

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 4, 2016

1:06 p.m.

MEMBERS PRESENT

Representative Benjamin Nageak, Co-Chair
Representative David Talerico, Co-Chair
Representative Bob Herron
Representative Craig Johnson
Representative Kurt Olson
Representative Paul Seaton
Representative Andy Josephson
Representative Geran Tarr
Representative Mike Chenault (alternate)

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 266

"An Act relating to the authority of the Board of Game to adopt, amend, or repeal certain regulations."

- MOVED CSHB 266(RES) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 32(RES)

"An Act relating to the sale of timber on state land; and providing for an effective date."

- MOVED HCS CSSB 32(RES) OUT OF COMMITTEE

HOUSE BILL NO. 112

"An Act repealing the Alaska Commercial Fisheries Entry Commission and transferring its duties to a commercial fisheries entry division established in the Department of Fish and Game and the office of administrative hearings; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 266

SHORT TITLE: BOARD OF GAME REGULATION PROPOSALS

SPONSOR(s): REPRESENTATIVE(s) WILSON

01/20/16 (H) READ THE FIRST TIME - REFERRALS
01/20/16 (H) RES
02/08/16 (H) RES AT 1:00 PM BARNES 124
02/08/16 (H) -- MEETING CANCELED --
04/01/16 (H) RES AT 1:00 PM BARNES 124
04/01/16 (H) Heard & Held
04/01/16 (H) MINUTE(RES)
04/04/16 (H) RES AT 1:00 PM BARNES 124

BILL: SB 32

SHORT TITLE: TIMBER SALES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/30/15 (S) READ THE FIRST TIME - REFERRALS
01/30/15 (S) RES, FIN
02/13/15 (S) RES AT 3:30 PM BUTROVICH 205
02/13/15 (S) Heard & Held
02/13/15 (S) MINUTE(RES)
02/25/15 (S) RES AT 3:30 PM BUTROVICH 205
02/25/15 (S) Moved CSSB 32(RES) Out of Committee
02/25/15 (S) MINUTE(RES)
02/27/15 (S) RES RPT CS 5DP 2NR SAME TITLE
02/27/15 (S) DP: GIESSEL, COSTELLO, COGHILL,
MICCICHE, STEDMAN
02/27/15 (S) NR: WIELECHOWSKI, STOLTZE
03/25/15 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/25/15 (S) Heard & Held
03/25/15 (S) MINUTE(FIN)
03/26/15 (S) FIN AT 1:30 PM SENATE FINANCE 532
03/26/15 (S) Moved CSSB 32(RES) Out of Committee
03/26/15 (S) MINUTE(FIN)
03/27/15 (S) FIN RPT CS(RES) 5DP 2NR
03/27/15 (S) DP: KELLY, MACKINNON, BISHOP, DUNLEAVY,
HOFFMAN
03/27/15 (S) NR: MICCICHE, OLSON
04/17/15 (S) TRANSMITTED TO (H)
04/17/15 (S) VERSION: CSSB 32(RES)
04/17/15 (H) READ THE FIRST TIME - REFERRALS
04/17/15 (H) RES, FIN
04/04/16 (H) RES AT 1:00 PM BARNES 124

BILL: HB 112

SHORT TITLE: REPEAL CFEC; TRANSFER FUNCTIONS TO ADFG

SPONSOR(s): STUTES

02/18/15	(H)	READ THE FIRST TIME - REFERRALS
02/18/15	(H)	FSH, RES
03/12/15	(H)	FSH AT 10:00 AM CAPITOL 120
03/12/15	(H)	<Bill Hearing Canceled>
03/19/15	(H)	FSH AT 10:00 AM CAPITOL 120
03/19/15	(H)	Heard & Held
03/19/15	(H)	MINUTE(FSH)
03/26/15	(H)	FSH AT 10:00 AM CAPITOL 120
03/26/15	(H)	Moved CSHB 112(FSH) Out of Committee
03/26/15	(H)	MINUTE(FSH)
03/27/15	(H)	FSH RPT CS(FSH) 3DP 3NR
03/27/15	(H)	DP: MILLETT, JOHNSON, STUTES
03/27/15	(H)	NR: HERRON, FOSTER, KREISS-TOMKINS
03/27/15	(H)	FIN REFERRAL ADDED AFTER RES
04/08/15	(H)	RES AT 1:00 PM BARNES 124
04/08/15	(H)	<Bill Hearing Postponed>
04/04/16	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE TAMMIE WILSON

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor of HB 266, introduced the proposed committee substitute for the bill, Version P.

KEVIN BROOKS, Deputy Commissioner
Office of the Commissioner
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Answered questions related to HB 266.

JULIE MORRIS, Staff
Representative David Talerico
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSSB 32(RES), presented the proposed House committee substitute, Version N.

JOHN "CHRIS" MAISCH, Director & State Forester
Division of Forestry (DOF)
Department of Natural Resources (DNR)
Fairbanks, Alaska

POSITION STATEMENT: Provided testimony on CSSB 32(RES) and on the proposed House committee substitute, Version N.

REBECCA KNIGHT

Petersburg, Alaska

POSITION STATEMENT: Testified in opposition to CSSB 32(RES).

DAVID BEEBE

City of Kupreanof

Kupreanof, Alaska

POSITION STATEMENT: Testified in opposition to CSSB 32(RES).

OWEN GRAHAM, Executive Director

Alaska Forest Association

Ketchikan, Alaska

POSITION STATEMENT: Testified in support of CSSB 32(RES).

CARL PORTMAN, Deputy Director

Resource Development Council of Alaska (RDC)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of CSSB 32(RES).

REPRESENTATIVE LOUISE STUTES

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 112.

REID HARRIS, Staff

Representative Louise Stutes

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Stutes, sponsor, discussed the proposed committee substitute for HB 112, Version N.

MARTIN LUNDE

Southeast Alaska Seiners Association

(No address provided)

POSITION STATEMENT: Testified in opposition to HB 112 as well as the proposed committee substitute for HB 112, Version N.

ROBERT THORSTENSON, Executive Director and Lobbyist

Southeast Alaska Seiners Association

Lobbyist, Kenai Peninsula Fishermen's Association

Lobbyist, Alaska Bering Sea Crabbers

Lobbyist, Armstrong-Keta, Inc.

Lobbyist, Alaska Pacific Environmental Services, LLC

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 112.

BEN BROWN, Commissioner
Commercial Fisheries Entry Commission (CFEC)
Juneau, Alaska

POSITION STATEMENT: Testified in support of the proposed committee substitute for HB 112, Version N.

JERRY MCCUNE, President
United Fishermen of Alaska (UFA)
Cordova, Alaska

POSITION STATEMENT: Testified in opposition to HB 112 as well as the proposed committee substitute for HB 112, Version N.

STEVEN SAMUELSON
Petersburg, Alaska

POSITION STATEMENT: Testified in opposition to HB 112.

ACTION NARRATIVE

[1:06:35 PM](#)

CO-CHAIR DAVID TALERICO called the House Resources Standing Committee meeting to order at 1:06 p.m. Representatives Tarr, Herron, Johnson, Olson, Seaton, Josephson, Nageak, and Talerico were present at the call to order. Representative Chenault (alternate) arrived as the meeting was in progress.

HB 266-BOARD OF GAME REGULATION PROPOSALS

[1:07:31 PM](#)

CO-CHAIR TALERICO announced that the first order of business is HOUSE BILL NO. 266, "An Act relating to the authority of the Board of Game to adopt, amend, or repeal certain regulations." [Before the committee was the proposed committee substitute (CS) for HB 266, Version 29-LS1205\N, Bullard, 3/31/16, adopted as the working document on 4/1/16.]

CO-CHAIR NAGEAK moved to adopt the proposed committee substitute (CS), Version 29-LS1205\P, Bullard, 4/4/16, as the working document. There being no objection, Version P was before the committee.

