

HOUSE FINANCE COMMITTEE

April 6, 2011

8:48 a.m.

8:48:16 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:48 a.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Anna Fairclough, Vice-Chair
Representative Mia Costello
Representative Mike Doogan
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Mike Hawker (alternate)
Representative Reggie Joule
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Jennifer Senette, Staff, Representative Kurt Olson; Pat Davidson, Legislative Auditor, Division of Legislative Audit; Representative Mike Hawker, Chairman, Legislative Budget and Audit Committee; Jeff Jessee, Alaska Mental Health Trust Authority, Department of Health and Social Services, Juneau; Shirley Gifford, Director, Alaska Beverage Control Board, Department of Public Safety, Juneau; Kate Burkhart, Advisory Board on Alcoholism and Drug Abuse, Department of Health and Social Services, Juneau

PRESENT VIA TELECONFERENCE

Belen Cook, Board Member, Alaska Beverage Control Board, Department of Health and Social Services, Cordova; Dale

Fox, President and CEO, CHARR, Anchorage; Bob Winn, Blues Central/Chef's Inn, Anchorage; Chief Thomas Clemens, President, Alaska Association of Chief of Police; Jan Wrentmore, Owner, Red Onion Saloon, Skagway; Bob Winn, Blues Central/Chef's Inn, Anchorage; Dale Fox, CHARR, Anchorage

SUMMARY

HB 206 EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD

HB 206 was HEARD and HELD in committee for further consideration.

HB 125 ALCOHOLIC BEVERAGE CONTROL BOARD

HB 125 was HEARD and HELD in committee for further consideration.

#hb206

HOUSE BILL NO. 206

"An Act relating to the Alcoholic Beverage Control Board; and providing for an effective date."

[8:49:47 AM](#)

JENNIFER SENETTE, STAFF, REPRESENTATIVE KURT OLSON, explained that the legislation would extend the termination date if the Alcohol Beverage Control Board (ABC) to June 30, 2015; this was a four-year extension and reflected the recommendation of the 2009 audit report. The audit recommended that the legislature extend the ABC Board's termination date until June 30, 2014, but legislation had been passed during the 2010 session that extended the date an additional year. The extension had been honored during the crafting of HB 206, resulting in a termination date of June 30, 2015.

Co-Chair Stoltze requested further clarification from the Division of Legislative Budget and Audit (LB&A) concerning the audit.

PAT DAVIDSON, LEGISLATIVE AUDITOR, DIVISION OF LEGISLATIVE AUDIT, reiterated that in 2009 LB&A had conducted full

sunset review of the board and had recommended a four-year extension. In 2010 the legislature passed a bill to extend the ABC Board by one year. As a result, a current status check of the recommendations that had been made in the prior audit was conducted. The division had focused on two recommendations; the first was to determine that the ABC Board had established quantifiable and objective enforcement goals, and to develop a clear plan in which enforcement resources could be directed in order to maximize efficiency and effectiveness. The division found that the recommendation had been partially resolved. While enforcement staff had been successful in meeting some of the regional inspection goals, reducing the number of duplicate inspections had been less successful, as had been the results concerning compliance check activity. The second recommendation dealt with administrative activities. Several outstanding issues had been substantially resolved. One related to reconciliation between the ABC data base with regard to licensing activity and the states accounting records. Accurate distribution of licensing fees back to municipalities was dependent on the ABC being reconciled to the state accounting system.

[8:53:37 AM](#)

Representative Gara wondered whether the duplication of serviced had resulted in wasted funds. Ms. Davidson replied that there had been no duplication of services.

Vice-chair Fairclough asked how long ago the outstanding recommendations had been recommended to the board. Ms. Davidson responded that the enforcement goals recommendation had first appeared in the 2006 sunset audit. A series of administrative recommendations had been issued for the past few years, some in 2006 and more in 2010.

Vice-chair Fairclough wondered whether the division had reviewed the attendance and longevity of board members. Ms. Davidson stated that the longevity of members had not been examined. Quorum maintenance and meeting attendance had not been issues for the division.

