast Alaska.

9:04:39 AM

JIM DERRINGER, Staff to Representative Holm, Alaska State Legislature, explained that currently the Crystal Lake Hatchery, operated by the Southern Southeast Regional Aquaculture Association (SSRAA), is getting \$193,000 in federal money per year but will be losing that money either this year or next year. Under this bill, ADF&G would then fund this same amount for 10 years. He added that ADF&G would also give the hatchery \$500,000 the first year for deferred maintenance costs. He noted that the Northern Southeast Regional Aquaculture Association (NSRAA) has not received any money from ADF&G. Under HB 252, NRSAA would receive \$140,000 per year for 10 years

"to support sport fish out in that area," and a one-shot \$150,000 deferred maintenance on "that facility."

[9:06:12 AM](#)

MR. DERRINGER said that a third proposed project is a hatchery in Skagway. Under HB 252, Skagway would have the option of either receiving one payment of \$1.5 million to build a hatchery, or receiving \$160,000 per year for 10 years.

CO-CHAIR LEDOUX stated concern that the bill would cause a huge jump in fishing license costs. She said that it will be hard to explain to her constituents why they have to pay higher license costs while they are not benefiting.

[9:07:45 AM](#)

REPRESENTATIVE HOLM remarked that if the hatcheries in Anchorage shut down, Kodiak will lose all of its fish. He added that 80 percent of the increased fees will be paid by nonresidents, not locals.

MR. VINCENT-LANG commented:

Hatcheries do three things. They provide additional fishing opportunity. Across the State of Alaska they provide anywhere from 10-20 percent of the recreational fishing opportunity. ... In so doing providing that additional recreational fishing opportunity, they take pressure off fully allocated wild stocks. So we have to do something with our hatchery program; if we don't do something with our hatchery program you're going to see a lot more pressure on wild stocks. Given that, our hatcheries are in decline. We're going to have to somehow deal with out hatchery infrastructure, whether it's through this bond or some other thing. ... The wild stock management program will likely have to take some kind of suffering in the short term to deal with our hatchery infrastructure issues. ... And the other thing is it provides significant economic benefit; a recent study showed that hatchery production results in about \$45 million annually to the Alaskan economy. So this will over the life of this bond give about \$800 million to the Alaskan economy for a \$60 million bond.

MR. VINCENT-LANG continued:

Now, in your district specifically [Kodiak area], we stock over a third of a million fish. Those provide recreational fishing opportunities, especially for families that want to get out and start to learn how to fish. ... It's a jump [in license fees] but we haven't seen a jump in license fee increases for the last 15 years; it's time. And it's time for people to start paying for the hatcheries that they benefit [from].

[9:10:36 AM](#)

CO-CHAIR LEDOUX asked what lakes around Kodiak are stocked.

MR. VINCENT-LANG named lakes in the Kodiak management area that are stocked with either coho or rainbow trout.

[9:12:03 AM](#)

REPRESENTATIVE SALMON asked why fishermen who are catching wild stock should have to pay for the hatchery fish.

REPRESENTATIVE HOLM stated that sport fishermen are usually from out of state. He remarked that the cost of transportation to get to rural areas to go sport fishing [is so high that the license is very cheap in comparison.] He pointed out that in HB 252 on page 3, lines 7-8, some local people are exempt from the proposed surcharge.

MR. VINCENT-LANG reiterated that the hatcheries take pressure off of wild salmon stocks. He also noted that [ADF&G] completes a lot of wild stock assessments in rural areas.

[9:15:18 AM](#)

CO-CHAIR THOMAS commented that he likes HB 252. He remarked that Skagway has asked to have their own hatchery so that they wouldn't need to request general fund money each year in order to get fish from other hatcheries. He also noted that a lot of fish go up to the interior from Cordova. He stated that the impact of dipnetting is going to increase and there will be more pressure on rural area fisheries while the Fairbanks hatchery is in the process of being built. He added:

The other reason I liked [the proposed hatchery] in the Anchorage vicinity is that, being a fisherman, a lot of that fish is going to go by Kodiak anyway to go to the interior; we call that common property fishery. It would be intercepted by sport fishermen, commercial fishermen, everybody's going to have an opportunity at these fish.

