

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

Anchorage, Alaska

August 6, 2014

1:34 p.m.

MEMBERS PRESENT

Senator Anna Fairclough, Chair

Senator Kevin Meyer

Senator Cathy Giessel

Representative Alan Austerman (via teleconference)

Representative Bob Herron (via teleconference)

Representative Kurt Olson

Representative Andy Josephson

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair

Senator Click Bishop

Senator Mike Dunleavy (alternate)

Representative Scott Kawasaki (alternate)

Representative Bill Stoltze (alternate)

OTHER LEGISLATORS PRESENT

Senator Hollis French

COMMITTEE CALENDAR

APPROVAL OF MINUTES

EXECUTIVE SESSION

OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

REPRESENTATIVE PAUL SEATON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented a request for an audit of the Commercial Fisheries Entry Commission.

KRIS CURTIS, Legislative Auditor

Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the special audit request of the Commercial Fisheries Entry Commission.

ACTION NARRATIVE

[1:34:00 PM](#)

CHAIR ANNA FAIRCLOUGH called the Legislative Budget and Audit Committee meeting to order at 1:34 p.m. Senators Meyer, Giessel, and Fairclough and Representatives Herron (via teleconference), Austerman (via teleconference), and Josephson were present at the call to order.

[1:34:44 PM](#)

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 July 17, 2014. There being no objection, the minutes from the meeting of July 17, 2014 were approved.

Executive Session

[1:35:07 PM](#)

CHAIR FAIRCLOUGH announced that the committee would move into executive session to discuss confidential committee contracts and confidential audit reports.

SENATOR GIESSEL made a motion to move to executive session for the purpose of discussing confidential committee contracts under Uniform Rule 22(b)(1) and 22(b)(3), and for the purpose of discussing confidential audit reports under AS 24.20.301. There being no objection, the committee went into executive session at 1:35 p.m.

[3:17:01 PM](#)

CHAIR FAIRCLOUGH brought the committee back to order at 3:17 p.m. Senators Meyer, Giessel, and Fairclough, and Representatives Austerman (via teleconference), Herron (via teleconference), and Josephson were present at the call back to order. Senator French joined the committee during a portion of the executive session. Representative Olson arrived as the meeting was in progress.

[3:18:00 PM](#)

SENATOR GIESSEL made a motion for the following preliminary audits to be released to the appropriate agency for response:

Department of Revenue, Oil and Gas Tax Audit Process;

Department of Revenue, Alaska Film Production Incentive Program;

Department of Commerce, Community & Economic Development, Alcoholic Beverage Control Board (ABC) Sunset Review;

Department of Commerce, Community & Economic Development, Certified Direct-Entry Midwives Sunset Review; and

Department of Commerce, Community & Economic Development, Regulatory Commission of Alaska, FY 13 Annual Report.

There being no objection, it was so ordered.

Other Committee Business

[3:18:40 PM](#)

CHAIR FAIRCLOUGH directed attention to a request for contract funding by the Division of Legislative Audit.

SENATOR GIESSEL moved that the Legislative Budget and Audit Committee approve the scope of work for Janak Mayer and Nikos Tsafos.

REPRESENTATIVE JOSEPHSON remarked that as previously stated he does not object to any legislator obtaining additional expertise on a topic.

There being no objection, the scope of work was approved.

[3:19:22 PM](#)

SENATOR GIESSEL moved to approve the proposal and monthly retainer for Janak Mayer in the amount not to exceed \$10,000 per month, excluding expenses through the term of the contract. There being no objection, it was so ordered.

[3:19:42 PM](#)

SENATOR GIESSEL moved to approve the proposal and monthly retainer for Nikos Tsafos in the amount not to exceed \$10,000 per month, excluding expenses through the term of the contract. There being no objection, it was so ordered.

[3:20:01 PM](#)

CHAIR FAIRCLOUGH related the Legislative Budget and Audit Committee had previously discussed performance review audits for the Department of Health and Social Services as required by legislation [HB 30 - 28th Legislature] that passed the legislature two years ago. She reported that Legislative Budget and Audit Committee has been in the midst of the first review for the Department of Corrections and this action, [to solicit and award contracts to conduct the Department of Health and Social Services' performance review] will keep the legislature on track to meet the requirements under the bill.

