

HOUSE FINANCE COMMITTEE  
May 13, 2019  
9:00 a.m.

9:00:15 AM

CALL TO ORDER

Co-Chair Wilson called the House Finance Committee meeting to order at 9:00 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Tammie Wilson, Co-Chair  
Representative Jennifer Johnston, Vice-Chair  
Representative Dan Ortiz, Vice-Chair  
Representative Ben Carpenter  
Representative Andy Josephson  
Representative Gary Knopp  
Representative Bart LeBon  
Representative Kelly Merrick  
Representative Colleen Sullivan-Leonard  
Representative Cathy Tilton

MEMBERS ABSENT

None

ALSO PRESENT

Lynn Gattis, Staff, Representative Tammie Wilson; Senator David Wilson, Bill Sponsor; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Sara Chambers, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development.

PRESENT VIA TELECONFERENCE

Major Bernard Chastain, Deputy Director, Alaska Wildlife Troopers, Department of Public Safety; Virgil Umphenour, Self, Fairbanks; Wayne Kubat, Self, Wasilla; Mark Richards, Executive Director, Resident Hunters of Alaska.

SUMMARY

HB 139 AK PERM. FUND CORP. PROCUREMENT EXEMPTION

HB 139 was SCHEDULED but not HEARD.

CSSB 43 (FIN)

EXTEND BIG GAME BOARD; OUTFITTER LICENSE

CSSB 43 (FIN) was HEARD and HELD in committee for further consideration.

CSSB 44 (FIN)

TELEHEALTH: PHYSICIAN ASSISTANTS; DRUGS

CSSB 44 (FIN) was SCHEDULED but not HEARD.

#sb43

CS FOR SENATE BILL NO. 43 (FIN)

"An Act extending the termination date of the Big Game Commercial Services Board; relating to a person's eligibility to hold a registered guide-outfitter license, master guide-outfitter license, class-A assistant guide license, assistant guide license, or transporter license; and providing for an effective date."

[9:00:46 AM](#)

Vice-Chair Johnston MOVED to ADOPT the proposed committee substitute for CSSB 43 (FIN), Work Draft 31-LS0442\S (Bullard, 5/11/19). There being NO OBJECTION, it was so ordered.

LYNN GATTIS, STAFF, REPRESENTATIVE TAMMIE WILSON, explained the changes in the Committee Substitute (CS). The CS changed the title of the bill to include the Board of Barbers and Hairdressers. She read the full bill title:

"An Act extending the termination date of the Board of Barbers and Hairdressers; extending the termination date of the Big Game Commercial Services Board; relating to a person's eligibility to hold a registered guide-outfitter license, master guide-outfitter license, class-A assistant guide license, assistant guide license, or transporter license; and providing for an effective date."

Ms. Gattis continued with the changes on page 1, lines 8 and 9 of the bill and read the following:

(4) Board of Barbers and Hairdressers (AS 08.13.010) - June 30, 2027 [2019];

Ms. Gattis concluded that the sunset date extension for the Board of Barbers and Hairdressers was the only change contained in the CS.

[9:02:32 AM](#)

Representative Tilton observed the date on line 9 read 2027. [Ms. Gattis had incorrectly read the date as 2024.]

Representative Josephson cited Section 4 of the bill and summarized the section warned that violating the law resulted in revocation of the license. He assumed that existed prior to the CS.

Co-Chair Wilson indicated that the sponsor would review the bill. She communicated that the Board of Barbers and Hairdressers was set to expire in June 2019 and sunset legislation was inadvertently not introduced. The board had a "clean" audit. She thanked the sponsor for adding the board to the bill.

[9:04:03 AM](#)

SENATOR DAVID WILSON, BILL SPONSOR, reviewed the bill. He explained that the bill extended the Big Game Commercial Services Board (BGCSB) for 5 years to 2024, one year less than the Senate Finance Committee version of the bill. The board consists of two licensed Registered Guide-Outfitters, two licensed Transporters, two private landholders, two public members, and one member from the Board of Game. Legislative Audit conducted their review of this board and made 3 recommendations. He reminded the committee that all three recommendations were in the purview of the division and not the board. He reviewed the audit finding recommendations. He read the first and second recommendations:

DCBPL's director should improve management oversight procedures to ensure required documentation is obtained, reviewed, and retained to support licensure.