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, as the sponsor of HB 266, introduced Version P and explained the two changes that Version P makes to Version N. She said the first change to Version N is on page 3, lines 17-19, which state:

"(ii) the subject matter of the proposal would not be before the board for one calendar year but for the board member's proposal; and". Version P changes this language to read: "(ii) the subject matter of the proposal would not be before the board during the current period in which the board is considering proposals solicited under (c) of this section, but for the board member's proposal; and". She noted the second change is that Version P adds subsection (m) [to Section 3]. However, she pointed out, (m) is not right as written and there may be an amendment through the committee to get it right.

CO-CHAIR TALERICO stated he has a conceptual amendment that he plans to offer that would correct (m).

REPRESENTATIVE WILSON explained subsection (m) makes it so the Board of Game can amend a proposal, but only amend to clarify.

[1:09:47 PM](#)

REPRESENTATIVE SEATON drew attention to Version P, page 3, lines 6-7, which state "at least 60 days' notice before the board considers the proposal." He asked whether that 60 days would be at all restrictive on the board's ability to do its work.

REPRESENTATIVE WILSON replied that the reason for the 60 days is because there must be enough time for [a proposal] to go back to the advisory councils and the councils must put it out for public comment before the councils have their agenda. This provision would ensure that the councils are not forced into having special meetings to be able to hear these proposals.

[1:10:45 PM](#)

CO-CHAIR TALERICO moved to adopt Conceptual Amendment 1 which would delete the language on page 3, lines 27-29, under subsection (m) and insert the following language:

Nothing in this section restricts the board's ability to amend language to clarify proposals noticed in the same manner as provided under (c) of this section.

CO-CHAIR TALERICO explained Conceptual Amendment 1 would clarify that the board would have the ability to improve or amend a proposal live at its meeting.

REPRESENTATIVE SEATON objected to the conceptual amendment for discussion purposes.

CO-CHAIR TALERICO reiterated that the conceptual amendment would clarify for the public and the board that the board would have the ability to work on proposals.

1:12:09 PM

REPRESENTATIVE SEATON posed a scenario in which five proposals come to the board with varying time and varying numbers. He surmised that as Co-Chair Talerico is interpreting Conceptual Amendment 1, the Board of Game could go anywhere between those numbers and modify a proposal in that way such that it is a balancing of several proposals that might have come in after public testimony, similar to the way things are amended in a legislative committee.

CO-CHAIR TALERICO believed that is the intent. Occasionally, he said, proposals are received that are not mirror images of each other but address the same topics and are very close to the same. This would give the board the ability to address an issue that is included in a multitude of proposals and massage that into one workable proposal that is moved forward. The board would not be "handcuffed" into voting a proposal up or down; it would have the ability to amend some language or potentially utilize one section of one proposal and insert it into another in an amendment form.

1:14:30 PM

REPRESENTATIVE JOSEPHSON, regarding subsection (m) as currently written in Version P, noted that the focus is on amendments or clarification made to changes offered by the board itself, which is the putative cause of HB 266. The amendment does not talk about the board's own proposals, it is about clarifying proposals generally. He inquired as to how Co-Chair Talerico perceives the difference there.

CO-CHAIR TALERICO replied he thinks it is any proposal brought before the board, whether from a board member or the public. Occasionally board proposals and public proposals cover the same topics and can be very similar. He said he does not want to limit it or categorize the proposals from particular user groups or different regions, so he hopes the amendment will work with all proposals.

REPRESENTATIVE JOSEPHSON related that in a memo or email from Matt Gruening it appears the deputy commissioner of the Alaska

Department of Fish & Game (ADF&G) has worked with Mr. Gruening. He surmised [ADF&G] wanted subsection (m) to be as written in Version P to give the board some liberty to, at a board meeting, make changes on its own initiative, which is a very contentious thing for the board to do. He asked whether ADF&G would still be satisfied if subsection (m) [is amended].

KEVIN BROOKS, Deputy Commissioner, Office of the Commissioner, Alaska Department of Fish & Game (ADF&G), offered his appreciation to the sponsor for allowing the opportunity for some interaction on the language of the bill to make it a workable product for the board and get to the intent of the sponsor. He explained that the intent of subsection (m) is to recognize that a call for proposals is identified in Section 2, which is why this subsection references AS 16.05.255(c). These proposals have been properly noticed and lots of time provided for folks to weigh in. Under subsection (m) the department is trying to have the board members retain an ability to take all of those properly noticed proposals and wordsmith them, combine them, and make improvements, as is the board's custom and common practice now; the understanding being that the sponsor is trying to identify something that is new that no one has had any chance to see from just getting dropped in and acted on. It distinguishes all the other proposals that have been properly noticed and allows the board to work on those and make improvements as the board sees fit.

MR. BROOKS, in response to Representative Tarr, clarified that he was referring to Version P, subsection (m) within Section 3.

[1:19:02 PM](#)

REPRESENTATIVE SEATON removed his objection. There being no further objection, Conceptual Amendment 1 was adopted.

[1:19:29 PM](#)

REPRESENTATIVE JOSEPHSON stated he cares greatly about this issue. He said he listened to the Board of Game hearing on Proposal 19 that Representative Wilson brought forth and heard most of that testimony, including advice offered by assistant attorney general Cheryl Brooking on the question of moving from 30 days' notice to 60 or 65 days. He has talked about this with a Board of Game member and a big game commercial guide and he has read Mr. Ted Spraker's letter that was provided to the committee today. His sense of the history of this is that there was more than a lot of public opportunity and in this instance

there really was 60 days' notice in 2015. The testimony before the Board of Game was that it was brought up in January, the board took comments in January and February, this was an ongoing issue raised repeatedly, the board bringing up proposals on its own has not been abused, and it has had four in a year. Chairman Spraker notes the board has done it this way for decades. Something unique is that there was a sheep working group to which just about everybody was invited and he is told that a majority of the sheep working group wanted to do something about aerial hunting. So, he sees this bill as a contest over the efficacy of aerial hunting and the concern is that aerial hunting is very effective.

REPRESENTATIVE JOSEPHSON continued, stating that he is not a champion of the Board of Game and is someone who scrutinizes the board's work and he does not think it is a diverse body. There is a dispute now about that very issue between guides and whether there are too many guides and others. Mr. Spraker notes that the people who were really hurt by Proposal 207 are non-residents and their guides who fly more. Some people play by one rule out of a sense of duty and other people play by other rules. Representative Josephson posited that the Board of Game acted properly and got it right. His sense is that the committee is going to move the bill and he will not object, but he will vote "do not pass". He added that there was testimony about whether sheep populations are healthy and he is reminded that in the western Brooks Range the populations are decidedly not healthy. There is also concern about taking full-curl rams and what that does to the genetics of the future population.

[1:23:21 PM](#)

REPRESENTATIVE SEATON said that the adoption of Conceptual Amendment 1 makes it clear that amendments can be taken and proposals can be massaged by the board so that the board can then function in its duties. Without that he could not support moving the bill forward and therefore he is pleased the amendment was unanimously adopted.

[1:23:47 PM](#)

CO-CHAIR NAGEAK moved to report the proposed CS for HB 266, Version 29-LS1205\P, Bullard, 4/4/16, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 266(RES) was reported from the House Resources Standing Committee.

[1:24:16 PM](#)

The committee took an at-ease from 1:24 p.m. to 1:24 p.m.

SB 32-TIMBER SALES

[1:27:43 PM](#)

CO-CHAIR TALERICO announced that the next order of business is CS FOR SENATE BILL NO. 32(RES), "An Act relating to the sale of timber on state land; and providing for an effective date."

CO-CHAIR NAGEAK moved to adopt the proposed House committee substitute (HCS) for CSSB 32, Version 29-GS1022\N, Bullard, 3/29/16, as the working document.

