

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

January 28, 2013

3:22 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Lora Reinbold, Vice Chair
Representative Mike Chenault
Representative Bob Herron
Representative Charisse Millett
Representative Dan Saddler
Representative Andrew Josephson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 26

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

- MOVED HB 26 OUT OF COMMITTEE

HOUSE BILL NO. 22

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

- MOVED CSHB 22(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 26

SHORT TITLE: EXTEND BOARD OF PUBLIC ACCOUNTANCY

SPONSOR(S): REPRESENTATIVE(S) HAWKER, THOMPSON

01/16/13	(H)	PREFILE RELEASED 1/7/13
01/16/13	(H)	READ THE FIRST TIME - REFERRALS
01/16/13	(H)	L&C, FIN
01/28/13	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 22

SHORT TITLE: BOARD OF MARINE PILOTS

SPONSOR(S): REPRESENTATIVE(S) OLSON

01/16/13 (H) PREFILE RELEASED 1/7/13
01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) L&C, FIN
01/28/13 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MIKE HAWKER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 26.

KRIS CURTIS, Legislative Auditor
Division of Legislative Finance
Legislative Agencies & Offices
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 26.

DON HABEGGER, Director
Corporations, Business, and Professional Licensing (CBPL)
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 26.

ANNA LATHAM, Staff
Representative Kurt Olson, Chair
House Labor & Commerce Standing Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Representative Kurt Olson, Chair, House Labor & Commerce Committee, sponsor of HB 22.

LINDA DAY, Audit Manager
Legislative Audit Division
Legislative Agencies & Offices
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 22.

PAUL FUHS, Lobbyist
Southwest Pilots Association
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 22.

DAVID ARTZ, Captain; Marine Pilot member,
Board of Marine Pilots (BMP)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 22.

ACTION NARRATIVE

[3:22:24 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:22 p.m. Representatives Saddler, Josephson, Herron, Millett, Reinbold and Olson were present at the call to order. Representative Chenault arrived as the meeting was in progress.

HB 26-EXTEND BOARD OF PUBLIC ACCOUNTANCY

[3:23:11 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 26, "An Act extending the termination date of the Board of Public Accountancy; and providing for an effective date."

[3:23:20 PM](#)

REPRESENTATIVE MIKE HAWKER, Alaska State Legislature, stated that HB 26 is one of the ministerial duties of the legislature, which is reauthorization of boards and commissions in compliance with the recommendations made by the legislative auditors. He related the bill would extend the termination date of the Board of Public Accountancy (BPA) until June 30, 2021, in accordance with the recommendations of the legislative auditors. The auditors concluded that the BPA serves the public interests by effectively licensing certified public accountants. The board also monitors the profession and ensures that only qualified individuals practice as certified public accountants (CPAs).

REPRESENTATIVE HAWKER said the auditor's one recommendation had nothing to do with the board and instead pertained to an ongoing administrative issue within the Division of Corporations, Business and Professional Licensing (CBPL) in the Department of Commerce, Community & Economic Development (DCCED). He related the CBPL division administers all professional boards and licenses, but the division stills needs to address deficiencies with its investigative case management system. He pointed out the CBPL agrees with this decision and is continuing to work to

implement the system. He noted previously another audit recommendation was made for improvements to the CBPL, which the division has resolved. He acknowledged the extension is until June 30, 2021, which spans a long period, but pointed out that audits cost money. He did not see the state dissolving the BPA, since the regulation of accountants will always be necessary. The BPA has demonstrated its maturity, manages the CPAs, works with the legislature, and government as clearly intended. He asked members to pass out the bill.

[3:27:05 PM](#)

REPRESENTATIVE HERRON asked for a status on the corrective measures.

REPRESENTATIVE HAWKER asked the division to respond, but added he thought the management has undergone personnel changes and has developed an administrative plan.

[3:28:22 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Finance, Legislative Agencies & Offices, said the auditors are just beginning to conduct five sunset audits and auditors have not revisited the agency to determine whether the finding has been addressed; however someone from the division might be able to answer the status.

[3:29:14 PM](#)

DON HABEGER, Director, Corporations, Business, and Professional Licensing (CBPL), Department of Commerce, Community & Economic Development (DCCED), responded that the division has taken a number of steps to correct the deficiency. He related in 2011 the legislative auditors audited the division. At the time, the division had recently purchased and installed an investigative database. One audit finding was that the database conversion did not convert adequately and data was missing. Thus, the division needed to go back and retool. The division discovered other issues and formed a task force that identified 11 issues to improve the database software and hardware. The division requested and received supplemental funding from the legislature in FY 12 to implement these tasks. He reported the division marshaled task force two and is about halfway finished implementing the 11 tasks. He anticipated it will take to the end of FY 13 to complete.