Vice-chair Fairclough asked if there had been enough longevity on the board to recognize that since 2006 the same recommendations were coming back before the group. Ms. Davidson answered that she did not know. She stated that any noted progress had occurred under the new executive

director of the board. She stated that the changeover of the new executive director was noteworthy in the 2010 audit as an observance of corrective actions by the board having taken place.

Representative Wilson expressed concern that the board had not taken proper minutes or given proper prior public notice of meetings. Ms. Davidson relayed that when the board examined the activities over the last year, the only two issues remaining with regard to board meetings was that the agendas had not listed the timing of public comment, and that the board had failed to document when it was going into executive session. Continuing problems with public notice had not been discovered.

Representative Wilson asked if the public comment and executive session issues had been alleviated. Ms. Davidson replied that the issues had been resolved.

[8:58:24 AM](#)

Co-Chair Stoltze OPENED public testimony.

[8:58:55 AM](#)

BELEN COOK, BOARD MEMBER, ALASKA BEVERAGE CONTROL BOARD, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, CORDOVA (via teleconference), testified in support of HB 206.

Vice-chair Fairclough understood that there were members of the board that were coming up for reappointment or were facing an expiration of term. She asked if there were people on the board that had been members for multiple years, and if so, why had the audit recommendations taken so long to be resolved.

Ms. Cook replied that the last two appointees were Bob Kline, ABC Board Chairman who represented industry and had been on the board off and on for the last 12 years. She added that he was a good and fair chairman. Joe Delphino had been on the board prior to Ms. Cook's appointment and was expected to seek reappointment, however, personal reasons had prevented him from remaining on the board. A Wasilla resident now filled the chair. Ellen Ganley was the vice-chair representing a public seat, and had been on the board off and on for 10 years. She did not know why some members had not stayed on the board longer. She shared that

the problems highlighted by the audit had been sufficiently handled by the director.

[9:04:01 AM](#)

DALE FOX, PRESIDENT AND CEO, CHARR, ANCHORAGE (via teleconference) spoke in support of HB 206. He testified that the ABC was an important organization that provided a level playing field for licensees. The industry had seen major improvements under the direction of the new executive director, Shirley Gifford.

BOB WINN, BLUES CENTRAL/CHEF'S INN, ANCHORAGE (via teleconference) voiced support of HB 206.

HB 206 was HEARD and HELD in committee for further consideration.

[9:06:39 AM](#)

AT EASE

[9:07:06 AM](#)

RECONVENED

#hb125

HOUSE BILL NO. 125

"An Act moving the Alcoholic Beverage Control Board to the Department of Commerce, Community, and Economic Development and relating to duties of that department; and providing for an effective date."

[9:07:24 AM](#)

Representative Wilson MOVED to ADOPT CSHB 125(L&C) 27-LS)378\B. There being no OBJECTION it was so ordered.

REPRESENTATIVE MIKE HAWKER, CHAIRMAN, LEGISLATIVE BUDGET AND AUDIT COMMITTEE, relayed that HB 125 had been introduced as a result of issues identified in the audit performed one year earlier. At that time, the legislative Budget and Audit Committee had held hearings on the issue related to the appropriate domicile for the board. The bill moved the administrative domicile of the board from the Department of Public Safety (DPS) to the Department of Commerce, Community, and Economic Development (DCCED). In past years the board had been under the Department of

Revenue (DOR). He believed that any operating agency had the tendency to assume the culture and the characteristics of its umbrella agency. Under DOR the agency had focused on revenue collection and the administration of taxes, and not on its role of policing alcohol. Under DPS the agency had presumed the dominant characteristics of a police agency and had lost sight of its broader mission. He stated that the industry would testify that the domicile of the ABC Board in DPS had inadvertently created an adversarial relationship between the board and the industry. He pointed out that Department of Health and Social Services (DHSS) supported the agency falling under DPS out of the concern for alcohol abuse, bootlegging, and the illegal importation of alcohol across the state. He queried whether the board should be a commercial regulatory agency in DCCED along with all other businesses and professions in the state, or a police agency under DPS.