REPRESENTATIVE TARR objected for discussion purposes.

JULIE MORRIS, Staff, Representative David Talerico, Alaska State Legislature, presented the proposed House CS to the committee. She explained that the only change made by Version N is the addition of the following language to Section 1: "Subject to appropriation, the commissioner shall provide 25 percent of the revenue from a sale of timber under this section to forestry programs operated by the department in the municipality, reserve, or community in which the timber was harvested or, if the timber was not harvested in a municipality, reserve, or community, the municipality, reserve, or community closest to the area where the timber was harvested."

[1:29:28 PM](#)

REPRESENTATIVE TARR asked whether this is supposed to be a style of payment in lieu of taxes (PILT) for state forestry that is modeled after the federal program.

CO-CHAIR TALERICO replied that his idea behind this change is to ensure that in those areas where there is active forestry programs there is a reinvestment in the community. He requested Mr. Chris Maisch to elaborate further.

[1:30:19 PM](#)

JOHN "CHRIS" MAISCH, Director & State Forester, Division of Forestry (DOF), Department of Natural Resources (DNR), provided a refresher on the bill given it was a year ago that the committee last heard the bill. He explained that the Division

of Forestry currently has five different authorities under which it can sell timber. The primary and preferred authority statewide of selling timber is through a competitive process under AS 38.05.120 (".120"). Another authority is under AS 38.05.117 (".117") where the division can offer salvage sales after fires, windstorms, disease, or other kinds of natural disasters where the timber will lose value quickly. This is an abbreviated process to allow the division to bring those sales to market quickly. This authority is not used very often, but an example is the windstorm in the Tok area where a lot of timber was lost. There are two negotiated sale authorities - small negotiated sales under AS 38.05.115 (".115") for timber under 500,000 board feet, and large negotiated sales under AS 38.05.118 (".118"), to which this bill makes changes. These authorities still require best interest findings, the exception being the .115 authority which represents about 40 acres in Interior Alaska. The division must still go through the other standard parts of the planning process, but for .115 sales the division does not have to do a best interest finding. Those sales are currently only good for one year in length.

MR. MAISCH said the original bill also clarifies that the commissioner determine through the best interest finding process the best and most appropriate authority to use and the department must outline the conditions of why it chose a certain way to sell the timber. The bill also ensures the ability to use 25 years of sale length for the .118 authority, which is the current sale length. Because of the three conditions that the department is proposing to modify, the .118 authority cannot be used statewide. Those three conditions are: 1) must have under-utilized allowed cut in the area in which the timber will be sold; 2) a manufacturing facility must exist or will exist within two years that can use the timber that is going to be sold; and 3) a high level of unemployment, which is a condition the division has difficulty with. The statute reads a high level of unemployment and the regulation reads that it has to be 135 percent of the statewide average. The division cannot currently use the .118 authority in the Ketchikan Borough, the Matanuska-Susitna Borough, and the Fairbanks North Star Borough, so it prevents the division from doing these longer term sales under that authority. So, this would essentially even the playing field for all the operators in the state to remove those three criteria. More importantly it is very important for Southeast Alaska where the timber industry is in dire straits. Right now the division has three sales pending that it would negotiate in Southeast Alaska to Viking Sawmill in Klawock and represents 150 jobs on Prince of Wales Island. The federal

government will not offer enough timber in the next two years to keep that mill running and without the proposed change in this statute the division will be unable to negotiate those sales; they would have to go competitive and in Southeast Alaska a competitive sale is pretty much guaranteed to go export because the export market can afford to pay more. So the division has long had a policy in Southeast Alaska where it tries to meet the needs of both segments of the industry and it has been the state policy to emphasize jobs and manufacturing and in today's environment manufacturing jobs in this state is a good thing to encourage and that is exactly what this will do. The only other change the bill would do is clarify that these sales can be done for wood fiber and biomass use and that is just updating some of the older language in the statute to use more modern terms in terms of the forestry application for those types of sales.

[1:34:45 PM](#)

MR. MAISCH addressed Version P, saying it would put into statute what the division has long done by both policy and practice, because a large part of the division's timber sale staff are funded under timber sale receipts. A percentage of all state timber sales go into a timber sale receipts account and then that account pays for the actual foresters that do this work in the various parts of Alaska. For example, the Ketchikan office is the division's number one revenue producing office, getting about 39 percent of its revenue back in the salaries that actually support positions that are doing that work. The Fairbanks office is about 100 percent, so 100 percent of the staff are supported by that. Tok gets 529 percent back because the value of those timber sales are not that high as they are mostly fiber sales which are of fairly low value.

[1:35:52 PM](#)

REPRESENTATIVE SEATON inquired whether the revenue from timber sales in the various areas of the state offsets the cost so that there is not a loss to the state, particularly if 25 percent of the gross revenue is given to the local municipality.

MR. MAISCH responded that the funding would not actually go to the municipality, it is programs operated by the division. That means wages in most part, but it could be road or infrastructure improvements in that community. For example, there may not be as much money in road maintenance accounts as is wanted, so that 25 percent receipt might be used to do extra grading in that

community, especially during hunting season. The division would still have discretion on how it uses those funds.

1:36:52 PM

REPRESENTATIVE TARR, recalling that her earlier question was related to the PILT, asked how the division arrived at the figure of 25 percent and surmised it is based off an average of what the division has been doing in practice.

MR. MAISCH answered yes, the division has done this in practice, but it is not necessarily modeled after the PILT. This is Co-Chair Talerico's suggested language and essentially what he has described does put in statute what the division has done in practice. As the division has taken budget cuts over the last four years, more and more of the division's general fund money for wages and salaries of its forest management staff have been shifted over to the timber sale receipts account. The division has lost about 42 percent of its general fund money for wages for the forest management part of the division, which has resulted in quite a few layoffs. The only way to continue to operate a forest management program is by using the timber sale receipts program to actually support those positions. Should revenues go down he will be confronted with how to pay for those positions or lay off additional people. On average the division collects roughly \$600,000 annually over a 10-year period and wages are about \$675,000 annually; but, he has some discretion based on other funding sources on how he manages that.

1:38:34 PM

REPRESENTATIVE JOSEPHSON inquired whether the proposed new language is designed to act as sort of a designated general fund component to help the division when the legislature has reduced the division's undesignated general fund (UGF).

MR. MAISCH replied he does not think necessarily that that was its primary intent because the division was already in practice doing that with the timber sale receipt account. That has been in place for many years, the division has used it, but has not depended on it as much as the division is now depending on it. The legislature has aggressively shifted the division out of general funds over to the timber sale receipt account to pay for the division's staff. This [proposed language] just ensures that the places that are generating the timber sales actually will see some benefit from those timber sales so that he does not take all the money and put it in a place that is not really

having a timber sale program. It is not that he would do that, but this would just ensure that everybody gets a fair share of the timber revenue.

REPRESENTATIVE JOSEPHSON said he has reviewed the minutes from the other body and surmises that the key component/heart of the bill is the reforming of .118 sales so that the threshold of the 135 percent of unemployment does not need to be met.

MR. MAISCH agreed that is the heart of the bill, along with the other two pieces which are not as difficult to meet. There are three parts to that regulation: 1) the excess allowable cut so he cannot over-commit and fail to use sustained yield management to do a large negotiated sale, so he has to be within the allowable cut; 2) there has to be a facility there that has excess capacity and can process that cut; and 3) the 135 percent [unemployment]. All three of those would go away and it would make it a cleaner statute and much easier to administer.

[1:40:34 PM](#)

REPRESENTATIVE SEATON asked whether, with the sustainable cut language going away, the division has other regulations or statute that require sustainable harvest.

