

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES**

March 10, 2015

10:06 a.m.

MEMBERS PRESENT

Representative Louise Stutes, Chair
Representative Neal Foster
Representative Bob Herron
Representative Charisse Millett
Representative Dan Ortiz

MEMBERS ABSENT

Representative Craig Johnson
Representative Jonathan Kreiss-Tomkins

OTHER LEGISLATORS PRESENT

Representative Jim Colver

COMMITTEE CALENDAR

PRESENTATION: BOARD OF FISHERIES (BOF)

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

GLENN HAIGHT, Executive Director
Board of Fisheries (BOF)
Boards Support Section
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Provided the presentation on the Board of Fisheries (BOF).

ACTION NARRATIVE

[10:06:11 AM](#)

CHAIR LOUISE STUTES called the House Special Committee on Fisheries meeting to order at 10:06 a.m. Representatives Ortiz, Millett, and Stutes were present at the call to order. Representatives Herron and Foster arrived as the meeting was in progress.

PRESENTATION: BOARD OF FISHERIES (BOF)

[10:06:33 AM](#)

CHAIR STUTES announced that the only order of business would be a presentation on the Board of Fisheries.

[10:06:57 AM](#)

GLENN HAIGHT, Executive Director, Board of Fisheries (BOF), Boards Support Section, Alaska Department of Fish & Game (ADF&G), directed attention to his presentation outline, which will cover the purpose and composition of the board, the steps in the board process and legal and policy input in board decisions [slide 2].

MR. HAIGHT described the board structure which is comprised of three separate entities: the Board of Game, the Board of Fisheries, and the joint board [slide 3]. He said the main purpose of the Board of Game and Board of Fisheries is the conservation and development of game and fisheries resources, with conservation defined as controlled utilization of a resource to prevent its exploitation, destruction, and neglect.

MR. HAIGHT turned to a photograph of last years' joint board and indicated the authority for the joint boards is established in AS 16.05.221 [slide 4]. Development has been defined as management of a resource to make it available for use. The joint board's duties include defining subsistence areas and non-subsistence areas, and developing rules for the advisory committees, and for their own regulatory process [slides 5-6].

[10:10:27 AM](#)

MR. HAIGHT said the board is a seven-member board, appointed by the governor and confirmed by the full legislature. Members shall be appointed on the basis of "interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, and with a view to providing diversity of interest and points of view in the membership." In addition, statute indicates that members are to be appointed without regard to

political affiliation or geographic location of residence. He listed the six current Board of Fisheries members: Tom Kluberton, Chair, Talkeetna; John Jensen, Vice-Chair, Petersburg; Orville Huntington, Huslia; Sue Jeffrey, Kodiak; Reed Morisky, Fairbanks; and Fritz Johnson, Dillingham.

[10:11:09 AM](#)

MR. HAIGHT briefly reviewed the proposal process, noting that it was publically driven [slide 8]. He said that board members are public members and distance themselves from the department. Further, most of the proposals come from the public. Typically, an agency drives the regulation process, but the BOF's regulation process comes from the public. The process includes: call for proposals, distribution of proposals, public review and comment, board regulatory meeting, and implementation.

[10:12:22 AM](#)

REPRESENTATIVE MILLETT, regarding the proposal process, related her understanding that a bill before the legislature would allow some proposals to be submitted the day of the board meeting.

MR. HAIGHT responded that under HB 103, the Board of Fisheries can introduce new proposals on the day of the cycle, during the cycle, but if the proposal is not something related to the subject of the meeting and it hasn't been properly noticed, it will go through a 30-day noticing period. For example, recently a technical change was made regarding the name of the defunct Kake Hatchery to make it "hatchery operated" so it could continue to function. The BOF has also undertaken two other proposals, one with respect to slight changes to subsistence management on the Kuskokwim River; and the other sets escapement goals for Bristol Bay.

REPRESENTATIVE MILLETT asked for further clarification on how this would work in conjunction with advisory committees, who have expressed concern for being heard appropriately. These advisory committees have been providing negative feedback on how the board has been operating, in particular, in terms of transparency. For example, concern has been expressed that the board meets privately, develops proposals, and these proposals are not vetted through the advisory committees. She said the committees have suggested if the process is not healthy, the advisory committees could be eliminated.

MR. HAIGHT acknowledged that advisory committees, although a critical aspect of the process, do tend to become frustrated. However, he said he was not aware of a lack of transparency on the part of the board, or any closed door meetings occurring. In terms of the foregoing proposals - the Kuskokwim proposal and Bristol Bay escapement goals - these proposals were part of a fairly public, long-standing effort, of which he provided some details. He reiterated that the advisory committees provide appropriate proposals and are highly regarded. For another example, eight advisory committees ranging from Mat-Su to Homer considered Upper Cook Inlet issues, but BOF votes on issues these committees were most interested in were often split 4-4. Thus, one committee may feel the board listened while another would feel the board did not listen.