DCBPL's chief investigator should increase oversight to improve the timeliness of investigations.

Senator Wilson commented that multiple agencies were involved in investigations and at times were very complex. A case could take two to three years for the case to reach adjudication. The licensees considered the license a property right and the state acted cautiously when property rights were at stake. He moved to the third recommendation and read the following:

The Office of the Governor, Boards and Commissions director should work with the board to identify potential applicants in a timely manner.

Senator Wilson indicated that the department recognized the need for more support to increase quality control. The division added more supervisors and an additional examiner. In addition, the division improved training procedures. The division also added a new Chief Investigator and two senior investigators in order to hold the investigators accountable throughout the length of the investigations. He noted that the number of cases were recently lowered to 56.

[9:07:33 AM](#)

Senator Wilson answered an earlier question from Representative Josephson regarding Section 4. He delineated that the change related to the master guide-outfitters license and functions. The license was an honorary title. The provision clarified that if licensees "acted badly" they would lose their honorary title. The title was intended for "the best of the best guides."

Representative Josephson had heard many concerns regarding the board not enforcing violations of hunting laws. He expressed his alarm and asked Senator Wilson for comment. Senator Wilson replied that much of the lack of enforcement was due to a lack of investigators during the time period of the audit. He elucidated that the board lost three to four supervisors that led to a backlog. The backlog had recently been reduced to 39 cases. They were working on the timeframe of investigations. He relayed that in prior Senate Resources Committee hearings a division testifier relayed the step by step process of an investigation from the time the individual was first contacted by the state

trooper through the adjudication process to the disposition stage. The board felt more qualified to address the violation at the end of the process after lawsuits and the appeals processes. He noted that Section 2 of the original bill provided the board more tools to suspend and revoke licenses.

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Co-Chair Wilson asked if the sponsor had researched the cost of investigations. She explained that when a violator was found guilty, the cost of the investigation was borne by the license holders. She pointed to page 10 of the audit that showed the board had been \$1 million in debt due to the cost of investigations. She referenced discussions regarding the violator sharing the cost of the investigation. She wondered whether the sponsor had done any research on whether the scenario would be advantageous to the board. Senator Wilson answered in the negative.

Co-Chair Wilson explained situations where the costs of the investigation and court went to the board and license holders. She believed that at some point the cost became a big lift for license holders. She noted that the board had gotten into trouble because of the issue in the past.

9:12:52 AM

Representative Josephson stated that at some point the board was bearing an expense that should be borne by the "Alaskan people." Law enforcement was a public issue. He was uncertain how to resolve the issue.

Senator Wilson voiced that he found the investigation caseload information contained in an email from the board's April 2019 board meeting. He relayed that the board had 37 open cases and that 13 of the cases were Alaska Wildlife cases that were out of the purview of the board or division. He added that 10 cases were in litigation through the Office of Administrative Hearings and 2 were with the respondents and awaited acceptance or rejection. Twelve cases remained; 7 concerned breach of contracts or complaints regarding the license and application process and one case pertained to a guide interference issue.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, reviewed the audit titled "A Sunset

Review of the Department of Commerce, Community, and Economic Development, Big Game Commercial Services Board (board)" dated September 14, 2018 (copy on file). She read from the audit report conclusions:

The audit concluded that the board served the public's interest by conducting meetings in accordance with applicable laws, amending regulations to improve occupations under the board's purview, and supporting changes by the Department of Law to improve the timeliness of the disciplinary process. Additionally, the board worked to eliminate the over \$1 million deficit reported in the prior 2015 sunset audit.

The audit also concluded that board licenses were not consistently supported by adequate documentation, a high number of investigations had unjustified periods of inactivity, and three board positions were vacant for an extended period. In accordance with AS 08.03.010(c)(9), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination to June 30, 2025, which is two years less than the eight year maximum allowed for in statute.