MR. MAISCH responded that the state constitution requires the division to do [sustained yield cutting], as do other provisions of statute and the division's forest management plan. The bill would not do away with the need to manage sustainably, it would just delete the wording that there must be excess allowable cut for [the .118] sale methodology]. It would not somehow "back door" that he can exceed sustained yield principles.

[1:41:12 PM](#)

REPRESENTATIVE JOSEPHSON inquired whether the reason for why the .123 authority for negotiated sales is unsatisfactory is because of the required value-added feature.

MR. MAISCH answered that that is not necessarily the main reason. The main reason is that those sales are limited to 10 years in length, and sometimes for these industries, especially the biomass side, it will take longer than 10 years to capitalize the investment that was made in the plant and facility. The division is also limited to two value-added sales per forest practices region in any given time.

1:42:00 PM

CO-CHAIR TALERICO opened public testimony on the bill.

REBECCA KNIGHT testified in opposition to the bill. She spoke as follows:

I previously provided testimony in opposition to the proposed SB 32 and its companion HB 87 and continue to oppose the legislation based on those concerns with expanded testimony today.

One can only conclude that based on review of impacts resulting from drastic budget cuts, the state is unable to adequately fund administration of its current timber sale program. Consequently, whether adequate funding for administration of new long-term timber contracts can be secured is highly questionable given that the state's budgetary crisis remains in near freefall, this despite optimistic assurances from DOF personnel and the bill's zero fiscal note. For instance, as noted during the recent Board of Forestry meeting, "In 2015 due to budget reductions and travel restrictions, DEC participated in only one trip with three compliance inspections." According to the state forester, most of the 2015 decline in the number of inspections is due to reduced staffing and is an impact of the budget cuts. I would note that one annual statewide inspection does not equate to satisfactory oversight.

It is also questionable whether SB 32 can actually generate significant positive revenue to the state. According to DOF's 2013 annual report, the statewide timber program costs \$5.9 million, but generated a mere \$293,000 in receipts for the 2013 fiscal year. The report anticipated \$851,000 in 2014 receipts from a projected 2014 budget of \$6.9 million. Overall, statewide average revenues for the five-year period from 2009-2013 were only \$600,000 per year with the majority of the volume offered coming from outside Southeast Alaska. The report does not provide enough information to assess the contributions of state forests in Southeast Alaska, but it appears that the amount of revenue generated relative to the administrative cost is very small per million board feet, meaning that the program likely operates at a

net public loss. In fact, according to the latest [Board of Forestry (DOF)] meeting minutes, shortfalls to DOF's budgets are so severe that tourism head tax was suggested as well as a raid on the proceeds of fishing industry licensing fees to "help protect fisheries habitat." This obtuse logic is especially troubling when these industries contribute significantly without harm to regional economies, especially in Southeast Alaska.

Overall, SB 32 and HB 87 represent a considerable expansion of the timber sale program in a period of declining budgets and an irresponsible abdication of oversight to the industry. Quite simply, there are inadequate funds to do otherwise. I respectfully request that you disallow this bill from advancing further.

[1:46:03 PM](#)

REPRESENTATIVE JOSEPHSON requested Ms. Knight to clarify her statement in regard to using tourism or fisheries money to regulate the forestry industry.

MS. KNIGHT answered that was in the March 2016 Board of Forestry draft meeting minutes; she believed it was on page 12. She said she will provide written testimony to the committee that has footnotes that cite those sources.

REPRESENTATIVE TARR requested Ms. Knight to submit her comments in writing and noted that she is particularly interested in Ms. Knight's testimony about overall cost versus the amount brought in in receipts and what is being included in the overall cost.

MS. KNIGHT replied she is uncertain exactly what all that includes, but it is from the [Division] of Forestry's 2013 annual report.

[1:47:32 PM](#)

DAVID BEEBE, City of Kupreanof, testified in opposition to the bill. He spoke as follows:

[CSSB 32(RES) authorizes] the commissioner to bestow ownership of a 25-year supply of state forest to create regional state-sanctioned timber plantations for the purposes of timber export and large-scale

conversion of forests to biomass energy. Gordon Harrison reminds us in his book, [Alaska's Constitution: A Citizen's Guide], that delegate Bob Bartlett and others urged constitutional defenses against freewheeling disposals of public resources and colonial-style exploitation that would contribute nothing to the growth and betterment of Alaska. Timber monopolies have a bad track record here in Southeast. The United States Supreme Court found that 50-year, long-term pulp contract holders colluded through price fixing and other illegal means to destroy the existing small loggers in Southeast. These repercussions of long-term contracts continue to span the social, economic, and environmental landscapes across most of Southeast and the wildlife on some islands may never fully recover from that.

The management of old-growth-dependent deer populations also has a bad track record in Southeast. The Alaska Board of Fisheries and Board of Game are on record on several occasions requesting the Forest Resources and Practices Act be amended to include for the protection and management of wildlife on state forests to provide for constitutionally mandated sustainable yield principles. This has not been accomplished, nor has the Alaska Department of Fish & Game as co-managers of fish and wildlife on federal forest lands been successful at preventing severe crashes in deer populations in Game Management Unit 3 and wolf populations in Unit 2.

Both the briefing paper and the fiscal note analysis of SB 32 prepared by the director of the Division of Forestry [have] overlooked the full environmental and fiscal consequences of the bill in the realms of environmental impacts on rural communities and human health consequences. The briefing paper states, "All timber sales, including negotiated sales, must comply with the constitutional requirement to manage timber for sustained yield." But, characteristically, avoids mentioning that Article VIII, Section 4, titled Sustained Yield, includes fish, forests, and wildlife. The health consequences of large-scale conversion to biomass combustion is a serious concern for healthcare professionals of the American Lung Association, which emphasizes pollution from the consequences of combustion of wood and other biomass sources.

Language providing 25 percent of the revenue from the timber sale to the nearest municipality notwithstanding an absent and adequate fiscal, social, and environmental analysis of SB 32, the City of Kupreanof requests state legislators to table this legislation in committee.

[1:51:14 PM](#)

REPRESENTATIVE JOSEPHSON inquired whether he is correct that there are no state forests near Kupreanof or Petersburg and the closest one is northeast of Wrangell.

MR. BEEBE responded that that is not quite correct. Game Management Unit 3 involves a number of state parcels that are within 10 miles of the City of Kupreanof. The Wrangell Narrows separates Kupreanof Island from Mitkof Island and Frederick Point in particular has an area that is one of the last refuges of a very heavily hit island of winter deer range. The south end of the island, only about 20 miles away from Kupreanof, is also a very important deer winter refuge that is pretty much not going to be regarded for the qualities that it represents to maintain winter populations of deer.

[1:53:12 PM](#)

OWEN GRAHAM, Executive Director, Alaska Forest Association, stated he supported this bill last year and still supports it. The bill gives the Department of Natural Resources (DNR) the flexibility it needs to better manage its timber lands in Southeast. It would get used from time to time in Southeast Alaska. The other regions do not have the same issues that Southeast has, such as remote sites and high mobilization costs for small parcels, the competition from outside Alaska from speculators that end up mostly not performing their contracts. There is an inadequate supply of timber for the existing operators. Those conditions are pretty much unique to Southeast Alaska. This flexibility will not get used a lot, but when it is used it would be very helpful. A number of times conflicts have arisen because of two different operators trying to use the same remote log transfer facilities, rafting grounds, storage areas, and roads. A number of times speculators have put in a sky-high bid on what few timber sales are out there and then defaulted, and the state had to go back. The same thing has happened with the U.S. Forest Service, which usually delays that timber sale for an entire year during a time of being critically

low on timber. He said Alaska has a good forest practices act that is designed specifically to protect water quality. Fish populations in areas on Prince of Wales Island that he is familiar with have more than doubled in the last 60 years, particularly in the most heavily logged areas. The Alaska Department of Fish & Game gave him some records that show the fish populations have more than doubled all over Southeast Alaska in the last 60 years. Logging at much higher levels than what DNR will be harvesting has had no impact on the fish. Wildlife is also doing very well; deer populations are sky-high on Prince of Wales Island. People say the wolf populations are down right now, and they might be down, but it is not because they do not have enough deer to eat in Game Management Unit 2. The Division of Forestry can manage its timber sale program without harming fish and wildlife. Providing the division with this additional flexibility to operate will provide a much needed timber supply and help the economy of scale and maybe keep one or two sawmills open that would otherwise be closed. Frequently the Forest Service or the state sells a sale where a portion of it goes export, but the other portion will end up going to the mills. Sometimes, because of extreme high costs in these remote areas, that higher value from a portion of the wood going export gets enough value out of the timber sale so that the mill can afford to saw the rest of the logs.

