

**ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE**

Anchorage, Alaska

January 13, 2014

9:06 a.m.

MEMBERS PRESENT

Senator Anna Fairclough, Chair

Senator Click Bishop

Senator Cathy Giessel

Senator Donald Olson

Representative Mike Hawker, Vice Chair (via teleconference)

Representative Alan Austerman (via teleconference)

Representative Bob Herron (via teleconference)

Representative Kurt Olson (via teleconference)

MEMBERS ABSENT

Representative Andy Josephson

Representative Scott Kawasaki (alternate)

Representative Bill Stoltze (alternate)

Senator Kevin Meyer

Senator Mike Dunleavy (alternate)

COMMITTEE CALENDAR

APPROVAL OF MINUTES

REVISED PROGRAM - LEGISLATIVE (RPLs)

OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DAVID TEAL, Legislative Fiscal Analyst

Legislative Finance Division

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided information on the RPLs to the Joint Committee on Legislative Budget and Audit.

DOUG VINCENT-LANG, Acting Director

Division of Wildlife Conservation
Alaska Department of Fish & Game
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during discussion of RPL 11-2014-0262.

KEVIN BROOKS, Deputy Commissioner
Office of the Commissioner
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during discussion of RPL 11-2014-0262.

DON HABEGER, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of licensing and fees.

JoELLEN HANRAHAN, Deputy Commissioner
Office of the Commissioner
Department of Commerce, Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of licensing and fees.

ACTION NARRATIVE

[9:06:44 AM](#)

CHAIR ANNA FAIRCLOUGH called the Legislative Budget and Audit Committee meeting to order at 9:06 a.m. Representatives Austerman (via teleconference), Herron (via teleconference), Olson (via teleconference), and Hawker (via teleconference), and Senators Bishop, Giessel, Olson, and Fairclough were present at the call to order.

Approval of Minutes

[9:08:00 AM](#)

CHAIR FAIRCLOUGH announced that the first order of business would be the approval of the minutes.

SENATOR GIESSEL made a motion to approve the minutes of December 11, 2013. There being no objection, the minutes from the meeting of December 11, 2013 were approved.

Revised Program - Legislative (RPLs)

[9:08:26 AM](#)

CHAIR FAIRCLOUGH announced that the next order of business would be consideration of the Revised Program - Legislative (RPLs).

[9:08:40 AM](#)

DAVID TEAL, Legislative Fiscal Analyst, Legislative Finance Division, Alaska State Legislature, testified that two Revised Programs - Legislative (RPLs) were submitted for consideration. Directing attention to RPL 10-2014-5110, a request by the Division of Agriculture, Department of Natural Resources, for \$25,000 of statutory designated program receipts (SDPR), for phytosanitary certification services for Alaska businesses exporting logs and other plant materials to be internationally exported, he explained that the agency incurred travel costs and was required to make payment to the United States Department of Agriculture (USDA) for each certificate. He pointed out that failure to approve this RPL would result in termination of this certification process for the remainder of Fiscal Year 2014. He relayed that the Legislative Finance Division "has no technical problems with this RPL."

[9:09:47 AM](#)

SENATOR GIESSEL asked why this was not foreseen for request during the budget process.

[9:10:06 AM](#)

MR. TEAL, in response, explained that demand for logs by China had exceeded the expectation, and that the budgeted amount was insufficient.

[9:10:34 AM](#)

SENATOR GIESSEL made a motion for the approval of RPL 10-2014-5110 to the Department of Natural Resources. There being no objection, it was so ordered.