Ms. Curtis continued with the scheduled licensed activity on page 8 of the audit. She relayed that as of May 31, 2018 there were 1,219 active licenses representing a 20 percent decrease from the 2015 sunset audit. She detailed that according to the board's chair, the decrease was partly due to less interest in the profession and guides retiring. In addition, the number of transporter licenses decreased due to many transporters changing to operating as air taxis to avoid the license reporting requirements and fees. In April 2015, there were 151 licensed transporters compared to 90 as of May 2018, representing a 40 percent reduction in the number of transporters. She moved to page 10 of the audit that depicted the Schedule of Revenues and Expenditures, FY 15 through FY 18. She pointed to a surplus of over \$132,000 at the end of FY 18, which was significant because of a \$1 million deficit in FY 15. She listed the audit recommendations beginning on page 14. She read the following regarding recommendation 1:

DCBPL's director should improve management oversight procedures to ensure required documentation is obtained, reviewed, and retained to support licensure.

The audit found that DCBPL staff did not consistently license individuals according to statutes and regulations. Fourteen of 25 new licenses (56 percent) tested as part of the audit did not have sufficient documentation to support licensure and four applicants had more than one deficiency identified.

Ms. Curtis commented that the more serious document deficiencies included missing or outdated background checks and inadequate investigatory or supervisory review. According to the Division of Corporations, Business, and Professional Licensing (DCBPL), there was turnover in the staff position providing support for this board that contributed to the deficiencies. She highlighted the following from the audit pertaining to recommendation two:

DCBPL's chief investigator should increase oversight to improve the timeliness of investigations.

The audit reviewed 22 of 145 cases open for over 180 days between July 2015 and May 2018. Twenty of the 22 cases were found to have unjustified periods of inactivity ranging from two months to 18 months. According to the chief investigator, periods of inactivity were due, in part, to a lack of adequate resources to investigate the large case load and supervisors not adequately monitoring cases.

Ms. Curtis pointed to the following from the audit pertaining to recommendation three:

The Office of the Governor, Boards and Commissions director should work with the board to identify potential applicants in a timely manner.

From July 2015 through May 2018, a licensed transporter board position and a private landholder board position were vacant for six months due to an inability to identify interested applicants. Furthermore, one board position occupied by a member of the Board of Game was vacant for eight months because Office of the Governor, Boards and Commissions staff were not notified of the vacancy.

Ms. Curtis continued with the responses to the audit that began on page 25 of the audit report. She communicated that the commissioner of the Department of Commerce, Community

and Economic Development (DCCED) [Commissioner Julie Anderson] agreed with recommendations one and two and had taken steps to resolve the issues. She indicated that the Office of the Governor responded to recommendation three and assured that they would work diligently to fill the vacancies in a timely manner. The board's chair response began on page 29. The chair [Chairman Henry D. Tiffany IV] agreed to work with the Office of the Governor to identify interested board applicants. He noted that currently, all the board positions were filled.

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Co-Chair Wilson asked about the issue regarding transporters turning to air taxis instead of transporter licenses. She wondered whether the issue had to do with a statutory definition. Ms. Curtis deferred the question to DCCED.

Representative Knopp discussed that the board was charged with licensing transporters but there were three exemptions for air carriers. Air carriers could transport hunters without a transporter license if it was not the primary business purpose of the carrier. He reported that he tried to address the transporter licenses pertaining to water taxis in the prior year, but the board opposed his attempts. He had recently received a letter from the board stating that they would not oppose the bill if the board was authorized to decide who received the water transporter license. Currently, the same exemption for air transport did not apply to the marine industry. He pointed out that the Alaska Marine Highway System lacked the exemption and was prohibited from transporting hunters. He asked about the plan for moving the bill from committee.

Co-Chair Wilson replied that the bill would be heard the following day and any amendments would be considered at that time.