[9:13:55 AM](#)

Representative Hawker referred to a one-page summary of the work performed over the summer of 2010 by the Legislative Budget and Audit Subcommittee (copy on file.) He believed that the decision offered in the summary was the best choice possible. The subcommittee believed that the agency, along with all other commercial regulatory boards in the state, should be relocated under the purview of DCCED. The subcommittee had concluded that the move would strengthen the enforcement abilities of the board, which would continue to work closely with DPS to pursue criminal violations. He thought that the development and implementation of an overall plan of enforcement activities to ensure the effective allocation of resources would be better accomplished if the agency viewed itself with a broader responsibility than being an ongoing police agency. He concluded under DCCED the board would engender a character and culture that was more respectful of administrative responsibilities, as opposed to being singularly focused on criminal investigation.

[9:18:43 AM](#)

Representative Doogan requested clarification on page 2, line 18:

Unless authorized by a search warrant described in AS 12.35.010 - 12.35.120, nothing in this section

authorizes the use of metal keys, magnetic card keys, or identification cards to access private clubs.

Representative Hawker explained the amendment to AS 04.06.110 had been added in the House Labor and Commerce Committee and addressed the issue of investigation of private clubs or "key clubs." The agency had required that undercover investigators have key cards to enter the clubs. The private clubs had felt that they were adequately policed and should not be required to provide unrestricted access, on demand, to DPS. He noted that this was a prime example of the board behaving like a police agency. He summarized "when you are a hammer, everything looks like a nail." The provision was meant provide statutory protection to the private clubs.

Representative Guttenberg pointed out that the core services of the department were to: regulate alcohol, license qualified persons, and enforce state law. He wondered whether any of the core services of the agency would change under DCCED.

[9:24:03 AM](#)

Representative Hawker responded that the agency had taken on a character that was focusing exclusively on the role of enforcement and not been adequately exercising its services as a commercial regulatory authority. Fear of being fined for a violation when seeking guidance in complying with state statute had made members of industry fearful to ask questions of the agency. He stated that the agency had been specifically established to regulate and implement all of the statutes that related to the regulation of business and professions in the state, which made it a natural fit under the umbrella of DCCED.

Vice-chair Fairclough OPENED public testimony.

CHIEF THOMAS CLEMENS, PRESIDENT, ALASKA ASSOCIATION OF CHIEFS OF POLICE (via teleconference) testified that he had been in law enforcement since 1972. He recalled that when the board had been under DOR that law enforcement officials could not determine what the agency did in respect to law enforcement in alcoholic beverage control. He relayed that alcohol management was an important issue to law enforcement agencies in the state. He stressed that the departments that dealt with alcohol abuse the most were DPS

and DHSS. He reported that 85 to 90 percent of law enforcement agency work was alcohol driven. He thought that it was in the best interest of the state to keep the agency under DPS. He expressed concern that there would not be adequate enforcement were the agency to move.

Representative Gara understood that DPS had been asked by the governor to not testify on the bill.

Vice-chair Fairclough challenged the accuracy of Representative Gara's information.

Representative Gara hoped that the information was incorrect. He wondered whether the law enforcement function of the agency would be compromised by moving the agency from DPS to DCCED. Mr. Clemens replied that the relationship between the agency and law enforcement would be lost. The current relationship between law enforcement and the agency was strong. He said that under DOR that relationship had been less productive. He reiterated his anxiety that the relationship would suffer under DCCED.

Representative Gara queried the communication difficulties experienced by law enforcement when the agency had been under a different department. Mr. Clemens replied that the difficulty in communication was in the area of enforcement. When the agency had been under DOR he had made numerous attempts to discipline a particular bar that had been in constant violation. He asserted that the agency ignored his requests until finally people were injured and he took his requests to another department. He said that the problem had been minimized since the agency had been under DPS. He expounded that the licensing and revenue generation aspect of the agency could conceivably fall under DCCED, but more important was the issue of alcohol management in Alaska's communities.

[9:33:25 AM](#)

Representative Wilson wondered whether the communication issues had lessened as a result of new board members.

Mr. Clemens replied that he did not know. He reminded the committee that he worked with the ABC staff and not the board. He stated that the current agency staff was working closely with law enforcement in the interest of public

safety. He believed that public policy should move toward preventing alcohol related incidences.