[3:31:22 PM](#)

CHAIR OLSON asked if he was comfortable with the extension date.

MR. HABEGER answered that at this time he is comfortable. He said the vendor seems to be responding appropriately.

[3:31:59 PM](#)

REPRESENTATIVE SADDLER related some boards have had issues with the investigative expenses and asked him whether this is also an issue with the BPA.

MR. HABEGER answered no, not with investigations. He agreed with Representative Hawker's view that the BPA is a mature board. He said he has observed the BPA at meetings and "they don't take any guff from their licensees." He concluded the BPA is quite an impressive group in how it deals with its issues.

[3:32:50 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 26.

[3:33:14 PM](#)

REPRESENTATIVE REINBOLD moved to report HB 26 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 26 was reported from the House Labor and Commerce Standing Committee.

[3:33:43 PM](#)

The committee took an at-ease from 3:33 p.m. to 3:36 p.m.

HB 22-BOARD OF MARINE PILOTS

[3:36:04 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 22, "An Act extending the termination date of the Board of Marine Pilots; and providing for an effective date."

[3:36:07 PM](#)

ANNA LATHAM, Staff, Representative Kurt Olson, Chair, House Labor & Commerce Standing Committee, Alaska State Legislature, stated HB 22 will extend the terminate date of the Board of

Marine Pilots. This bill would extend the termination date of the Board of Marine Pilots (BMP) until June 30, 2018. In accordance with the provisions of AS 24 and AS 44, Legislative Budget & Audit Committee (LB&A) reviewed the activities of the Board of Marine Pilots (BMP) to determine whether there was a demonstrated public need for the board's continued existence and to see if it had been operating in an efficient manner. It was the opinion of the LB&A that the BMP should be extended. Regulating and licensing qualified marine pilots benefits the public safety and welfare and protects the marine environment.

[3:37:30 PM](#)

REPRESENTATIVE REINBOLD made a motion to adopt the proposed committee substitute (CS) for HB 22, labeled 28-LS0139/U, Martin, 1/24/13, as the working document.

CHAIR OLSON [treated it as though he objected for the purpose of discussion.]

MS. LATHAM referred to the changes in the proposed committee substitute for HB 22. The bill was prefiled and after reviewing the audit the termination date was changed to reflect the date suggested in the legislative audit.

CHAIR OLSON remarked he took his best guess when submitting the bill for prefile.

[3:38:12 PM](#)

REPRESENTATIVE HERRON referred to the audit and said he noticed more positive responses came from within the industry than from marine pilots. He asked for an explanation and wondered if any disconnect exists between the pilots and the board.

[3:39:06 PM](#)

LINDA DAY, Audit Manager, Legislative Audit Division, Legislative Agencies & Offices, stated the response to the survey was good. She related that 62 percent of 86 pilots responded to the survey and 12 of 24 industry stakeholders also responded. She reported the response rate was slightly lower for stakeholders, which may be due to the timing of the survey since the division conducted the survey in the summer.

[3:40:04 PM](#)

REPRESENTATIVE SADDLER asked whether the board has experienced any difficulties with investigative expenses.

MS. CURTIS deferred to Ms. Day, but noted the Board of Marine Pilots has a coordinator position who conducts any investigations rather than the BMP using the division's investigative unit.

MS. DAY, after clarifying that the question referred to the investigative process and cost of investigations, answered no. The auditors found investigations were occurring and the process was reasonable.

[3:41:25 PM](#)

REPRESENTATIVE JOSEPHSON asked whether substantive questions about marine pilots can be addressed today.

[3:41:55 PM](#)

PAUL FUHS, Lobbyist, Southwest Alaska Pilots Association, related that HB 22, [Version U], would extend the board [until June 30, 2019]. He related about ten years ago some difficulties existed between the Board of Marine Pilots (BMP) and the industry. He said a major compromise was struck and providing the background might help the committee better understand how the BMP operates. He explained marine pilots are required, which creates questions on setting rates. The system subsequently established uses a private sector approach, and allows the pilots to post the tariff, and for industry to have opportunity to challenge the rate before the BMP if stakeholders believe the rates are too high. Thus, if the marine pilots cannot justify their tariff rate, the BMP can reject it and ask the pilots to re-negotiate a new rate. He pointed out the audit describes how the system works, including highlighting that a "no strike clause" exists. He offered his belief the system works well. He identified the BMP's makeup as consisting of two marine pilots, two industry members, and three public members. The marine pilots and industry provide the necessary expertise, but in instances in which the marine pilots and industry become deadlocked, the public members have the ability to make the decision. He advised that marine pilot license fees pay for the program, which consists solely of program receipts without any general fund monies.