Representative Josephson thought that the sunset extension was "pretty generous" and expressed concerns. He reiterated the audit conclusions and emphasized that seven license files were missing or had outdated background checks required by law. He understood that the board had done well paying down the indebtedness and guessed that might have played a role in the longer extension.

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Ms. Curtis replied that auditing was not an exact science. She recounted that the division had just completed an audit three years prior and both audits concluded the board was serving the interest of the public. However, the 2015 audit flagged the \$1 million deficit. She indicated that the 2018 audit found the deficit erased and concluded that the current recommendations were attributed to the division and that the board served the public's interest. The factors significantly impacted the auditor's decision regarding the length of the extension.

Co-Chair Wilson asked to hear the audit findings related to the Board of Barbers and Hairdressers.

Ms. Curtis reviewed the audit report titled, "A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Barbers and Hairdressers" dated April 18, 2018. She read the report conclusions:

The audit concluded that the board operated in the public's interest by effectively licensing the various occupations under the board's purview. The board monitored licensees and worked to ensure only qualified individuals practice in Alaska.

In accordance with AS 08.03.010(c)(4), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination to June 30, 2027.

Ms. Curtis turned the attention to page 6 that listed the licensing activity. She listed the many occupations the board regulated as follows: Barber, Body Piercing, Esthetician, Hairdresser, Instructor, Manicurist, Tattooing and Permanent Cosmetic Coloring, School Owner, Shop Owner, and Student Instructors. She reported that as of January 31, 2018 there were 5,534 active licenses, a slight increase from the 2010 audit. She highlighted that page 7 depicted the board's Schedule of Revenues and Expenditures as of March 31, 2018. The board had a surplus of over \$840 thousand. She reported that the division would engage in a fee analysis in FY 19. The fee schedule was found on page 8 of the audit. The audit had no recommendations.

[9:24:50 AM](#)

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, responded to the previously expressed concerns by members. She related that the audit findings were administrative concerns and were not the fault of the board. The recommendations were directed at the division to tighten up licensing procedures and investigative documentation and to the governor's office regarding board vacancies. She communicated that the audit was over one year old, and the division had implemented changes in response. All the boards' expenses were borne by the licensees; therefore, the division tried to keep a lean operation, which meant there was almost no redundancy. The division had only one licensing examiner for the Big Game Commercial Services Board and two for the Board of Barbers and Hairdressers. In the event of a vacancy a busy supervisor had to step in. She shared that the division undertook an internal audit in response to the BGCSB audit that discovered errors due to lack of resources and oversight. The division hired records and licensing supervisors and continue to redistribute duties to provide adequate quality control. The investigative findings had been a matter of needing to document when something was open for a long period of time. She referenced documentation by one individual that had raised concerns about the board's inability to do its job. She clarified that it was a private individual's opinion and was not the finding of the audit. The division instituted new policies and procedures to ensure that all investigators were documenting any lack of activity for 30 days or more. She delineated that currently, when something related to an investigation was at the Department of Law (DOL) or with the Alaska State Troopers or waiting for a respondent or board review the auditor would be able to find documentation regarding the status of the investigation, which had been missing during the audit process. She emphasized that the division had a great deal of responsibility in what was audited, and the division had taken responsibility for the inadequacies.

[9:28:45 AM](#)

Co-Chair Wilson asked if the air taxis and transporter issue was a statute fix. Ms. Chambers answered that the exemptions dealt with "marketing and position of a transporter." She elucidated that if an air taxi was picking up hunters and the activity was ancillary to the

primary responsibility of the business and the carrier was not specifically marketing to the guiding industry, they were not required to have a transporter license. She indicated that the activity was in statute and any change had to be enacted by the legislature.

Co-Chair Wilson mentioned an investigation that was reopened after 9 years and the licensee thought the matter was closed. She wondered about the investigator's accountability. She thought that it appeared the board could revisit investigations after significant periods of time. Ms. Chambers was not familiar with the particular investigation. She commented that no investigator should arbitrarily reopen a case that was closed without a triggering event. Co-Chair Wilson did not know whether it was reopened or continued. She asked if there was a statute of limitation regarding the issue. Ms. Chambers answered that what Co-Chair Wilson was referencing should not be taking place. She would follow up with Co-Chair Wilson's staff. Co-Chair Wilson thought the issue was concerning.