Representative Wilson spoke of constituency concerns surrounding law enforcement and the agency overstepping reasonable boundaries of in the name of public safety. Mr. Clemens replied that he had not witnessed overstepping on the part of the agency or law enforcement. He asserted that the agency was doing a good job.

Representative Wilson expressed concern that businesses that were in compliance were being unfairly scrutinized. Mr. Clemens replied that 85 percent of bar owners in the state were in compliance; the other 15 percent were the focus of law enforcement and agency scrutiny.

Representative Doogan wondered which department Mr. Clemens worked for. Mr. Clemens responded that he was the Chief of Police for the Seward Police Department and the President of the Alaska Association of Chiefs of Police.

Representative Doogan referred to language in the bill that related to the requirement for search warrants to enter private clubs. Mr. Clemens thought that the search warrants were appropriate for private clubs. He likened the private clubs to a private home.

[9:37:31 AM](#)

JAN WRENTMORE, OWNER, RED ONION SALOON, SKAGWAY (via teleconference) testified that she had served briefly on the ABC Board during the Knowles Administration. She thought that while under DPS, the agency had failed to regulate the licensing system in the state. She believed that law enforcement was a large component in liquor management in Alaska, but felt that the current board and staff had neglected the licensing aspect of the agency. She reported that licenses had been granted very liberally in Skagway. She concluded that the ABC Board should be housed within a department with a staff that was able to examine the issues in order to develop good policy. She expressed support for the legislation.

[9:40:29 AM](#)

JEFF JESSEE, CHIEF EXECUTIVE OFFICER, ALASKA MENTAL HEALTH TRUST AUTHORITY, DEPARTMENT OF HEALTH AND SOCIAL SERVICES

encouraged the committee to base decisions moving forward on data and not on anecdotal stories. He pointed to the handout "Alaska Alcohol vs. Tobacco Sales to Minors, SFY2006 - 2011" (copy on file). He explained that the chart and graph reflected the percentage of illegal alcohol sales to minors against the percentage of illegal tobacco sales. Except for 2009, the percentage of illegal alcohol sales to minors had been significantly higher than that of illegal tobacco sales. In 2010 the rate of illegal alcohol sales was twice that of tobacco.

Mr. Jesse argued that alcohol was a devastating drug, particularly in the hands of minors. He thought that the industry and ABC Board should maintain respectful partnership in order to combat the issue of minor consumption. He was impressed with the agency's new executive director and her implementation of policy changes that would lead to concrete data.

[9:45:23 AM](#)

Mr. Jesse stated that the concrete data would lay out a matrix of the many ways a licensee could register concerns about how they were treated by the board. He believed the work currently being done by the agency's director would improve the chances for: informal conversations with supervisors, investigators and directors, the ability get on the agenda and to present concerns publicly at board meetings, and the power to meet with an ombudsman to file a formal complaint. He believed that the agency would be able to return to the legislature in 2012 with actual numbers detailing how many licensees had taken advantage of the opportunities to have their concerns addressed and the end results. He addressed industry concern that retaliation could occur if complaints were lodged. He said that it could be expected that when a complaint was filed the board would go back and examine the licensee's compliance history.

Mr. Jesse furthered that it was not sufficient for a licensee to simply allege that their concerns were not being addressed. He said that the issue would exist regardless of the department the agency fell under. He referred to a recent poll that had been conducted in Anchorage in which 67 percent of the public had purported that license checks were necessary in the purchase of

alcohol. He asserted that the numbers indicate that the public remained concerned with minors procuring alcohol.

Representative Joule wondered who was responsible for the illegal sale at the point of purchase. Mr. Jesse replied that in the case of tobacco sales the individual salesperson would be given a ticket and the licensee would have their license suspended for up to 20 days. In the case of alcohol, the server of the alcohol was charged with a misdemeanor. In addition, the ABC Board could take action to suspend the liquor license. He contended that the higher penalties for alcohol violations may not serve the state's interest. He argued that the entire system as a whole needed to be examined.