[3:44:50 PM](#)

REPRESENTATIVE JOSEPHSON asked what recommendation Mr. Fuhs has during instances when the marine pilot coordinator position becomes vacant. He related a scenario in which the coordinator position is vacant for six months and no one is there to coordinate public noticing and testing.

MR. FUHS said he was unsure. He said the situation has never arisen, but pointed out the division has other supervisors. He surmised that Mr. Habeger would place someone in the marine pilot coordinator position temporarily who could make public announcements and that the division would recruit timely.

[3:46:06 PM](#)

REPRESENTATIVE JOSEPHSON recalled during the Exxon Valdez oil spill that [alcohol and drug] testing was required, which he thought was federal law. He inquired as to whether any drug and alcohol testing occurs for tanker and sea captains.

MR. FUHS said he was not certain of the specific laws, but marine pilots are subjected to an extremely rigorous random drug and alcohol testing. He stated that the U.S. Coast Guard has increased requirements for mariners, in general, but particularly for marine pilots who navigate the Valdez Narrows. He offered his belief that if a marine pilot had been on board the Exxon Valdez [in 1989] that an accident would not have happened. He reported there has never been a subsequent incident.

[3:47:23 PM](#)

REPRESENTATIVE JOSEPHSON recalled under the enabling act it is optional for the BMP to conduct [drug and alcohol] testing, but [the auditor] goes on to say the tests should be mandatory. He said the auditor expressed some concern about this oversight. He asked whether this concern is valid or if the concern is overstated.

MR. FUHS responded in the previous audit, five years ago, some additional concerns were raised by auditors, but the [BMP] completely resolved the issues, and the most current audit has found the BMP in compliance, except for some minor scheduling issues. He characterized the BMP as being in substantial compliance.

[3:48:09 PM](#)

DAVID ARTZ, Captain; Marine Pilot, Board of Marine Pilots (BMP), Department of Commerce, Community & Economic Development (DCCED), said he is a marine pilot and operates in Region 3 - Western Alaska, based in Dutch Harbor. He responded, with respect to drug and alcohol testing, that Mr. Fuhs is correct that state pilots are subject to mandatory random drug testing throughout the whole year. Additionally, the marine pilots routinely and regularly submit to testing. In terms of oil tankers operating in and out of Prince William Sound, additional requirements fall under federal and local requirements for ship masters and marine pilots, who must submit to alcohol testing prior to the departure of vessels within Prince William Sound. He reiterated that this requirement is an additional requirement [since the 1989 Exxon Valdez oil spill].

[3:50:24 PM](#)

REPRESENTATIVE JOSEPHSON recalled Representative Herron's question that some tension was identified in the surveys of marine pilots and stakeholders. For example, 29 of 53 pilots gave the BMP a poor on objectivity. He asked for clarification on the undercurrents.

MR. ARTZ remarked that is a tough question to answer. He said at a recent BMP's meeting the chairman addressed this specific issue. He offered his belief that the pendulum swings back and forth depending on the makeup of the board and the specific chairman. He characterized the board process as being a fair system, consisting of six members plus a designee of the commission. He suggested it depends on whether the board is holding a rate hearing or addressing something else. He reported the influence swings between the marine pilots and the industry. He characterized it as a working system and the pilots operating in Western Alaska, for the most part, think the system is currently working well in terms of the primary purpose of safe navigation of vessels under the pilot's control, protection of life, and protection of the marine environment. He concluded that he did not think the relationship was adversarial or specific tensions existed, but is a means of keeping a balance.

[3:52:28 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 22.

[3:52:50 PM](#)

REPRESENTATIVE JOSEPHSON asked the auditors to speak to potential vacancies and staffing issues.

MS. CURTIS reiterated the question, which is whether the agency has done anything to address periodic vacancies of the marine pilot coordinator position. The auditors identified the issue in a prior sunset audit. She reported the agency has established procedures in response to the concern and the procedures are reasonable.

[3:53:55 PM](#)

CHAIR OLSON removed his objection to the bill.

[3:54:03 PM](#)

REPRESENTATIVE REINBOLD moved to report the proposed committee substitute (CS) for HB 22, labeled 28-LS0139/U, Martin, 1/24/13, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB22(L&C) was reported from the House Labor & Commerce Standing Committee.

REPRESENTATIVE JOSEPHSON stated he would support the motion and said:

I think marine pilots do pretty heroic work. I'm glad they're there. I'll never forget where I was at the end of March 1989. I remember the intersection in Anchorage when I heard over the radio what had happened in Prince William Sound and I hope I never have to hear or see anything like that again.

CHAIR OLSON remarked that a marine pilot was not piloting the vessel at the time of the 1989 incident.

[3:55:07 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:55 p.m.