[9:11:02 AM](#)

MR. TEAL directed attention to RPL 11-14-0262, in which the Alaska Department of Fish & Game (ADF&G), Division of Wildlife Conservation, requested approval to spend \$750,000 of federal receipts for a capital project. This would include the purchase of digital cameras and software for aerial photocensus of caribou and other big game. He explained that the funding source was derived from the Federal Pittman-Robertson Wildlife Restoration funding, financed from the sales of guns and ammunition. He pointed out that there had been an increase in the sales of both; hence, there was more money available. He expressed his concern that these increased sales were not permanent; however, this request for a capital project RPL was for a one-time expenditure. He noted that Governor Parnell had submitted a similar request for this capital project in the past year, which had not been approved in the budget. He reflected that "this is typically a touchy subject because LB&A (Legislative Budget and Audit Committee) is often hesitant about reversing a decision of the full legislature." He pointed out that the previous capital request had been for unrestricted general funds, whereas the current request was for federal receipts. He explained that, although this was for the same purpose, it was from a different fund source.

[9:12:53 AM](#)

SENATOR OLSON asked for more specifics to the use of \$750,000 for the aerial photo endeavors.

MR. TEAL replied that, although the requested \$750,000 were federal funds, a 25 percent match was required by the state. He pointed out that the ADF&G was not requesting any additional money, as they already had the funding for the 25 percent match in their budget. He reported that the survey was for caribou and other big game; however, as he was unsure of the specific areas, an ADF&G representative was available for further questions.

[9:14:15 AM](#)

DOUG VINCENT-LANG, Acting Director, Division of Wildlife Conservation, Alaska Department of Fish & Game, stated that there were numerous caribou herds throughout Alaska, which, primarily, were counted using photocensus equipment. Currently, ADF&G utilized outdated film technology and he pointed out that the supply of film would run out in the next year and a half. He suggested that the use of digital technology alongside the

film cameras for a year would benefit the studies for a more consistent count of caribou and the long term data base. He offered his belief that having this overlap of the two systems would avoid any lag in the data base.

[9:15:09 AM](#)

SENATOR OLSON asked for clarification that this funding would be to purchase updated equipment.

MR. VINCENT-LANG expressed agreement that this was for equipment purchases for the surveys.

SENATOR OLSON asked if this money would be used for airplane charters.

MR. VINCENT-LANG, in response, said that the department would continue to use its existing infrastructure. He emphasized that the funding was solely for equipment, noting that a technology change was necessary as, soon, there would no longer be film to purchase.

[9:15:51 AM](#)

CHAIR FAIRCLOUGH asked if the equipment life would be longer than seven years.

MR. VINCENT-LANG stated that he expected the equipment to have a long life expectancy, 15 to 30 years. He reiterated that it was no longer possible to buy film for the existing cameras. He reiterated that this was directing funding from the sale of guns and ammunition toward equipment purchases, and not toward any long term commitments.

[9:17:04 AM](#)

SENATOR BISHOP asked if completion of the upgrade to new digital cameras would be possible within this existing budget.

MR. VINCENT-LANG offered his belief that this funding would complete the entire equipment purchase. In response to a further question from Senator Bishop, he explained that the department was hopeful for a greater applicability by the new cameras toward other species, including moose. He pointed out that, as moose and bear were in a more vegetated habitat in comparison to caribou, the department would review the

possibilities of using the new digital cameras for those counts, as well.

9:18:18 AM

SENATOR GIESSEL asked about the use of drones for aerial surveys, and the use of this equipment by drones.

MR. VINCENT-LANG, in response, reported that the drones had limited storage and range, and, as they were not flying straight transects, aerial surveys were more difficult to achieve with a drone. He opined that the applicable drone technology was still ten years in the future, and that this camera equipment could be transferred to the drones.

9:20:00 AM

REPRESENTATIVE AUSTERMAN asked for more information regarding the source of the 25 percent match to the federal funds and the total cost of the project.

MR. VINCENT-LANG replied that this match would come from the Alaska Department of Fish & Game fund, and he considered this to be of significant importance for conducting statewide wildlife business. He relayed that the total project cost was \$1 million.

REPRESENTATIVE AUSTERMAN asked for clarification that the total cost would be \$1 million.

MR. VINCENT-LANG expressed his agreement.