[9:52:55 AM](#)

SHIRLEY GIFFORD, DIRECTOR, ALASKA BEVERAGE CONTROL BOARD, DEPARTMENT OF PUBLIC SAFETY, JUNEAU, added that if the licensee was the person who served a minor there would be additional ramifications through the board.

Representative Costello understood that on any board or commission, the executive director carried out the will of the membership of the board. She wondered whether the board could focus on data and research regardless of where the agency resided.

Mr. Jesse responded in the affirmative. He stated that the board was the entity that set the direction and the policy for staff.

Representative Gara referred to the handout related to illegal sales. He requested clarification concerning the 15 percent violation rate in 2010. Mr. Jesse replied that the 15 percent was the violation rate based on compliance checks. They did not know what the actual rate of illegal sales to minors outside of the compliance check.

Vice-chair Fairclough asked if the number reflected the compliance check numbers or the overall violations. She pointed out that many times the licensee will self-report different violations; for example, if there was an altercation in the parking lot they could call the police for safety and it would be counted as a violation. She asserted that sometimes facility managers call upon the police in for assistance with violations in progress. Mr.

Jesse believed the alcohol data on the handout was based on compliance checks.

Representative Gara asked for clarification on the definition of a compliance check. He felt that if the 2010 number meant that 15 percent of the sales made were made to minors that the problem was much bigger than thought before.

[9:59:22 AM](#)

Mr. Jessee replied that if no minors outside of the ABC compliance checks tried to buy alcohol, the actual rate would be zero. There could still be a 15 percent violation rate on a compliance check. He believed that the actual rate would be less than the compliance check rate.

Representative Guttenberg queried the reason for the anomaly in the numbers for 2009. Mr. Jesse responded that he did not know. He directed the question to DHSS.

Vice-chair Fairclough believed that the anomaly could have been the result of different amounts of money for compliance checks for alcohol and tobacco licensees being invested at different periods of time.

BOB WINN, BLUES CENTRAL/CHEF'S INN, ANCHORAGE (via teleconference) testified in support of HB 125. He expressed that the board did an outstanding job with enforcement. He declared that the executive director was an ex-chief of police, the head of enforcement was an ex-chief of police as well. The four enforcement officers of the agency were past members of police departments or agencies. He thought that the licensing function of the agency could be further developed, as well as the commerce and business aspect.

Mr. Winn furthered that it was important to teach minors about healthy attitudes towards alcohol. He believed that the numbers were skewed to make the issue one of enforcement when only 7 percent of the instances of minor consumption involved licensees. He supported Shirley Gifford and her enforcement efforts but believed that there were administrative portions could be improved under DCCED.

Vice-chair Fairclough touched on the allegation that police may have overstepped their authority with owners and operators of legal businesses.

He believed that in the past the agency had attempted to make it as difficult as possible for bartenders to pass tests, to the point of being underhanded. He said that standards for sting operations had been set on a federal level that had not been employed at the state level. Mr. Winn stressed that Shirley Gifford had made significant changes for the better. He reiterated that in the past licensees had experienced difficulty with the enforcement arm of the agency.

[10:08:11 AM](#)

Mr. Winn shared that during a past sting operation the underage person had used military identification, which listed four different dates on the back. The server misread the birthdate and ended up being in violation. He felt that the enforcement officers at the time treated the employee as if her violation had been imminent.

Representative Gara suggested that rouge state employees would exist perpetually in every department. He wondered how moving the ABC board from one agency to another would improve the sting operations.

Mr. Winn did not believe that there would be any impact. He thought that the ABC Board was tasked with more than sting operations; responsibilities he believed that had been neglected. He expressed concern that the taxes on alcohol in the state were significant and that the commerce arm of the agency had been neglected.

KATE BURKHART, EXECUTIVE DIRECTOR, ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, JUNEAU, read from a prepared statement (copy on file):

First, the Board expressly states its appreciation for the work of all the folks involved in this conversation: the ABC Board members and staff, the members of CHARR, the law enforcement community, social services and community organizations, and the legislative committees. It's not easy work. We want to reiterate that this is not an issue of good guys and

bad guys. And it's not an issue of the merits or demerits of alcohol.