CO-CHAIR THOMAS reiterated that having hatchery fish in urban areas will take the pressure off of wild stock in rural areas.

[9:17:49 AM](#)

REPRESENTATIVE ELKINS commented that roughly 28 percent of all the licenses sold in the state were sold in the area "from Cordova south," and therefore the area has a major impact on the money coming into the fisheries.

REPRESENTATIVE WILSON remarked that when she lived in Tok it was fun to fish in some of the nearby stocked lakes.

[9:19:18 AM](#)

CO-CHAIR LEDOUX turned to public comments.

RUSSELL THOMAS, Alaska Sportfishing Expeditions (ASE), stated that he works for ASE, a 20 year old family-owned business that operates three resorts in the Ketchikan area. He testified in opposition to HB 252 in its current form. He said that his biggest concern is that nonresidents, who are his clients, will be paying the majority of the costs. He pointed out that some of the proposed surcharges are almost double the current license fees, which he opined is not a modest increase. He turned to an [ADF&G] information handout [included in the committee packet] titled, "Sport Fishery Enhancement Surcharge FAQ's," from which he quoted, "There is no correlation between changes in license/tag fees and the number of licenses/tags sold, or in the number of angler days of fishing effort with guides." He commented:

I think it would be a big mistake to think that there is absolutely no correlation between how much a fishing licenses costs and whether or not people choose to do fishing as a recreational activity, especially given the fact that some people are here on a cruise ship for just a few hours. Here in Ketchikan, the half day cruise ship charters are a big

part of the fishing, and somebody already in the king salmon season will pay \$10 for a one-day license, \$10 for a king salmon tag, and now an additional \$8.50 in a surcharge. That means that four hours of fishing, in addition to what they've already paid to go out on the boat, will cost them close to \$30.

[9:22:54 AM](#)

MR. THOMAS voiced concern that a large amount of revenue would be generated via the surcharge in parts of the state that wouldn't be benefiting from that money. He continued:

If we enhance fisheries in the northern area, in Anchorage and Fairbanks, to the point that that fishing then becomes better than what we have to offer here in Southeast Alaska, then my customers choose to go there to fish rather than stay in Southeast and spend money here. So in essence what you're asking me to do as a business owner is to encourage my customers to fund my competition farther north.

MR. THOMAS asked the committee to consider amending the bill so that the money raised in particular ADF&G management areas stays within that area.

[9:25:49 AM](#)

CO-CHAIR THOMAS remarked that if this philosophy were used statewide, people living in Southeast wouldn't get any of the North Slope oil revenues. Noting that sport license fees haven't been raised in about 15 years, he asked Mr. Thomas if he had increased his sport fishing charter fees in that time.

MR. THOMAS replied that he had. He clarified that he is not opposed to an increase in fishing license fees, but he is opposed to the sudden doubling of fees. He remarked that no one would complain if the fee gradually increased \$1 every other year over the course of five years.

[9:27:39 AM](#)

REPRESENTATIVE SALMON commented, "That's the true case of the matter."

REPRESENTATIVE ELKINS asked how much it costs to sport fish in British Columbia, Washington, or Oregon.

MR. THOMAS replied that he didn't know. He noted that some of clients think the license fees are low. But he reiterated that he didn't want to be funding his competition up north and the increase in fees is too dramatic for one year.

[9:28:52 AM](#)

REPRESENTATIVE ELKINS remarked that he firmly believes in competition, and said, "The more competition, the keener you are." He opined that Alaska sport fish license fees are cheap compared to British Columbia, Hawaii, Washington, and Oregon.

[9:29:28 AM](#)

KELLY HEPLER, Director, Division of Sport Fish, Alaska Department of Fish & Game (ADF&G) commented that nonresident license fees in Alaska are lower than many other states. He noted, "The opportunities that a nonresident can exercise in Alaska is incredible; the number of fish they can bring back, the wealth of opportunities they have here is different."