9:21:13 AM

CHAIR FAIRCLOUGH asked for the reasons to address this funding now, as opposed to waiting for the legislative session. She pointed out, as had been noted earlier, the legislature had declined to authorize this funding during its previous session.

MR. VINCENT-LANG offered his belief that the funding had been declined because it was requesting use of general fund dollars. The urgency was to purchase equipment to allow an additional year of use with both digital and film cameras.

9:22:06 AM

CHAIR FAIRCLOUGH asked who would do the actual wildlife counts, and if the data would be shared with the federal government, as they would provide the funding.

MR. VINCENT-LANG replied that ADF&G would do the count, and that although it was Alaska data, it would be shared with other agencies.

[9:22:41 AM](#)

CHAIR FAIRCLOUGH asked whether any strings were attached to acceptance of the funding.

MR. VINCENT-LANG replied that the department had wide discretion with the use of these funds for research and management of huntable populations, which included caribou.

[9:23:15 AM](#)

REPRESENTATIVE AUSTERMAN asked where the matching money was coming from in the Alaska Department of Fish & Game funds.

[9:24:01 AM](#)

KEVIN BROOKS, Deputy Commissioner, Office of the Commissioner, Alaska Department of Fish & Game, explained that ADF&G had identified existing capital project funding of \$200,000 for equipment, which was referenced in the proposed RPL. He expressed confidence that the department could find an additional \$50,000 from its operating funds which would be used in conjunction with the existing capital project funds of \$200,000 to fulfill the required \$250,000 of matching funds.

REPRESENTATIVE AUSTERMAN opined that it would be necessary to review the ADF&G budget to determine what other funds "were sitting there waiting to be spent."

[9:25:19 AM](#)

CHAIR FAIRCLOUGH asked what equipment would not be purchased if these funds were used as previously requested.

MR. BROOKS explained that capital equipment appropriations were requested by the Division of Wildlife Conservation from the Alaska State Legislature every two or three years. These requests were typically for smaller equipment, such as snow

machines; however, as the need for matching funds had become a higher priority, these smaller purchases would be deferred.

[9:26:14 AM](#)

SENATOR OLSON asked for clarification regarding the use of drones, noting that the disparity in size with the planes currently being used for photocensus would not allow the equipment to be used on smaller planes.

MR. VINCENT-LANG offered his understanding that the university was researching many sizes of drones, some of which could accommodate the equipment.

[9:27:16 AM](#)

SENATOR OLSON asked for clarification regarding the photocensus difficulties due to vegetative background.

MR. VINCENT-LANG replied that caribou were most often counted on the open tundra, as this was an easier count. He noted that many of the moose counts occurred in areas with more vegetative cover, which made it more difficult to ensure an accurate count. He expressed confidence for consistent caribou counts utilizing the new digital technology; however, the accurate counts for other game could be more inconsistent.

SENATOR OLSON expressed his agreement for the use of digital equipment, although he questioned whether this was the appropriate time to purchase it.

[9:28:42 AM](#)

REPRESENTATIVE AUSTERMAN commented on the need to upgrade the technology, and expressed his support for the RPL.

CHAIR FAIRCLOUGH asked if this RPL would require any expansion of personnel.

MR. BROOKS replied that additional staff or resources would not be necessary.

CHAIR FAIRCLOUGH asked if there would be any expansion to the responsibilities of Alaska Department of Fish & Game.

MR. BROOKS replied that this would only be a replacement of technology, and would not include any expansion of services.

CHAIR FAIRCLOUGH recounted that the department had the ability and the funds to absorb the required match and that ADF&G had stated there would not be an expansion of services which required state support.

SENATOR OLSON expressed his agreement with Mr. Brooks.

CHAIR FAIRCLOUGH expressed her support for the proposed RPL.

[9:32:12 AM](#)

SENATOR GIESSEL made a motion for the approval of RPL 11-2014-0262 to the Alaska Department of Fish & Game. There being no objection, it was so ordered.