[9:31:19 AM](#)

Representative Knopp deduced that the board carried out an investigation based on a complaint. He relayed a story where a guide had been charged with a DUI and the board had decided the person's business practices should be investigated. He was unsure whether the story was true. He asked who would decide to investigate an issue. Ms. Chambers answered that the division was complaint driven. She explained that complaints were received from the public, client, another guide, or trooper action. When a complaint came in the department's staff conducted a review and asked a board member to assist in determining whether the complaint was jurisdictional. If the action appeared to be a potential violation it progressed to an investigation. Sometimes complaints were not jurisdictional matters. She voiced that the BGCSB was a leader in reviewing what was pertinent to public safety concerns. For example, when determining whether a DUI was pertinent to a person's license the board would consider whether the offense was relevant to the individual's guiding or if it was completely irrelevant.

[9:34:24 AM](#)

Representative Knopp clarified that he was wondering whether the board would pursue an accusation if it did not relate to the profession. Ms. Chambers answered that if someone filed a complaint the division had a responsibility to follow up. If the complaint was irrelevant and not jurisdictional the division dropped it, but she understood that it was disturbing to the respondent.

Representative Josephson asked who kept the physical files the audit referred to. He asked if the division kept the files. Ms. Chambers replied that the division had the files as the administrative arm for all the boards. Representative Josephson asked how the documents were received. Ms. Chambers replied that the division received, accepted, maintained, filed, scanned, and kept the files pertaining to all aspects of licensing. The division provided documentation to the board.

[9:36:48 AM](#)

Representative Josephson asked for verification that Ms. Curtis or other auditors was physically going to the division's office to examine files. Ms. Chambers responded in the affirmative. Representative Josephson noted he may have been heavy handed in his earlier remarks regarding the BGCSB. He wanted to ensure that hunters followed the rules. He acknowledged that the board's audit recommendations were the division's responsibility.

Representative Carpenter asked if there was a requirement for individuals to self-report violations. Ms. Chambers answered in the negative, but the division encouraged self-reporting. She furthered that in most cases a responsible guide would call in a violation that happened in error.

MAJOR BERNARD CHASTAIN, DEPUTY DIRECTOR, ALASKA WILDLIFE TROOPERS, DEPARTMENT OF PUBLIC SAFETY (via teleconference), asked Representative Carpenter to repeat the question.

Representative Carpenter complied.

Mr. Chastain answered that AS 08.54.720 (a) (1) specifically addressed violations by a licensee. He read the statute:

- (1) person who is licensed under this chapter to knowingly fail to promptly report, unless a

reasonable means of communication is not reasonably available, to the Department of Public Safety, and in no event later than 20 days, a violation of a state or federal wildlife or game, guiding, or transportation services statute or regulation that the person reasonably believes was committed by a client or an employee of the person;

Mr. Chastain explained that the statute required the guides to report violations by a client or an employee, but they were not required to self-incriminate.

[9:40:19 AM](#)

Vice-Chair Ortiz referenced that the division was complaint driven and that DCCED was one of the most significantly cut agencies over recent years. He asked if the agency was having difficulty meeting its obligations due to cuts. Ms. Chambers answered that the division was fortunate and did not experience personnel cuts because it was self-funded. However, the division was growing, because professions and professionals wanted licensure, especially in healthcare. She shared that the division's staffing had not keep up with the growing volume and demand for licensure. The division had worked to make modest increases, but it was not keeping up. She found that maintaining the balance between keeping license fees reasonable and division costs down was challenging. She commented that the division had been working on potential solutions to reduce licensing fees for many years, including asking the public to share in the cost of licensure. Many licensing programs had very expensive appeals of board decisions. Some investigations cost in the hundreds of thousands of dollars; paid for by the licensees. She recalled that former Representative Sam Kito had introduced a bill the past year to try to mitigate the situation that was not acted on.