CO-CHAIR LEDOUX asked how Alaska compares with other states regarding price of resident licenses.

MR. HEPLER replied that he did not have that information on hand, but he opined that, "It's a heck of a bargain."

CO-CHAIR LEDOUX, after ascertaining that no one else wished to testify, closed public testimony on HB 252.

[9:31:19 AM](#)

REPRESENTATIVE ELKINS moved to report HB 252 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE SALMON objected.

[9:31:57 AM](#)

A roll call vote was taken. Representatives Wilson, Elkins, and Thomas voted in favor of reporting HB 252 out of committee. Representatives LeDoux and Salmon voted against it. Representatives Kapsner and Harris were absent from the vote. Therefore, HB 252 failed to report out of the House Special Committee on Fisheries by a vote of 3-2.

[The committee returned its attention to HB 252 later in the meeting.]

HB 241-BOARD OF FISHERIES CONFLICTS OF INTEREST

9:33:46 AM

CO-CHAIR LEDOUX announced that the next order of business would be HOUSE BILL NO. 241, "An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

9:34:11 AM

REPRESENTATIVE WILSON, sponsor of HB 241, explained:

[The bill] implements changes recommended by the Joint Salmon Industry Task Force to the Board of Fisheries conflict of interest policy. The Board of Fisheries is not as effective as it should be when members with the most knowledge and experience in certain areas must excuse themselves when those issues arise.

The Board of Fisheries is a lay board and it consists of members of various backgrounds. Some are involved in commercial fishery, some are recreational fishermen, some are fishing lodge owners, and others are just public members with an interest in fishing. Under current policy the Department of Law is very conservative in their recommendation of who should participate, and when there's even a perception of a conflict, they get really nervous about this and recommend that their members excuse themselves, therefore avoiding any possible litigation at all.

The committee took an at-ease from 9:35:39 AM to 9:36:32 AM.

REPRESENTATIVE WILSON returned to HB 241. She commented that members are appointed to the board because they are knowledgeable in particular areas, but currently if there's even the perception that a member might have a conflict of interest, that member can't vote or even discuss the topic. She stated that HB 241 would require that members declare a conflict of interest, but then would still be allowed to participate in discussion and voting. She continued:

This bill now requires the Board of Fisheries members to disclose a personal or a financial interest on the record before participating in matters before the board. If they disclose a conflict of interest, this would not disqualify a board member from participating in and voting on the matters before the board.

[9:38:48 AM](#)

STEVEN DAUGHERTY, Assistant Attorney General, Alaska Department of Law (DOL), stated that the DOL has proposed an amendment that would address a few technical issues. He said:

We believe that the intent of the bill is to allow a board member to participate in a matter before the board after disclosure despite having a personal or financial interest in a matter before the board, not as a broad exemption from the Ethics Act. And in order to accomplish this and make sure that the board members can in fact participate, we need to add some additional language to the bill.

[9:40:19 AM](#)

MR. DAUGHERTY continued:

There are two problems with the original language [of HB 241]. First, there is an express exemption provided from AS 39.52.120(b)(3); that's the provision regarding use of state time, property, equipment, and facilities. But there is no exemption for (b)(4), which is the taking or withholding of official action in order to affect a matter in which the public officer has a personal or financial interest. And in fact, most controversies involving the board would involve (b)(3), not (b)(4). So we think that an express revision regarding (b)(4) is needed. And we have suggested language to that effect....