[3:20:34 PM](#)

SENATOR GIESSEL moved to approve the performance review scope of work for the Department of Health and Social Services as

presented to the committee. There being no objection, it was so ordered.

[3:20:52 PM](#)

SENATOR GIESSEL moved to authorize the legislative auditor to solicit an award of contract for an amount not to exceed \$325,000 for a performance review of Department of Health and Social Services' delivery and administration of behavioral health services. There being no objection, it was so ordered.

[3:21:20 PM](#)

SENATOR GIESSEL moved to authorize the legislative auditor to solicit an award of contract for an amount not to exceed \$375,000 for a performance review of Department of Health and Social Services' delivery and administration of long-term care services. There being no objection, it was so ordered.

[3:21:41 PM](#)

SENATOR GIESSEL moved to authorize the legislative auditor to solicit an award of contract for an amount not to exceed to \$250,000 for a performance review of Department of Health and Social Services' organizational structure. There being no objection, it was so ordered.

CHAIR FAIRCLOUGH, in response to a question, agreed that the committee had approved Janak Mayer's supplemental contract.

[3:22:39 PM](#)

CHAIR FAIRCLOUGH announced that the next item before the committee would be a special audit request from Representative Seaton.

[3:22:48 PM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, (via teleconference) directed attention to his request for an audit of the Commercial Fisheries Entry Commission (CFEC) with a focus

on opportunities for consolidation [letter dated July 30, 2014]. He also referred to last year's sponsor statement for HB 386, which was introduced to consider transferring the CFEC to a division within the Alaska Department of Fish & Game (ADF&G) [items included in members' packets]. He explained the primary reason to transfer the CFEC's function to ADF&G is to address the budgetary constraints and achieve efficiencies.

REPRESENTATIVE SEATON provided a brief history of the Commercial Fisheries Entry Commission, stating the commission has performed well since it was established in 1973 to develop a commercial fisheries limited entry permit system and adjudicate permit fisheries matters in Alaska. In 2005, the CFEC's commissioners heard 86 cases and had 95 pending cases, but by 2013 the caseload had declined and the commission held hearings on only 6 cases with 22 cases pending. The state already had established its limited entry fisheries and no new limited entry fisheries were created in the past ten years. Further, he indicated that the Commercial Fisheries Entry Commission is an expensive agency, noting that in FY 15 the staffing level is 31 employees.

REPRESENTATIVE SEATON acknowledged the Commercial Fisheries Entry Commission (CFEC) has performed well, but due to declining cases the question arises as to whether the duties of the commission can better be performed by the Alaska Department of Fish & Game (ADF&G). The Office of Administrative Hearings (OAH), Department of Administration, has since been established more recently and the OAH's hearing officers would be available to hear commercial fisheries' cases.

REPRESENTATIVE SEATON summarized his request, which is for legislative auditors to review and determine whether the Commercial Fisheries Entry Commission's services could be combined with the Alaska Department of Fish & Game to achieve cost savings. He indicated some overlap exists, noting the ADF&G currently issues commercial fishing crewmember licenses and the CFEC issues limited entry permits. However, these functions are primarily administrative ones that can be performed electronically. He concluded that the proposed special audit will determine if it makes sense to transfer the CFEC to the ADF&G. He emphasized that his audit request is not

intended to any way degrade the job the CFEC has done, but to determine whether it has outgrown its independent usefulness.

3:27:01 PM

CHAIR FAIRCLOUGH asked whether Representative Seaton has worked with the legislative auditor.

REPRESENTATIVE SEATON answered yes.

CHAIR FAIRCLOUGH asked whether Ms. Curtis, Legislative Auditor, could verify that a measureable opportunity exists to seek consolidation or at least oversight and review.

3:27:23 PM

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, explained that the legislative audit's staff has already conducted some inquiries and interviews of the CFEC and the ADF&G and she helped draft the audit request. She offered her belief that the points outlined in Representative Seaton's request are auditable points and the division can provide a report that accurately summarizes the results.

3:27:46 PM

REPRESENTATIVE JOSEPHSON asked whether the audit will include dissenting views from CFEC's advocates to outline what would be given up with the proposed transfer. He acknowledged that he didn't have expertise in this area, but he assumed the audit would include this information.