[1:56:57 PM](#)

REPRESENTATIVE TARR recalled the testimony that according to the 2013 annual report it cost \$5.9 million to manage the forestry program and only brought in about \$300,000 in receipts, which means the program is about 2,000 times more costly than the receipts that are brought in. She asked how Mr. Graham thinks members should evaluate that in the context of the state's overall budget problem.

MR. GRAHAM answered that whoever made that remark probably did not understand the budget. The Division of Forestry gave him a chart that shows the division makes a good profit on the timber sales. There is a lot more in the division's budget besides preparing timber sales and managing the young growth stands that come up behind the sales. He offered to provide a graph showing this if requested. Responding further to Representative Tarr, he agreed to provide this information.

[1:58:30 PM](#)

CARL PORTMAN, Deputy Director, Resource Development Council of Alaska (RDC), spoke in support of CSSB 32(RES). He paraphrased from the following written statement [original punctuation provided]:

RDC is a statewide business association representing forestry, oil and gas, mining, tourism, and fishing industries. Our mission is to grow Alaska through responsible resource development. RDC supports policies aimed at ensuring a reliable and economical long-term State and federal timber supply.

In the decades since the State's timber sale authorizing statutes were last amended, the demand for wood fiber from State lands for energy purposes has increased significantly in response to escalating fuel oil costs and State capital investment through the renewable energy capital grant program. As a result wood fiber for biomass energy has grown into an important component of forest products from State timber sales.

What has also changed over the past decades is the dependence of our remaining Southeast Alaska mills on timber sales from State lands. In some circumstances negotiated State timber sales are essential in keeping what is left of our remaining manufacturing capacity operating.

RDC agrees with the administration, as articulated in Governor Walker's transmittal letter, that competitive timber sales are the preferred means of selling timber under most conditions. However some circumstances warrant the flexibility of offering negotiated sales at appraised fair market value in order to ensure a reliable supply of raw material to mills. The Department of Natural Resources (DNR) has a good track record of limiting its negotiated sales to those circumstances where it is clearly in the State's best interest, and the added flexibility afforded to the DNR Commissioner by this surgical statutory revision will provide needed flexibility required by today's realities of timber supply and markets.

By giving the DNR Commissioner added flexibility in offering negotiated sales and clarifying that users of wood fiber are also eligible for negotiated sales, the

State will have tools appropriate to conditions that frankly were not part of the timber supply landscape when State's timber sale statutes were last revised.

These amendments support recommendations of the 2012 Alaska Timber Jobs Task Force. The task force recommendations were developed with input from leaders in the timber industry and have been endorsed by the Alaska Board of Forestry.

MR. PORTMAN concluded by stating that the basic premise of the bill is to remove the constraints on negotiated timber sales and to allow longer term timber sales where appropriate. Passage of this bill will help keep RDC's members in the forest products industry in business. The current restrictions limit DNR to negotiating only with certain sawmills. He urged the committee to pass the proposed House CS for CSSB 32(RES).

[2:01:41 PM](#)

CO-CHAIR TALERICO closed public testimony after ascertaining that no one else wished to testify.

REPRESENTATIVE TARR requested that Mr. Maisch be able to respond to the testimony about the overall cost relative to receipts.

MR. MAISCH confirmed that Ms. Knight's figures are correct regarding the overall budget, but said Mr. Graham was correct that that budget does many more things than just fund the timber sale program. He said a significant amount of federal money comes into the division that runs a suite co-op programs around the state, such as forest health programs, community forestry programs, and forest stewardship programs that provide technical assistance to private land owners to help them better manage their forests. The [2013 Alaska Forest Resources and Practices Act] was mentioned and many more inspections than one have been accomplished. Three agencies are involved in that effort, with the Division of Forestry being the lead agency. The key things are to protect water quality and fish habitat, so ADF&G is one of the division's partners and the Department of Environmental Conservation (DEC) is the other partner. It is correct that DEC's budget has put DEC in the situation where it is unable to participate in field inspections as much as it was once able. Because DEC only participated in one inspection does not mean that only one inspection was done. He offered his belief that over 40 or 50 inspections were done last year and ADF&G was a partner on those inspection.

MR. MAISCH continued, reporting that about \$2.1 million remains in the division's budget for general funds for forestry as a whole. The division collects about \$600,000-\$700,000 annually in timber sale receipts that are directly invested back into that budget. Statewide that money provides 300-350 full-time jobs in the forest products sector and creates infrastructure. Roads and bridges that are built for these timber sales are written against the timber sales in most cases, so that infrastructure is paid for as part of the value of the timber that comes out of the woods and then the division picks up the maintenance of that infrastructure over the long run and that infrastructure provides access for a variety of uses. Perhaps the most important thing it provides the division is access for wildland fire protection around communities. The management of that forest reduces fuel loads around communities, making them safer to live in and enjoy, and this is a hard one to put a price tag on. During the Willow fire last year the division protected \$360 million in value just in the areas that were evacuated. The fire two years ago on the Kenai Peninsula was about \$260 million in value. A large-scale landscape fuel break was done and that allowed the division to save that community that was evacuated. So, there is a big other benefit from this forest management that the division does not usually get credit for and it may be more important than the revenue generated by the division. He pointed out that many of the division's [staff] positions have feet in the division's fire program as well as the resources program. Thus, a position lost on the resources side is also a position lost on the fire side.

[2:05:52 PM](#)

REPRESENTATIVE TARR understood that in a typical fiscal year the division is not staffed up for the kind of fire event like the Willow fire. She surmised that most of those additional funds would come through the supplemental budget.

MR. MAISCH replied correct, a base budget funds the division just like a fire department ready to fight fire - the fire engine is ready, staff trained and ready, helicopters and retardant aircraft - and that is about \$19 million. Then there is the suppression account which is funded at the 10-year average. This 10-year average has not been updated for almost 20 years and only comes in at \$6 million in the budget process; the division must supplement this throughout the process. An updated 10-year average would be about \$52 million. Last year's fire season was the division's second largest at 5.1 million

acres. The division is not staffed for that and so relies on other states and on Canadian provinces through international agreements. Last year help came from 37 states and 2 Canadian provinces with 3,700 firefighters at the height of the season.

[2:07:34 PM](#)

REPRESENTATIVE JOSEPHSON understood that the Southeast State Forest includes about a dozen locations.

MR. MAISCH replied correct. It is a lot of dispersed locations and is about 50,000 acres in total, which is relatively small compared to the Interior state forests.

REPRESENTATIVE JOSEPHSON asked whether those aforementioned locations are all south of Petersburg so that they are between Petersburg and Ketchikan.

MR. MAISCH answered he would have to look at a map, but he believes yes. The Southeast State Forest is primarily located in southern Southeast Alaska, and the Haines State Forest is in northern [Southeast Alaska].

REPRESENTATIVE JOSEPHSON posed a scenario of boating past Coffman Cove or Edna Bay and inquired whether he would see management such that he would see second growth coming back or a complete denuding of the landscape.