Other Committee Business

[9:32:37 AM](#)

CHAIR FAIRCLOUGH announced that the next order of business would be a discussion of issues related to the Division of Corporations, Business, and Professional Licensing. She relayed that a sub-committee had been appointed during the previous October, including herself, Senator Giessel, and Representatives Austerman, Hawker, and Josephson. She listed issues to be addressed, including the calculation of licensing fees. She reported that licensing fees, by statute, were supposed to be calculated on a two year cycle, however it appeared they were now determined on a six year calculation. She noted that investigations were responsible for an increase to the licensing fees for all licensees, rather than a fine being imposed on those investigated. She stated that boards and commissions were not receiving their financial statements, and that travel expenses were not reimbursed in a timely manner.

[9:34:11 AM](#)

JoELLEN HANRAHAN, Deputy Commissioner, Office of the Commissioner, Department of Commerce, Community & Economic Development, declared that both the Division of Administrative Services and the Division of Corporations, Business, and Professional Licensing were engaged in significant efforts "to address and find solutions for some of the concerns and for stability of fees." She reported that both the department and the division were focused on the business climate and the ways to stabilize fees by ensuring there was an accounting foundation

with integrity for the licensing programs and there was increased transparency for reporting. She declared that there were now quarterly revenue and expenditure reports posted on the department website, as well as more detailed system reports. She referenced HB 187, earlier legislation introduced to gain consistency for fees. She declared that there would be increased authorization for board travel and for third party reimbursements.

[9:36:54 AM](#)

DON HABEGGER, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development, explained that the division referenced AS 08.01.065 for its guidelines to the review of licensee fees. He noted that licenses were renewed on a bi-annual basis, and fees were adjusted after a review of expenses and revenue. He offered his belief that there was now better, more frequent communication with the boards, especially during the fee cycle. He reported that every two years he presented a draft review of the fees to each board. This review took each group fee within the occupation and made an equal percentage adjustment based on the review of expenses and revenue. Upon occasion, it would be determined that a group within an occupation needed to be adjusted differently. He pointed out that the division would write the draft regulations for the suggested fee, and post them for public comment. Based on this input, the division would make its determination for the proposed fees. He pointed out that some programs used a cost recovery cycle greater than two years. He noted that, as the investigations could be costly, an investigation of programs with small licensing pools could have a greater financial effect than an investigation on the programs in larger pools. He shared that the investigators from the division would determine whether a complaint was valid and whether the division had jurisdiction. If a violation had occurred, the investigators would begin gathering evidence. As a board would often make the determination for suspension or revocation of a license, this evidence would only be submitted to one or two board members, who would offer guidance to the division. If it was necessary for the entire board to vote on a license, those members who had initially received the evidence would recuse themselves from the vote. He emphasized that the division and the administration were concerned about fee spikes, and were attempting to ensure stability of professional licensing fees. He noted that, if the expenses did not appear to be a recurring pattern, the distribution of costs over

another two year licensing cycle could be determined to be appropriate.

[9:43:23 AM](#)

MR. HABEGER emphasized that investigative fees created greater uncertainty for the smaller programs, and he pointed out that the medical board, by statute, had a full time dedicated investigator, which made its costs more predictable. He noted that, as investigations were complaint driven, this accounted for the fee spikes. Addressing another issue, timely travel reimbursement, he stated that the division did reimburse board members for their travel, to allow them as much flexibility as necessary in the travel purchases. If a board member is attending a meeting, there is approval to purchase travel within the travel cap. He explained that receipts were required for travel processing, and he reported that board members, on average, returned the receipts for processing within one week. He detailed that division staff had to follow a statewide format, once the receipts had been received. He stated that the division processing time was, on average, four days. The request was then forwarded to the administrative service division for checks to be written which was, on average, a five day process. He allowed that, should travel costs be higher than the travel cap, there was consideration for reauthorization. He pointed out that a board member could be carrying the expenses for 30 - 45 days.