Ms. Burkhart agreed with Representative Hawker that the issue was about balancing the needs and concerns of all the parties and stakeholders to the issue. However, the board did not support moving the ABC Board from DPS. She read from the prepared testimony:

The stated intent of HB 125, based on the recommendation of the Legislative Budget and Audit Subcommittee, is to create "greater sensitivity on [the ABC Board's) part for the commercial benefits the industry generates for the State."

The Advisory Board on Alcoholism and Drug Abuse has had the chance to work together with the Cabaret, Hotel, Restaurant and Retailer's Association over the last two years. Not only have we furthered our shared priority of preventing fetal alcohol spectrum disorder through better public awareness efforts, the board has had the opportunity to learn more about how the industry and individual retailers promote responsible -and lawful use of alcohol.

The retailers of alcoholic beverages in Alaska invest time, energy, and money to ensure that only lawful sales are made -whether to youth or to adults. Many retailers have strong histories of responsible sales practices and community efforts to promote responsible consumption, and those efforts should not be minimized.

Ms. Burkhart stressed that the purpose of her comments was to promote responsible consumption and lawful alcohol sales. She continued with her testimony:

The fact that we have a 15% non-compliance rate is attributable not just to ABC Board efforts, but to the conscientiousness of retailers and their employees - and the training and supports provided by CHARR. However, even with this improvement, the rate of illegal sales of alcohol to minors remains nearly twice the rate of illegal sales of tobacco to minors.

Even with the heightened compliance rate, Alaska youth are reporting unacceptable levels of underage alcohol use. In 2009, 57% of alternative high school students and 33.2% of traditional high school students surveyed in the Youth Risk Behavior Survey reported having used alcohol in the past 30 days. That same year, 42.7% of alternative high school students and 21.7% of traditional high school students reported binge drinking in the past 30 days. Folks should not assume that youth get all their alcohol from retailers. While that is a certainly a source of alcohol either directly or through improper purchases for minors by adults with less than great judgment (something shoulder tap checks are meant to catch) -other means of securing alcohol account for at least 1/3 of the ways young people report getting their hands on alcohol.

Because the major issue for ABADA is the consequences of the proposed move and how it could affect the overall issues of underage drinking and alcohol abuse in Alaska -we looked at the reported youth alcohol use in states where the ABC Board is in a law enforcement agency like Public Safety and compared it to states where the alcoholic beverage control entity was within a non-law enforcement agency (such as Revenue or Commerce). Here's what we learned:

Colorado, Georgia, Kansas, Mississippi, and Missouri all have the ABC Board within a non-law enforcement executive agency. In those states, the Youth Risk Behavior Survey data for 2009 showed slightly higher average rates for youth reporting ever having had an alcoholic drink and reporting a drink before age 13. More importantly, all those states had higher reported rates of youth alcohol use than Alaska:

- 1.3-5.8% higher reports of ever having had alcohol;
- 3.5-9.5% higher reports of having had alcohol before age 13; and
- 1.1-7.6% higher reports of having had alcohol at least once in the last month.

Three of these five states had rates of binge drinking 3-4% higher than Alaska's. (See Table 1)

Comparing the rate of alcohol related underage driving fatalities in states with alcohol control within law enforcement agencies to the rate in states where alcohol control is not within law enforcement shows a similar difference. From data reported by The Century Council, a national nonprofit organization of distillers formed "to fight against drunk driving and underage drinking" and to promote "responsible decision making regarding beverage control," we see a significant difference between states.

[10:16:55 AM](#)

Ms. Burkhart continued to read from her testimony:

The national rate for underage driving fatalities in 2009 was 21100,000. Alaska's was 1.4/100,000, the approximate mean of seven states reviewed where alcohol control was within a law enforcement or public safety agency. Looking at Colorado, Georgia, Kansas, Mississippi, Missouri, Montana, South Carolina, South Dakota, West Virginia, and Wyoming (all states where the alcohol control agency is in an agency other than law enforcement), the average rate was 3.61100,000 - two and a half times the rate of states that treat alcohol control as a public safety responsibility.

The Legislature can provide guidance and express language about expectations to the ABC Board, in order to balance the concerns and needs of all the parties involved. You also have an existing mechanism for investigating and resolving citizen complaints about executive agencies: the Ombudsman.