[9:41:21 AM](#)

MR. DAUGHERTY stated that the second issue of concern to DOL is the last sentence on page 2, lines 9-10, which reads, "AS 39.52.240 does not apply to matters related to this subsection." He said that AS 39.52.240 is a section that allows the board to ask for advisory opinions. He stated that DOL thinks that cutting off the board's access to advisory opinions is very problematic. He continued:

The ethics act will still be applicable. There are some specific exemptions and they will be able to vote despite a personal or financial interest, but there are a number of other areas of the ethics act that will still be applicable, such as those dealing with improper guests, [AS 39.52.130]; improper use and disclosure of information, [AS 39.52.140]; improper representation, [AS 39.52.160]; declaration of potential violations, [AS 39.52.220] - although there will be a partial exemption provided for that by this bill - and other sections of [AS 39.52.120], such as those dealing with seeking other employment or contracts, accepting or receiving or soliciting compensation for official duties, coercion of subordinates for political purposes. Those issues may still arise from time to time, and in fact, the provisions regarding gifts frequently arises with the board. And we think that it's important to preserve the board's ability to seek advisory opinions when issues arise, even concerning issues that they have received an exemption for under this bill. The board may still want an opinion from the [DOL] just to provide them with some assurance that what they're doing is right, and so ... when concerns are expressed to them they can pass it off on the [DOL] rather than having to deal with constituents who are angry about their participation.

MR. DAUGHERTY concluded that DOL would like to see that sentence removed from the bill.

[9:43:55 AM](#)

MR. DAUGHERTY clarified that Amendment 1, labeled 24G-1, 4/8/2005, (1:15 PM), would say:

Page 2, lines 9-10

Delete "AS 39.52.240 does not apply to matters related to this subsection."

Insert "Participation in a matter before the board after disclosure is not considered to be taking or withholding official action in order to affect a matter in which the public officer has a personal or financial interest under (b)(4) of this section."

[9:45:16 AM](#)

REPRESENTATIVE WILSON moved to adopt Amendment 1, labeled 24G-1, 4/8/2005, (1:15PM). There being no objection, Amendment 1 was adopted.

9:45:44 AM

PAUL SHADURA, Kenai Peninsula Fishing Association (KPFA), testified in support of HB 241. He said that the bill is crucial to allowing the Board of Fisheries to deliberate important issues without political interference. He pointed out:

Current board policy requires that all adopted proposals must have four votes of the board in order to pass. No debate, argument, or information is allowed by an individual who are conflicted out. No system for defining conflict is in policy except that the chair would rule on a conflicted issue for the individual if requested or contested. This is very awkward and allows for definition with subjective reasoning. Our experience with board members since statehood is that decisions by the board requires much personal knowledge by every board member that is available. It is expertise that prompts individuals to volunteer their services to the people of the state.

MR. SHADURA continued:

Current interpretation of conflict seems to define commercial fishing as having more of a benefit to individual board members than commercial guiding, yet definition in statutes that address this legislative conduct states that even nonmonetary or benefits to an individual can also be implied as a conflict. This bill allows the affected users in the state a fair and equal voice to represent the issues openly, thoroughly, and fairly. ... It is our ardent belief that a good board is one that takes into consideration all available information and discusses it from all aspects of the problem, and that this allows for more temperate and long term decision making, something the current [Board of Fisheries] does not incorporate at present.

9:48:57 AM

ROLAND MAW, Executive Director, United Cook Inlet Drift Association (UCIDA), stated that he is a commercial fisherman and he supports HB 241. He commented, "These fisheries are getting very complicated and I think require some of the best discussion and analysis and participation that we can bring to that as citizens, and removing any barriers that would prevent that participation and that discussion, I think, is a positive thing...."

[9:50:16 AM](#)

CARL CROME, stated that he has been a fisherman for 40 years, and is a seiner, a gillnetter, and a troller. He said:

Me and mine are very unhappy with our people getting conflicted out at the board meetings. It's already lopsided in the sport fish favor, and when our people are ... conflicted out it makes us very unhappy. I don't have to remind you that we're the largest employer in the state, that we pay more taxes than any industry except the oil companies, and I suppose we have a lot more votes than any other too. ... Our people need to stay in there. Because somebody knows something is not a good reason to conflict them out. And we feel this is very unfair.