MS. CURTIS answered that the audit would review information at each agency. The process would involve interviewing staff, although she noted there isn't a public hearing component. Certainly, if auditors became aware of dissenting views, the division would consider them as the audit procedures were structured. Thus far, nothing blatant came up during the initial inquiries with staff. She said the division's approach will be to assess current the CFEC's staff duties and determine if those functions could be absorbed by the ADF&G. She

indicated that she was initially concerned about legislative intent so the division researched the CFEC's enabling legislation and committee minutes to gain an understanding of why the commission was independent, prior to changing that status.

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REPRESENTATIVE JOSEPHSON said he wasn't questioning the motivation for transferring the CFEC's function, especially since Representative Seaton has applauded the commission's work. Although he does not object to the audit, he would like to ensure that all sides were heard.

REPRESENTATIVE SEATON clarified that HB 386 was introduced in the last week of session to start the conversation. He related that the CFEC's commissioners attended the initial hearing and he didn't recall any objections, but questions were raised on most effective timing to consolidate the commission. In addition, the commission understands its caseload is winding down and only two of three commissioners have been appointed. He reiterated the purpose of the special audit is to have an effective review of the commission.

3:30:46 PM

REPRESENTATIVE AUSTERMAN questioned the fee structure. He related that in prior years the CFEC's revenue was generated from fee assessments on the fishing industry, based on the type of fishery and size of the fishing vessels. He specifically asked whether the audit will consider the fee structure. He related his understanding that several million in excess fees reverted back to the state.

MS. CURTIS replied that the division asked the Legislative Finance Division about the excess revenues. She reported that the excess revenues were directed to the FY 16 Capital Budget.

REPRESENTATIVE AUSTERMAN interjected that except for recent years, the CFEC's excess revenues were directed to the ADF&G's budget.

MS. CURTIS responded that the use of the funds is not currently included as an object of the audit; however, the audit could include a report on excess fees and the use of those fees if the Legislative Budget and Audit Committee would like to add it.

REPRESENTATIVE AUSTERMAN answered that it seemed appropriate as part of the legislature's review, noting the fees are set by regulation.

REPRESENTATIVE SEATON said he is not opposed. He clarified that the fees in question are designated general fund (DGF) revenue and not unrestricted general fund (UGF) revenue. He emphasized that at a time when the legislature is making big cuts to the ADF&G's budget, that fees being generated from commercial fish should be used for management of fish and game.

[3:33:51 PM](#)

CHAIR FAIRCLOUGH asked whether there is any objection to adding the [fee structure] as a criterion for the audit.

SENATOR MEYER asked for further clarification on the amount.

REPRESENTATIVE AUSTERMAN recalled the contribution to the general fund has ranged from \$1.5 to \$2 million. Most of these funds have benefited the fishing industry in the form of supporting improvements to fish hatcheries.

[3:34:42 PM](#)

CHAIR FAIRCLOUGH confirmed that Representative Herron did not have any questions or comments.

[3:35:01 PM](#)

MS. CURTIS related her understanding that the audit would report on the excess fees generated by the Commercial Fisheries Entry Commission and the use of the fees. She asked for further clarification on the timeline for how far to go back and if five years is sufficient.

CHAIR FAIRCLOUGH asked whether Representative Austerman had a specified period in mind for the timeline.

REPRESENTATIVE AUSTERMAN answered that a five year review would be fine.

[3:35:57 PM](#)

SENATOR GIESSEL moved to approve Representative Seaton's request, as amended, for a special audit of the Commercial Fisheries Entry Commission. There being no objection, it was so ordered.

[3:36:21 PM](#)

CHAIR FAIRCLOUGH announced that the last item under other committee business would be an Education Study Subcommittee outlined in the education bill [HB 278] that passed the legislature this year. She appointed the following members to serve on a subcommittee to develop the scope of work for the request for proposal (RFP) for two education studies: Senator Fairclough, Chair; Senators Giessel and Dunleavy; and Representatives Hawker, Josephson, and Herron.

CHAIR FAIRCLOUGH confirmed that Senators Giessel and Dunleavy, and Representatives Hawker, Herron, and Josephson have agreed to serve.

[3:38:11 PM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 3:38 p.m.