MR. MAISCH replied it depends on the site as it is all site specific. A mosaic of different age classes is represented across that landscape. A lot of young growth has come in in Coffman Cove and Edna Bay, primarily on federal sales as the state has not been in the timber sales business as long as has the federal government. But, the state does have a significant amount of young growth that is in a variety of age classes. When looking across a landscape like that it depends on whether there are a lot of mountains or relief, because harvest units will be seen in those areas high above the waterline. There will be harvested and unharvested units. On federal and state ground there are buffers along the shorelines and fish streams, so it will be a mosaic landscape, not a devastated landscape. However, he allowed, it depends on the eye of the beholder.

[2:10:19 PM](#)

CO-CHAIR NAGEAK moved to report the proposed House committee substitute (CS) for CSSB 32(RES), Version 29-GS1022\N, Bullard,

3/29/16, out of committee with individual recommendations and the accompanying fiscal notes.

2:10:36 PM

REPRESENTATIVE TARR objected in order to state that she would like for more time to be put into looking at the overall cost and value. When the legislature talks about the overall sustainability of programs, she said, a look must be taken at the other economic opportunities in communities if these timber programs cannot be afforded. She then removed her objection.

REPRESENTATIVE CHENAULT objected in order to state that a look must be taken at both sides of the coin. He concerns himself with the cost of managing the state's forests, he said, but he also concerns himself with the cost to communities when the forests are not managed. The fire on the Kenai Peninsula could easily have devastated a number of communities and some of the programs spoken to by Mr. Maisch definitely saved houses and probably some lives. Regarding wildlife, it was found on the Kenai Peninsula that after a fire goes through the moose population normally rebounds to be considerably better than before the fire. So, while he is concerned about the price, sometimes money is not everything in communities.

2:14:09 PM

REPRESENTATIVE JOHNSON thanked Carl Portman and Owen Graham for identifying who they actually work for and what their mission was here. Saying he "googled" a couple of the other testifiers, he maintained that they represent the greater Southeast Alaska conservation community, which is people that probably would not want any timber cut.

REPRESENTATIVE JOSEPHSON thanked and applauded Mr. Beebe and Ms. Knight for their testimony and said they are doing great work. In one of the great remaining rainforests he can see the need to remove some through the sales that are identified as .115 sales, which are small sales. However, a corner was turned in the 1990s and, yes, jobs were lost, but the economic benefit is greater to tourism, commercial fishing, ecotourism, sport fishing, and related industries to say that a few hundred jobs do not need to be subsidized. They are great jobs and he particularly likes the finished work products that are reflected in the .123 sales. He applauds folks who do not want to look at denuded landscapes; they want to see something sustained in its natural state and would never naysay them.

2:16:30 PM

CO-CHAIR NAGEAK said he spent four years in Southeast Alaska and has seen the benefits of the industry. That was before oil. He recalled how the students who spent the summer working in the timber, fishing, or mining industries came back to school with a bunch of money. While his community had government jobs, such as federal programs for kids after school, those jobs were not as lucrative. The discovery of oil made a whole lot of difference. He knows how important those industries are to the people in those communities. Alaska is blessed with all these resources. Trees regrow and there are fisheries programs to ensure the resources are enjoyed by all.

REPRESENTATIVE OLSON said it has been a long time since he has heard mutual aid brought up in any kind of a meeting. He related that within two days of the start of the Funny River fire there were about 600 firefighters from approximately 10 states, smoke jumpers from the Interior, and Canadian skimmers and a pilot plane. The cooperation was extremely impressive.

REPRESENTATIVE TARR noted she is a botanist and these are issues that she has worked on for about 20 years. She said her comments were not about fire suppression or the need or lack of need for those services. While those are certainly important, she was referring to the actual management for timber harvest. This has been a longstanding problem in national forests and that is why she brought up the PILT - there has been a lot of tension between local communities and the federal government because those areas that cannot be developed cannot have a tax base and she wanted to highlight some of the issues she thinks are worth consideration. In areas where there are not a lot of other economic opportunities it has been shown time and time again that ample lead time is needed so people do not experience severe economic hardship as a result of some of the projects or jobs going away.

2:21:29 PM

REPRESENTATIVE CHENAULT removed his objection. There being no further objection, HCS CSSB 32(RES) was reported from the House Resources Standing Committee.

2:21:41 PM

The committee took an at-ease from 2:21 p.m. to 2:27 p.m.

HB 112-REPEAL CFEC; TRANSFER FUNCTIONS TO ADFG

[2:27:22 PM](#)

CO-CHAIR TALERICO announced that the final order of business is HOUSE BILL NO. 112, "An Act repealing the Alaska Commercial Fisheries Entry Commission and transferring its duties to a commercial fisheries entry division established in the Department of Fish and Game and the office of administrative hearings; and providing for an effective date." [Before the committee was CSHB 112(FSH).]

CO-CHAIR NAGEAK moved to adopt the proposed committee substitute (CS) for HB 112, Version 29-LS0485\N, Bullard, 3/2/16, as the working document.

REPRESENTATIVE TARR objected for discussion purposes.

REPRESENTATIVE LOUISE STUTES, Alaska State Legislature, spoke as the sponsor of HB 112. She explained that Version N is in response to Governor Walker's Administrative Order (AO) 279, which moves the administrative and research functions of the Alaska Commercial Fisheries Entry Commission (CFEC) to the Alaska Department of Fish & Game (ADF&G). Version N defines executive compensation for the three CFEC commissioners and compensation for CFEC employees that are moved from an exempt to a classified service. Staff salaries would take effect immediately and commissioner salaries would take effect on January 1, 2017. She deferred to her aide, Mr. Reid Harris, to elaborate further on the bill.

REID HARRIS, Staff, Representative Louise Stutes, Alaska State Legislature, reiterated that [Version N] is in response to Administrative Order 279. The prior version of HB 112 did much of what AO 279 accomplished and therefore the bill went down from about 58 pages to one and a half pages. Version N defines executive compensation for the CFEC commissioners, setting them at Range 27A, and changes the commissioners from being on a monthly rate to a daily, much like what is done for the Board of Fisheries and Board of Game. Version N also provides that CFEC employees who were transferred from exempt to classified service under ADF&G will remain at the same rate of pay. Sections 3 and 4 of Version N are the effective dates.

[2:31:26 PM](#)

REPRESENTATIVE SEATON asked whether the bill has any provisions that are not consistent with the recommendations of the legislative audit that was performed.

MR. HARRIS responded that the bill is drafted to the recommendations of the audit. The audit recommended that over a three-year period the commissioners go to less than 15 hours a week without benefits. The sponsor felt, however, that due to the administrative order being such a shock to the commission it would be unfair to ask them to go to less than 15 hours a week in such a short timeframe and would not give the commission time to get its house in order. So, the bill adjusts their pay rate from a monthly to a daily rate and at a future date it would be a good idea for this body to revisit this and consider putting different stipulations on the hours of the commissioners' work.

[2:32:49 PM](#)

REPRESENTATIVE TARR removed her objection. There being no further objection, Version N was before the committee.

[2:32:55 PM](#)

CO-CHAIR TALERICO opened public testimony.

MARTIN LUNDE, Southeast Alaska Seiners Association, stated that his association is opposed to anything in HB 112 because it would help to implement Administrative Order 279, which the association has severe difficulties with. If done at all, this should have been done with an executive order rather than an administrative order. The association cannot in good conscience support anything that is implementing Administrative Order 279, which is specifically addressed in Version N. Additionally, the association has questions about the financial implications of moving [staff] from exempt to classified and what the long-term fiscal impacts of that would be. He assumed it would mean higher rates of overtime pay during licensing and research functions at the time when fishermen need to have their gear in the water, because if there are difficulties during that time there would be higher costs associated with that. Fundamentally it is frustration over the administrative order and further implementing it.