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REPRESENTATIVE MILLETT recalled that three advisory committee members recently quit after 20 years of involvement. She asked whether there were any exit interviews held to understand why they took such action. In the feedback she has received they were extremely disgruntled.

MR. HAIGHT responded that information has been received that members had resigned, and although it was regrettable, he said he has not had conversations with the individuals.

REPRESENTATIVE MILLETT requested that follow-up information be provided.

[10:19:53 AM](#)

REPRESENTATIVE ORTIZ asked for further clarification if the legislature were to adopt HB 103, whether it would prevent the BOF from taking necessary action or if the board could be hampered in some situations.

MR. HAIGHT answered yes; it would, as there is a need to bring proposals forward on the day of a meeting. When controversy was realized, constraints were put on the practice by the joint board who created criteria that must be followed to bring proposals forward. There has been some question as to whether it may impact the board's ability to provide substitute language for proposals, which has been a standard practice. Sometimes proposals are conceptual and as the idea gathers support from the public, the department, and the board, the board will put it into regulatory language. Often the board brings the new

language forward, even if the proposal wasn't seen as a board-generated proposal, but has conceptually been brought forth from the public or another source.

REPRESENTATIVE ORTIZ said the goals of the board are to reflect a diverse group of people from diverse interest groups. He asked whether it was a fair assessment that the diverse groups are being heard through the board.

MR. HAIGHT answered that was a fair assessment. In his experience board members work hard to provide balance and consensus. He suggested that it was important to recognize and understand whether the issue or problem was about the process or the outcome of a debate or action. There will always be controversy and question over the board's outcome on any issue since they relate to allocation and allocation decisions are difficult.

[10:24:06 AM](#)

CHAIR STUTES asked whether the BOF has the ability to insert the appropriate language, whether the process changes the intent or meaning.

MR. HAIGHT answered no; that the board works hard not to completely change position on any proposal. He suggested that legal representatives from the Department of Law are present at board meetings to ensure that intent of the proposal is not altered. In addition, public input is received prior to the meeting and during the meeting, which tends to shape and impact how the proposal will be changed.

[10:25:20 AM](#)

REPRESENTATIVE MILLETT asked how many advisory committees exist.

MR. HAIGHT answered 84, but not all are active.

REPRESENTATIVE MILLETT asked for further clarification on the member count for the advisory committees.

MR. HAIGHT answered approximately 900, which he characterized as a massive voluntary effort.

[10:25:45 AM](#)

REPRESENTATIVE HERRON, with respect to board action, said that changes of intent may not be a complete turnaround but spin may occur, which is the concern. He asked whether the boards were subject to the Open Meetings Act. He referred to previous testimony in a prior hearing in which three BOF members and staff have reportedly met behind closed doors.

MR. HAIGHT recalled that a meeting was held by a user group at the department and one Board of Game member apparently met with group. He clarified that up to two board members can legally meet.

[10:27:10 AM](#)

MR. HAIGHT reviewed a proposal form, [slide 9]. These proposals are typically due April 10 of each year to the department, with approximately 300-400 proposals submitted. He reported that this year the number was 278; they can be a specific approach or be fairly technical.

[10:28:26 AM](#)

MR. HAIGHT directed attention to a pie chart to show the source of 376 proposals received last year [slide 10]. He reviewed the composition, with many proposals from individuals, the department, businesses, groups, associations, tribal organizations. Last year the BOF generated a single proposal.

[10:29:14 AM](#)

MR. HAIGHT reported that the BOF meets on a predetermined three-year meeting cycle. In 2014/2015 topics covered included Prince William Sound finfish, Southeast and Yakutat finfish/crab, and statewide Dungeness crab, and shellfish. He reviewed the next three years agendas.

[10:30:03 AM](#)

MR. HAIGHT relayed a typical meeting, which includes introductions, ethic disclosures and staff reports by the department, followed by the public testimony period. Individuals are given 3-5 minutes to speak, advisory committees and regional advisory councils are given 10-15 minutes [slide 12]. Next, the board committees consider specific subject areas and proposals, which may include stakeholder participation. He characterized this as a great way to delve into the issues. The board will meet as a committee of the whole (COTW) and consider

each proposal, deliberations are held, and miscellaneous business wraps up the meeting.