[10:19:46 AM](#)

Ms. Burkhart concluded:

I used to be an assistant ombudsman with the Alaska State Ombudsman, and I couldn't remember seeing a complaint about the ABC Board come in while I was there. So I reviewed the matrix of investigations posted on the Ombudsman's website, and I didn't see any there either. Just to be sure, I call Linda Lord-Jenkins, the Ombudsman, and asked her about complaints about the ABC Board. She reviewed their database of complaints, which goes back to 2000. She found one

complaint about the ABC Board, made in 2010 and still being investigated. One complaint in a decade.

The testimony provided to the Legislative Budget and Audit subcommittee, and to committees during the session, has been passionate. Clearly there are different positions that need to be resolved. Moving the ABC Board is a dramatic solution, and one not without cost. Such a solution should be the last resort, and not the first.

The Advisory Board on Alcoholism and Drug Abuse supports efforts to promote a collaborative relationship between the ABC Board and members of the industry. We can speak: first hand of the benefits of partnership with CHARR and its members, and see opportunities for working together to reach common goals -one of them being ensuring that only lawful sales of alcohol are made. However, the data -the compliance rate, the availability and use of alcohol by underage youth, the disparity in outcomes between states with the ABC Board in public safety versus other agencies, and the lack of a record of complaints about the board's actions -indicate that the unintended consequences of HB 125 are too costly to Alaskan communities.

Representative Wilson thought that each state had its own set of variables that were used to craft the statistics provided by Ms. Burkhart. She requested more information regarding the make-up of the ABC boards of other states. She highlighted that members of the public safety community held seats on the ABC Board for Alaska, which may not be the case in the rest of the country. She also thought that the survey pertaining to alcohol and teenagers could not have produced an accurate reflection of alcohol use because teenagers were inherently unable to answer truthfully.

Representative Joule expressed interest in the number of grant dollars used for the purpose of prevention.

Ms. Burkhart said that she would provide the information to the committee.

Representative Costello wondered whether there had been any public awareness campaigns or grants that targeted

controlling minor consumption during times of celebration such as high school graduation.

Ms. Burkhart stated that she would provide the information to the committee.

Vice-chair Fairclough wondered whether Ms. Burkhart would be available then the legislation came back before the committee.

Ms. Burkhart offered that she would be in the building throughout the week. She would be out of state the following week.

Representative Gara wondered why moving the agency would have a detrimental impact on the ABC Board. He also wondered whether the board was responsible for sting operations.

Ms. Burkhart referred to Mr. Winn's comments related to the three legged stool. She believed substantial progress had been made following the legislative audit and would be disrupted if the board were to move to a different agency.

[10:27:28 AM](#)

Ms. Burkhart stated that currently the ABC staff and law enforcement were working jointly. She did not believe that the quality of work would be maintained if the board were moved to another agency.

DALE FOX, PRESIDENT, CHARR, ANCHORAGE (via teleconference), was in support of HB 125. He opined that the industry and the board were responsible for educating and maintaining communication with 25,000 employees statewide. He expressed that education combined with enforcement was the answer. He pointed out the "Born On" stickers and calendars were developed to assist workers to quickly do the math to determine whether a customer was 21 years old. Identification Flip cards were developed to help with the multiple dates on military I.D. cards. The industry employed many tools to assist licensees in compliance. He believed that industry was doing a great job. He shared that Alaska was number one in the nation at refusing service to underage youths. He offered that the industry was interested in working with the state to encourage improvement. He relayed that ABC and troopers were

primarily an enforcement agency and did not assist with education. He believed that DCCED would do an excellent job at administering the ABC Board, particularly in the area of education.

Vice-chair Fairclough noted that the committee had run out of time before completing public testimony. She said she would make a recommendation to the Co-Chairs to continue public comment at the 1:30 meeting.

Vice-chair Fairclough discussed housekeeping.

HB 125 was HEARD and HELD in committee for further consideration.

[10:33:42 AM](#)

ADJOURNMENT

The meeting was adjourned at 10:33 AM.