[2:35:32 PM](#)

REPRESENTATIVE TARR noted the audit results have been under consideration for some time now. She asked how Mr. Lunde's

organization would have addressed the audit results to provide a solution had Administrative Order 279 not been put in place. The conversation had been that a bill would be forthcoming and that there would be some changes. She asked what could have been done that would have been more in line with what the Southeast Alaska Seiners Association might have been expecting.

MR. LUNDE replied that there certainly was room for streamlining within the agency, which he believes the agency was already doing. At issue is that the CFEC is funded entirely by commercial fishing fees. The [fishing industry] pays its own way, it brings in roughly \$7 million and it is roughly \$4 million to operate. [Fishermen] get really nervous when there are elements about that put into danger \$1.2 billion worth of permit values and limited entry itself. Commercial fishing men and women in Alaska have invested heavily in permits and their boats; these are small businesses. Streamlining government is always a good thing, but [fishermen] get really nervous when too much is taken away from something that they are paying for. [His association] likes the idea of having competent folks at the CFEC full time and ready to address the issues that come up. It is like firemen - they are paid to be there just in case even though they are not always out there fighting fires. There are always waves of heavier business times and there are times where there is going to be some potential buybacks in different fisheries throughout the state and times in the not-too-distant future of limiting some fisheries out west. Those are the things for which the association would like to have a strong, capable Commercial Fisheries Entry Commission and having three commissioners there to do the job.

[2:38:19 PM](#)

REPRESENTATIVE JOSEPHSON understood the audit recommended the CFEC not be subsumed into ADF&G. He posited that there would still, under the bill, be a CFEC.

MR. LUNDE agreed.

REPRESENTATIVE JOSEPHSON inquired whether the fees that Mr. Lunde talked about would still be collected and, if so, what would be done with them.

MR. LUNDE answered he is not entirely sure what is going on. His organization has asked many questions of ADF&G, but has had a difficult time getting any answers.

REPRESENTATIVE JOSEPHSON asked what the difference is between an administrative order versus an executive order, as seen by Mr. Lunde's organization.

MR. LUNDE replied that his organization did not want to see any of this done in the first place. However, there are steps the legislature can take to reject an executive order and that would be through a simple majority vote in a joint session, which is why an administrative order was probably done. Also, according to Legislative Legal and Research Services, Administrative Order 279 goes beyond the parameters of an administrative order.

[2:41:23 PM](#)

REPRESENTATIVE TARR understood the preference is that none of this would be happening. But, given the administrative order is now in place, she inquired whether some of the bill's provisions would help improve the circumstances relative to what was put in place with the administrative order.

MR. LUNDE responded that he does not honestly think so, especially in light of where things may go with an hourly rate for the commissioners. The bill is really looking to just trim in the commissioners and that is not something his organization would like. His organization wants a strong, capable, fully staffed Commercial Fisheries Entry Commission as it exists now with all three commissioners.

[2:43:04 PM](#)

ROBERT THORSTENSON, Executive Director and Lobbyist, Southeast Alaska Seiners Association, and lobbyist for Kenai Peninsula Fishermen's Association, Alaska Bering Sea Crabbers, Armstrong-Keta, Inc., and Alaska Pacific Environmental Services, LLC, stated he has talked to everyone he works for in the fishing industry. He related that he has told the commissioner that "we would back off on our position opposing this CFEC orders and these bills that have come flying at us the last couple years if they could come up with one permit holder, one single permit holder, and I have yet to find anybody ... of one of the 11,000 permit holders who hold \$1.2 billion worth of permits." This is a special agency, it is not just some agency that is holding some general funds (GF), and it is an agency that is funded by his members. His members pay \$700,000 a year in fees and do not mind paying larger fees because they know the general fund has been short on overall fish and game management. While his members love ADF&G, ADF&G houses personal use, sport, wildlife

viewing, charter, commercial, and hunting, so it has a lot of different functions. He reported that former state legislator Clem Tillion has urged that the CFEC not be merged into ADF&G, because the CFEC needs to be separate. There may still be a couple of commissioners and one secretary remaining and no research or other functions.

MR. THORSTENSON pointed out that recently the harvest in state waters in the Bering Sea went from 0 to 36 million pounds of cod and the fishery is going to get closed three weeks early this year. It will probably be at a level of 50-100 million pounds within the next couple years of a new state waters fishery. Fishing will be expanding into areas that are going to be really hard to deal with. The weakening of CFEC by sliding it over to ADF&G "is going to hamper us in all of our abilities for all of our new state waters fisheries; we've got hundreds of boats in state water fisheries in the gulf that have not been put under a system yet." This system is a special system, it is a special agency. There is not another one like it in the world. Every other state that has limited entry, every other state that has some type of a management plan, does not have the same type of constitution that Alaska has. That fragile, constitutionally protected privilege of Alaskans to commercially harvest salmon is threatened by AO 279 and goes far, far deeper and further and far more destructive than the audit itself was.

MR. THORSTENSON charged that to add credence to an administrative order that literally plucked a bill out of this body and moved it over to the governor's office without any public discourse when the entire board of United Fishermen of Alaska was in town, if that is the way that this body decides to conduct business with the rest of the industries in the state, bar the doors. This is a huge mistake, this bill was a mistake in the first place. While he appreciates the intent of cutting the budget, there are some places where the cutting is too deep and is putting at risk a huge system with the state's largest employer. Currently the fishing industry is putting in about as much tax as any other industry in the state.

[2:47:18 PM](#)

REPRESENTATIVE TARR addressed Mr. Thorstenson's statement that ADF&G has many other duties besides commercial fishing. She asked if Mr. Thorstenson's concern is that once the positions are transferred to ADF&G they may then be diluted by having to do other work or would somehow be influenced by the overall

department direction that could be in conflict with what would otherwise have happened.

MR. THORSTENSON answered that maybe the intent here is to unionize more state employees. What has made the CFEC a special commission, a stand-apart commission, is that it is sitting on a \$1.2 billion existing permit bank. The members that he has in Southeast Alaska are 30 percent Sealaska shareholders and they own permits that fluctuate between \$200,000 and \$300,000 apiece. Many Native Alaskans need an attorney just to look after their own business, their own permit, and their own boat because it is worth more than any other asset they have. They see their fees paying two or three commissioners, who are extremely sharp attorneys, to make sure this system stays afloat, because this is the most tenuous, very carefully constitutionally balanced system of its kind in the world. United Fishermen of Alaska voted against this 33-0. Out of 11,000 Alaskan permit holders he has yet to find one single permit holder who supports AO 279 or any version of any of these CFEC bills.

[2:49:45 PM](#)

BEN BROWN, Commissioner, Commercial Fisheries Entry Commission (CFEC), said Version N of HB 112 is vastly simpler than the bill as introduced. The debate that has started to happen does not really address the four corners of this version of the bill. The larger picture is that last year "we were gravely concerned with what HB 112 would have done in its original form." During the interim the audit results were released and the big takeaway from the audit was that CFEC should continue to operate as an independent regulatory quasi-judicial agency. The audit also said that several of the CFEC's administrative functions could be transferred over to ADF&G and the CFEC did not contest that, but one point made on page 13 of the audit is that maintaining CFEC's organizational structure allows the agency to expand as necessary without changing statutes or regulations. The audit also recommends that [the commissioners] be reduced to 15 hours a week. While he respects the good and thorough job done by the legislative audit, he sees an internal inconsistency in those two recommendations.