[9:51:39 AM](#)

DON FOX, Secretary, Kodiak Fish and Game Advisory Committee, noted that he represents the advisory committee to Board of Fisheries. He also stated that he is a commercial fisherman. He testified in support of HB 241. He remarked:

The governor appoints these people because they have this expertise in these areas, and they're not even allowed to deliberate or vote, and ... I think what applies to the legislature should apply to the [Board of Fisheries]. These people need to put their knowledge and expertise to use.

[9:52:29 AM](#)

ART NELSON, Chair, Board of Fisheries, testified in support of HB 241. He said the he'd like to comment on two general areas where the conflict of interest regulations have been problematic for the board. He said:

The first one is the difficulties that it presents oftentimes with the operation of the board and our functioning and our deliberations. As the chairman of the board, I'm kind of responsible to be the ethics supervisor for all the members, and so of course before each meeting I go around to the various members, particularly those that may have conflicts arising with the different meetings we have ahead of us and ... those conflicts can be either financial or personal in nature, and can be interpreted very broadly. ... Oftentimes even if there's going to be a perceived conflict that we are advised to be conservative in that and ... it's no offense meant to the [DOL]; it's their job to be conservative and make our decisions be not only legally valid but defensible in court. ... The board spends upwards of 40 or sometimes more days per year in our regulatory meeting, and the last thing I want to have happen is ... having an extensive regulation that took a lot of time to put together be struck down because we failed to follow the letter of the ethics rules.

MR. NELSON continued:

What's also problematic ... is the potential for losing a board member due to a conflict of interest. We're a seven-member board, and regardless of how many board members are present and participating. So whether there's absences and/or conflicts, we always still have to have four votes to carry any motion. And so especially if it's compounded with an absence by another board member, a lot of times it becomes very difficult for us to take regulatory action.

MR. NELSON noted that some well-qualified people are not even interested in being on the board because they know they wouldn't be allowed to vote on important matters.

[9:56:43 AM](#)

JERRY McCUNE, Lobbyist, United Fisherman of Alaska (UFA), noted that UFA submitted a letter in support of HB 241 which is in the committee packet. He reiterated that voting proceedings are difficult for the board if some of the board members are conflicted out. He also opined that it is unfair that

commercial fishermen are conflicted out more often than lodge owners.

[9:57:25 AM](#)

REPRESENTATIVE HARRIS commented:

Why would you want to be on the Board of Fisheries ... if you didn't have an interest in the subject matter being displayed in front of you? And obviously if you're someone representing commercial fishing, for instance, ... you're probably appointed to bring that point of view to the board. And if you're not allowed to vote on the [issue] when it comes up, what good are you?

REPRESENTATIVE HARRIS compared the situation to being in the legislature; representatives are elected to bring their personal viewpoints to the discussion.

CO-CHAIR LEDOUX commented that she had received a lot of written testimony from her constituents in Kodiak in favor of the bill.

[9:59:45 AM](#)

REPRESENTATIVE ELKINS moved to report HB 241 as amended out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 241(FSH) was reported from the House Special Committee on Fisheries.

HB 252-SPORT FISHING FACILITY REVENUE BONDS

[10:00:03 AM](#)

CO-CHAIR LEDOUX returned the committee's attention to HB 252.

REPRESENTATIVE WILSON asked for reconsideration of HB 252.

REPRESENTATIVE SALMON objected.

A roll call vote was taken. Representatives Wilson, Harris, Thomas, and Elkins voted in favor of reconsidering HB 252. Representatives LeDoux and Salmon voted against it. Representative Kapsner was absent for the vote. Therefore, the motion passed by a vote of 4-2. [The committee treated HB 252 as before it again.]

[10:00:57 AM](#)

CO-CHAIR THOMAS moved to report HB 252 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE SALMON objected.

[10:01:19 AM](#)

A roll call vote was taken. Representatives Wilson, Harris, Thomas, and Elkins voted in favor of reporting HB 252 from the committee. Representatives LeDoux and Salmon voted against it. Representative Kapsner was absent for the vote. Therefore, HB 252 was reported out of the House Special Committee on Fisheries by a vote of 4-2.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at [10:01:59 AM](#).