[9:47:59 AM](#)

MR. HABEGER reported that the division had shifted to a quarterly processing system for financial statements, as this was a more predictable method and allowed time to double check for accuracy. He shared that, for the first three quarters, revenue and expense reports for all programs would be released about 30 days after the close of the fiscal quarter. For the year-end report, it would take the division about 45 days for allocation of indirect costs and release of the final reports. He noted that this information was available to the public on the department website.

[9:49:34 AM](#)

CHAIR FAIRCLOUGH reported that the Legislative Budget and Audit Committee would create a sub-committee to collect testimony from the public regarding any issues and challenges for licensing and fees.

9:50:10 AM

REPRESENTATIVE AUSTERMAN expressed his confusion regarding the Big Game Commercial Services Board quarterly financial statements, each of which reflected a different amount of money available for operations with no apparent consistency. He asked if this had been corrected.

MS. HANRAHAN, in response to Representative Austerman, stated that this issue had not been brought to their attention, and had not been judged to be an on-going issue. She declared that she would follow up on this.

REPRESENTATIVE AUSTERMAN replied that he had already sent copies of this information to her department, which reflected quarterly losses for thousands of dollars. He expressed his surprise for her lack of awareness to this issue.

MR. HABEGER declared that his division had conducted a reconciliation process which had reviewed all of the board reports for the past 10 years. He reminded the committee that the legislature had appropriated \$3.4 million to "essentially payback and correct another issue with the division which was charging indirect costs, 100 percent to professional licenses." He stated that this money had been distributed through all the boards and the information had been corrected for the past 10 years. He reflected that, early in his tenure, the reports had been changing; however, since completion of the reconciliation project, "those numbers should not be changing."

9:54:18 AM

REPRESENTATIVE HAWKER expressed his appreciation for the "conversation we've had on ministerial process, how things are supposed to be working." He declared, however, that he had not heard any reference for "the crux of the issues that have been brought to us repeatedly, and to the best of my knowledge still remain operative and of concern to our regulated community." He directed attention to travel by the regulatory authority boards. He explained that these boards were from industries which self-assessed for the money for board operation. He offered his belief that there was still a lot of concern that the Division of Corporations, Business, and Professional Licensing was second guessing the need for travel for appropriate reasons by these boards. He declared that it was necessary to give these boards the autonomy to spend "their own money the way they believe it

needs to be spent for their particular profession." He directed attention to an additional concern that the division had responded that "there is not enough legislative appropriation for us to allow people to travel, for the boards to spend their money." He questioned how this could be a problem, as the boards were self-assessed to pay for their activities.

[9:56:33 AM](#)

MR. HABEGER offered his understanding that this had been addressed by the legislature in a prior year, when the legislature increased this amount by \$200,000. He declared that he had not denied funds to any board for out of state travel in the current year. He expressed hope that this was no longer an issue. He directed attention to the annual report by the boards to the division, which listed requests for about \$550,000 in travel expenses, both in state and out of state. He explained that his office previously had travel appropriations for \$300,000, which had since been increased to \$400,000. He relayed that the legislature had also addressed the third party reimbursement issue, which created a mechanism that brought this payment as revenue to a specific board.

[9:58:11 AM](#)

REPRESENTATIVE HAWKER expressed his understanding that, although the language for third party reimbursement had been addressed, anecdotal concerns still existed among the regulated community for funding requests. He asked that these concerns be satisfied during the legislative session.

[9:58:43 AM](#)

CHAIR FAIRCLOUGH clarified that, although there would not be any public testimony at this time, the issue would be addressed during the legislative session.

REPRESENTATIVE AUSTERMAN asked if the EasyBiz accounts through Alaska Airlines were used for board members' travel.