[9:43:30 AM](#)

Representative Knopp remembered that the legislature had consolidated all investigations into the Department of Public Safety (DPS). He asked if it took away from the department's timeliness in response to investigations. He did not recall the outcome. Ms. Chambers answered that the only recent consolidation attempt was the governor's current administrative order that consolidated all the

state's investigative services into DOL. The order would be analyzed in the coming year.

Co-Chair Wilson interjected that the boards could also choose to have its own investigator. She believed that would remain an option for boards since their fees paid for investigations. Ms. Chambers answered that the question required a nuanced answer. Investigation were under the statutory purview of the department. A few boards had their own investigator via statute. She concluded that it would "probably not" remain an option.

Co-Chair Wilson OPENED public testimony.

9:45:30 AM

VIRGIL UMPHENOUR, SELF, FAIRBANKS (via teleconference), supported maintaining the board. He shared that he was a master guide in North Pole and had been involved in the management process of the state's fish and game resources for over 30 years. He listed some of his involvement that included serving three terms on the Board of Fish. He shared that in the 1990s the board had expired, and the department had licensed some individuals with marginal qualifications. He indicated that after the board had resumed, the department became "overzealous and conducted many frivolous investigations." He declared that the department had violated the intent of how claims were investigated. He claimed that the department had denied guides from petitioning the board under the Administrative Procedures Act to clarify the intent of the regulations. He voiced that the board was the only defense the public, guides, and transporters had against overzealous investigators and managers in the department who did not understand what guides did for a living. He fully supported the board's extension.

9:48:11 AM

WAYNE KUBAT, SELF, WASILLA (via teleconference), spoke in support of the bill. He shared that he had been guiding since 1981. He voiced that the game board provided a valuable service to the public and industry. He felt that the negative testimony was misleading and proven inaccurate by DCCED. He believed that the board was doing a good job. He determined that the bill had strong support from a broad section of the public, the Department of Fish and Game

(DFG) and the Board of Game. He listed other entities' support for the board. He spoke to the board's responsible stewardship of Alaska's wildlife resources and maintaining the long-term viability of the guide industry. He supported extending the board to the full extent possible.

9:50:40 AM

MARK RICHARDS, EXECUTIVE DIRECTOR, RESIDENT HUNTERS OF ALASKA (via teleconference), spoke against the bill. He did not want the board extended for more than two years. He maintained that the board had received three-year extensions since 2005. He pointed to the board's debt, the continued high number of complaints, and the backlog of investigations that was included in every audit report. He read an extract from the 2018 audit report:

A review of the board investigative activity found 233 cases were open between July 2015 and May 2018 and 80 remained open as of May 2018. The audit reviewed 22 of 145 cases open for over 180 days between July 2015 and May 2018. Twenty of the 22 cases were found to have unjustified periods of inactivity ranging from two months to 18 months.

The prior recommendation to improve timeliness of investigations was not resolved and is reiterated as Recommendation 2.

Mr. Richards emphasized that the same recommendation was included in all the other audits since 2005. He maintained that the deficit was being resolved by turning to consent agreements for guides who committed violations rather than more costly administrative hearings. He claimed that he attended a board meeting via teleconference where the board approved 17 consent agreements resulting in minimal fines and probation for violations ranging from wanton waste of game, guide use area infractions, and herding grizzlies with snow machines. He noted one instance where a guide escorted 6 hunters without being certified and board members excused his behavior as forgetfulness. He stated that without repercussions the board had no incentive to change. He reiterated his request that the committee only support a two-year extension of the board. He wanted the board to prove that it could resolve its problems.

9:54:58 AM

Co-Chair Wilson CLOSED public testimony.

CSSB 43(FIN) was HEARD and HELD in committee for further consideration.

Co-Chair Wilson reported the bill would be heard the following morning.

^RECESSED to a CALL of the CHAIR

9:56:01 AM

#  
ADJOURNMENT

9:56:01 AM

The meeting was adjourned at 9:56 a.m.