MR. BROWN thanked Representative Stutes, noting that it is a conundrum on how to proceed, but Version N of HB 112 threads that needle quite well. Version N takes the commissioners to an hourly rate of compensation, which is by definition scalable; when the work is there the work can be done. Regarding Mr. Lunde's reference to upcoming buybacks and certainly a future

limitation, he said that if a hard cap of two days a week at 7.5 hours is put into statute and then a limitation goes forward, a backlog of work for the commissioners would immediately be created. One of the three seats is vacant and there is no indication from the governor's office at what point that third commissioner's seat will be filled. He said he and CFEC commissioner Bruce Twomley can support Version N because it just deals with a very specific thing, which is the amount of work the commissioners are able to do in a manner that is consistent with the audit's recommendations.

MR. BROWN addressed Section 2 of Version N, saying he does not know what the practical end result of AO 279 is going to be. He said communication has been attempted with the commissioner and deputy commissioner of ADF&G and also some folks at the Department of Law to give [the CFEC] clarification about what the practical effects of the administrative order will be. The clutch of documents that Mr. Harris gave to the committee will provide some more information but will probably create more questions than provide answers. Therefore, he does not know that it is practical if Representative Stutes wants to move forward with her bill trying to solve one specific targeted element of the problem to try to find an answer to the larger debate, because he does not think that is going to happen today or this week. So, the CFEC commissioners can support Version N and can talk about the audit and AO 279 or the larger more complicated things, but he does not know that that is necessary for the committee to decide to move forward with Version N.

[2:53:28 PM](#)

REPRESENTATIVE TARR observed that Version N would provide for Range 27 and surmised the idea is a daily rate similar to other boards, which, she calculated, could be a pay cut of 50 percent or more for an individual commissioner. She inquired whether [a commissioner] would have to find other work to supplement his/her income and asked how would a commissioner shuffle the deck to become available on a full-time basis when work is available or when there is an emergency situation.

MR. BROWN first pointed to what he thinks is an error on page 1, line 8, of Version N, stating he thinks "[A]" should be "[a]". He then replied to Representative Tarr's question about how this would work, saying that there are other examples of this such as the Board of Fisheries and the Alaska Public Offices Commission (APOC). He related the experience of a friend who was appointed to APOC and discovered the great deal of work involved and

juggling that with her other affairs as an attorney. He said APOC is a good example of a feast or famine kind of workload. Going forward the governor would have to have to have his boards and commissions people carefully look at whom they were going to appoint to these seats knowing that an appointee could find himself/herself having to work a full-time-plus job in the event of a really thorny limitation that just produced an onslaught of applications for permits. It could not be promised to someone that there was going to be stability over the course of a four-year term. That said, there are going to be people who are interested in this work and who do not have a vested interest in any commercial business, given that prohibition still remains in the statute. It would become a personnel matter for future governors to determine who had the right skill set and also the right availability of time to be able to function for a full four-year term in this newly configured model. He said he met with several of the committee's members last year, as well as members of the other body, in anticipation of the hearing on this bill when it was doing a great deal more. In many of those conversations he suggested going to some sort of part-time model. So, that is one reason he is in a position to be able to support this, but it is not going to be one size fits all.

[2:57:10 PM](#)

JERRY MCCUNE, President, United Fishermen of Alaska (UFA), offered his understanding that an administrative order cannot contain statute, while licensing is in statute. So, it is being ordered to move the statute people over to ADF&G, which, he understood, cannot be done under an administrative order, it must be an executive order. Also of concern to UFA is that the ADF&G commissioner sits on the [North Pacific Fisheries Management Council]. Other fisheries are being developed in the Bering Sea and part of these fisheries will be under the council because of the quotas. Thus, there will be a big conflict for the commissioner of ADF&G to make that decision and also do the licensing and everything else under CFEC, especially if it becomes limited. Right now a transfer of a permit, if it is objected to, would have to go from ADF&G over to CFEC and then back. So, there are two agencies, with one that is specialty law, which will have to be relied upon to make some of these decisions. The same thing can be accomplished by leaving the CFEC where it is and still result in the savings talked about by the audit. The CFEC has already been cut \$650,000 and six staff people and that will provide more profit to the state, plus \$1.3 million is generally given to ADF&G. Everything can be accomplished that was said by the audit and still keep the CFEC

a separate agency to run the limited entry law under the constitution and also keep the CFEC separate out of politics. Throwing the CFEC into the arena of ADF&G will be a big conflict if there is a limited entry fishery, such as a Bering Sea cod fishery that will involve quotas.

[2:59:45 PM](#)

REPRESENTATIVE TARR remarked that there seems to be a lot of confusion about AO 279 and it is unclear how it will be implemented. She asked whether the specific provision in Section 1 of Version N to move the CFEC commissioners to a part-time position is acceptable to UFA.

MR. MCCUNE replied that UFA is amenable to making CFEC stay where it is at and be more efficient, whether that is with one part-time and one full-time commissioner or three part-time commissioners, whatever works for CFEC's workload in the future.

[3:00:50 PM](#)

CO-CHAIR TALERICO closed public testimony.

REPRESENTATIVE SEATON said he is that first permit holder [mentioned in Mr. Thorstenson's testimony] because he introduced a bill to change CFEC in the previous legislature and there are other permit holders he has talked to that knew the CFEC was a very inefficient agency. As he sees it, the bill before the committee would ensure that there is a transfer of personnel in a way in which they can reasonably work on their daily schedules instead of having full-time commissioners with not having full-time duties to do. The committee heard from one of the commissioners that this is a reasonable way because when there is more work the commissioners can flex up for the workload. Also, the bill provides some protection for individuals transferring from one place to another. If there are legal questions on what an administrative order can do, he is sure those will get solved as they cannot be solved here. He does not see it as a constitutional problem. He said he supports this bill as a reasonable way of adjusting the work load to the timeframe of what the CFEC commissioners will be doing and it follows the recommendations of the legislative audit.

[3:03:12 PM](#)

CO-CHAIR TALERICO re-opened public testimony.

STEVEN SAMUELSON stated he fully agrees with the testimony he has heard today. In his opinion, what is happening with the CFEC has been in the works since his grandfather and so many people have paid into the system and worked to have that CFEC work on their behalf. He is concerned that mixing the CFEC with ADF&G goes against what so many have worked for. His largest concern is that the CFEC will get lost in the transition and will become absorbed somehow within ADF&G so that it is not seen. He therefore feels that HB 112 is premature. There is also much concern with some of the other legislation coming through and those will affect this directly and he wants to see what will happen with that before changing the CFEC. The CFEC knows the fishermen, their names, families, and boats. Regarding the \$1.3 billion in the industry, he said this is very true under the permits, but it is not a huge group of people. Many fishermen are just that - they own a permit and a boat and they are floating around on their retirement. They need the organizations to represent them, although he is here representing himself as someone working in the industry. He reiterated that HB 112 is premature.

CO-CHAIR TALERICO closed public testimony after ascertaining no one else wished to testify.

[3:06:34 PM](#)

CO-CHAIR TALERICO offered his appreciation to the testifiers who mentioned Administrative Order 279. He said he had no knowledge that the administrative order was coming forward and that for all intents and purposes it removed the original bill that was before the committee. He posited that Representative Stutes is trying to address policy and, while the end result is not known, if something changes with the administrative order there would at least be some type of policy in place if the AO continues forward, regardless of the committee's support or opposition to that particular administrative order.

CO-CHAIR TALERICO, in response to Representative Olson, said he will be holding over HB 112.

REPRESENTATIVE JOHNSON said he would like to understand the relationship between HB 112 and Administrative Order 279 and what would happen if the bill becomes law and the administrative order is overturned. He requested that someone from Legislative Legal and Research Services address the committee at its next meeting on the bill in this regard.

CO-CHAIR TALERICO noted he sees the sponsor giving confirmation to the request.

REPRESENTATIVE OLSON also requested the committee be addressed by someone from the governor's office regarding the rationale.

[3:09:28 PM](#)

CO-CHAIR TALERICO held over HB 112.

[3:09:37 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:10 p.m.