MS. HANRAHAN expressed her belief that the state travel system was no longer using EasyBiz, as board members booked their own travel to allow for the flexibility to add destinations, family members, and extended car rentals. Instead, a reimbursement process had been requested. She reported that the executive branch state travel office maintained more stringent rules for deviations around travel, routing, lower cost tickets, and risk

management limitations. She mentioned that options for board travel were being explored. Referencing an earlier statement by Representative Hawker, she declared that the department was supportive and was not trying to obstruct travel by board members.

[10:02:03 AM](#)

CHAIR FAIRCLOUGH declared her intent to review an equitable travel policy for all boards and commissions. She asked if such a document currently existed.

MR. HABEGER, in response, offered his belief that there was a travel policy; however, he wanted to confirm this.

CHAIR FAIRCLOUGH declared a need for a continuity of policy among all the boards.

[10:03:08 AM](#)

SENATOR GIESSEL referred to the State of Alaska travel policy for third party reimbursements. Directing attention to out of state travel by board members for professional conferences of national organizations, she referenced a letter to the National Council of State Boards of Nursing (NCSBN), dated November 1, 2013, which prohibited board members from accepting free travel, meals, and lodging for its two national meetings. She declared that board members were now required to pre-pay, and then wait for reimbursement. She reported that, previously, travel bookings were made through the national organization, and then a public disclosure was made by each board member accepting the travel coverage. She declared that this process was now onerous and burdensome for board members. She stated that national meetings were opportunities for the board members to become educated in the nuances of professional regulations. She pointed out that boards were quasi-adjudicatory, as they had the authority for discipline with professional licenses. She requested more background information from the division for the development of this new travel policy.

[10:07:01 AM](#)

SENATOR GIESSEL expressed her concern for the determination of the fees, and asked for clarification on the setting of fees. Citing an example of Certified Nurse Assistants (CNA), she reported that these licensing fees had been significantly increased in 2009 and 2010, even though the board had expressed

concerns that these were not highly paid jobs. She pointed out that, subsequently, the fees were found to have been incorrectly calculated, and refunds were being given. She relayed that one board had reported at a December, 2013, board meeting, that its indirect costs had been greatly increased with no explanation. She repeated her desire for a clearer definition for the determination of the fees and indirect costs, especially given that the Alaska State Legislature had recently made a \$3.4 million appropriation to assuage this.

[10:08:30 AM](#)

SENATOR OLSON reported that he had had positive experiences with the division while serving on the Alaska State Medical Board. He stated that reimbursement had been prompt.

MR. HABEGER offered to address any questions regarding indirect costs, fees, and third party reimbursement issues. He stated that the Department of Administration had a travel policy and third party reimbursement policy which his division followed.

[10:10:14 AM](#)

CHAIR FAIRCLOUGH asked for more information about reserve policies and carry forward amounts for boards and commissions, with regard to fees. She asked whether the dedicated staff, paid by the licensing fees, were used by the board or others. She also asked for more information about investigations, noting that the Board of Realtors had suggested that many state cases should be immediately dismissed, rather than going through costly formal investigations. She suggested that it would be prudent to mediate each case rather than open a formal costly investigation. She declared a need for the Legislative Budget and Audit Committee to hear from the Department of Commerce, Community & Economic Development regarding responses to the issues raised by the boards, commissions, and licensees.

[10:12:36 AM](#)

REPRESENTATIVE HAWKER endorsed the comments by Chair Fairclough.

[10:13:14 AM](#)

REPRESENTATIVE AUSTERMAN expressed the need for a broader conversation by the sub-committee to address the overall operation of the Division of Corporations, Business, and

Professional Licensing. In response to Chair Fairclough, he clarified that he was mainly referencing the policy issues.

SENATOR BISHOP offered an anecdotal concern by one of his constituents regarding service from the division.

CHAIR FAIRCLOUGH suggested a follow up with the Division of Administrative Services.

[10:15:15 AM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 10:15 a.m.