[10:31:18 AM](#)

MR. HAIGHT said the sources of public input come from many areas including: general public comment; industry and associations; local, state, federal governments; tribal governments and village councils; legislators; fish and game advisory committees [slide 13]. The BOF sets its schedule two years in advance, proposals are bound and distributed in August, with a deadline of two weeks prior to the meeting for on-time public comment. Comments are distributed to board members; however, the public has been encouraged to submit up to 10 pages of written comment until deliberations are complete. Thus the board always accepts more information on proposals.

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MR. HAIGHT indicated the current local fish and game advisory committees consist of 84 volunteer groups from around the state. The advisory committees receive state support to help serve the board and attend meetings. These advisory committees are considered integral to the board process to provide local knowledge. The state also funds advisory committee travel if members wish to present to the full board.

[10:33:54 AM](#)

MR. HAIGHT briefly reviewed agency input at the meetings, which includes the Alaska Department of Fish & Game (ADF&G), the Department of Law, the Department of Public Safety and Alaska Wildlife Troopers, the Commercial Fisheries Entry Commission (CFEC), the North Pacific Fisheries Management Council (NPFMC), and the US Office of Subsistence Management [slide 15].

[10:34:59 AM](#)

MR. HAIGHT explained the legal framework for decisions [slide 16]. The board decisions are influenced by the Alaska Constitution, international treaties, including the Pacific Salmon Treaty and the Yukon River Salmon Treaty, court rulings, statutes, regulations, and policies. In terms of the Alaska Constitution, the board looks to the natural resources section, Article 8, Section 4, which speaks to the sustained yield principle that provides the cornerstone to the concepts of conservation and development. Article 8, Section 4 reads,

"Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses" [slide 17].

[10:35:47 AM](#)

MR. HAIGHT said the BOF was also guided by Alaska Statutes AS 16.05.050, 16.05.221 and 16.05.251, relating to board authority, and the powers and duties of the commissioner. In addition, the Alaska Administrative Procedures Act, the Open Meetings Act, and the Executive Branch Ethics Act provide further guidance to the board [slide 18]. He emphasized that the board committee meetings, including the advisory committee meetings must follow the Open Meetings Act. The board members must disclose any financial interest they or their close family members have per the Executive Branch Ethics Act, he said.

[10:37:46 AM](#)

MR. HAIGHT said additionally, the Allocation Criteria helps board members focus on the criteria as they go through deliberations [slide 19].

MR. HAIGHT directed attention to subsistence determinations and reviewed the steps the board takes when reviewing subsistence regulations, including whether there is a customary and traditional use, and if so, whether there is a harvestable surplus [slide 20]. If there isn't, other consumptive uses will not be allowed. If there is, the board will consider what constitutes reasonable opportunity for subsistence, which has the first priority, and to the extent additional surplus is available it would go to other uses. At that point the board will deliberate on allocation issues, he said.

[10:39:22 AM](#)

MR. HAIGHT said other regulations and policies that influence the board include the sustainable salmon fisheries policy, escapement goal policy, mixed stock salmon fisheries, and emerging fisheries [slide 21].

[10:40:21 AM](#)

MR. HAIGHT turned to the procedures for out-of-cycle actions, which are possible through a BOF agenda change request [slide 22]. In doing so, the board would consider the action for

conservation purposes, whether it corrects an error, if a regulation has an unforeseen effect, and if it constitutes an allocative issue. The BOF typically will not take up allocative issues out of cycle. The BOF will receive agenda change requests in August, which is vetted at the October work session. The joint board receives several emergency petitions each year and considers whether an unforeseen event threatens the resource or preclude harvest. The BOF has the ability to bring subsistence proposals in out of cycle to examine fish and game populations not previously considered, or if there is a change in the federal fisheries management plan for Bering Sea/Aleutian Island King/Tanner crab fishery.

[10:42:17 AM](#)

MR. HAIGHT said the last slide presents ideas for people to get involved. He said that anyone can submit a proposal. The board encourages the public to attend board meetings and present testimony [slide 23]. Further, people can join the board's e-mail list, submit a written comment on proposals, submit a proposal, attend a board meeting and present testimony, join or attend a local fish and game advisory committee meeting, or join an industry or stakeholder group.

[10:43:04 AM](#)

REPRESENTATIVE ORTIZ asked for a description of how the ADF&G's management staff interacts with the BOF.

MR. HAIGHT answered that the primary interface with the board happens at the BOF meetings. Outside of the board meetings, the BOF Chair may meet with ADG&G officials. The BOF Chair will authorize the release of proposals. In terms of management though, the meetings are intense and a substantial amount of interface happens. The Department staff provides comments to the advisory committees and the board to assist in agenda discussions, and to the extent that decisions are made, the basis for them needs to be discussed and vetted during the BOF meetings. As the BOF gets into tricky issues, board members will work with area managers, and constituents discussing their experiences.

[10:46:06 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:46 a.m.