

SENATE FINANCE COMMITTEE
March 29, 2019
9:02 a.m.

9:02:48 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Lyman Hoffman
Senator Peter Micciche
Senator Donny Olson
Senator Mike Shower
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit.

PRESENT VIA TELECONFERENCE

Sara Chambers, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Greg Francois, Chief Investigator, Division of Corporations, Business, and Professional Licensing; Henry Tiffany, Board President, Big Game Commercial Services Board; Major Bernard Chastain, Deputy Director, Alaska Wildlife Troopers; Robert Auth, Attorney, Department of Law.

SUMMARY

SB 43 EXTEND BIG GAME COMMERCIAL SERVICES BOARD

SB 43 was HEARD and HELD in committee for further consideration.

#sb43

SENATE BILL NO. 43

"An Act extending the termination date of the Big Game Commercial Services Board; and providing for an effective date."

9:03:46 AM

Co-Chair von Imhof reviewed the history of the bill in committee. She stated that it was not her intent to take amendments or move the bill in the current meeting. There were some concerns about the bill, so the meeting would be a discussion about how the board would keep "bad actors" out of the field. There would also be a focus on whether the board needs more authority to suspend licenses when needed or if changing the law would be useless due to constitutional "due process" concerns and property rights; and whether an interim report on the audit recommendations would be better than another full audit in less than six years. She reminded the committee that division staff, board member, and legislators could not comment on any issues currently being investigated or in an administrative hearing process, including appeals. She listed those available for questions. She wanted to understand how property rights interplayed with the rules. She announced that there were some preliminary questions.

9:07:12 AM

Co-Chair von Imhof asked Ms. Chambers to briefly recap the investigation process, and when and how the board could act.

9:07:34 AM

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT (via teleconference), gave an overview of the investigation process. The process is detailed in a letter from DCCED, dated March 10, 2019 (copy on file). She relayed that it was a wise use of state resources to allow criminal investigators and authorities to perform their work and once a criminal conviction had

occurred, bring it before the BGCSB. She said that the board had a list of "opportunities for someone to run afoul of criminal law" that triggered automatic responses from the board. She said that licenses could be revoked. She said the preference was that judges make the determination in matters of law impacting a licensee's ability to practice.

[9:12:13 AM](#)

Senator Wielechowski noted the recommendation made by the division to make changes in AS 08.54.605.

[9:12:35 AM](#)

Ms. Chambers informed the committee that a question had been asked of the division about whether there was an opportunity to increase the boards authority, and the division had made suggestions pertaining to the possible will of the committee to augment the authority of the board. She said that the board currently had the authority to prevent the receiving or renewal of a license, but there was nothing under the statute that automatically revoked a license. The board could pursue an administrative process to evaluate whether revocation was appropriate. She said that adding the word "hold" to statute could give board additional power but there could be constitutional repercussions.

[9:14:19 AM](#)

GREG FRANCOIS, CHIEF INVESTIGATOR, DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING (via teleconference), stated that he did not have a comment on the subject.

[9:14:37 AM](#)

Co-Chair Stedman requested further information on changes in 08.54.610. He thought that the change looked substantial. He wondered about the process used to target the changes in numeric for the "master guide" license.

[9:15:35 AM](#)

Co-Chair von Imhof thanked the panel for the availability in the meeting. She did not know the appropriate person to address the question.

[9:16:05 AM](#)

Ms. Chambers shared that the division recognized that the "master guide" title was honorary and was not notably different from a registered guide-outfitter license. She thought that the question could be better answered by the board chair.

[9:17:27 AM](#)

Co-Chair von Imhof asked Mr. Tiffany to expound on the difference between a "master guide" and "guide-outfitter", and how the master guide title could be given more "teeth" by elevating the number of years of required services.

[9:17:30 AM](#)

HENRY TIFFANY, BOARD PRESIDENT, BIG GAME COMMERCIAL SERVICES BOARD (via teleconference), replied that the title for the license of mater guide was an honorarium and did not entitle an individual to do more than a register guide could do. The difference was that they could call themselves a mater guide in advertising. He said that the title was meant to indicate that the guide had been in the field for a long period of time and had risen to the highest levels of standards and professionalism as possible. He believed that the numbers should be adjusted in statute to raise the standard of the master guide license.

[9:21:28 AM](#)

Senator Olson asked whether the board supported the changes.

[9:21:51 AM](#)

Mr. Tiffany replied that the changes had yet to be discussed and approved by the entire board. He believed that the board would support the proposed changes.

[9:22:55 AM](#)

Co-Chair von Imhof noted that that board would meet in the first week of April 2019, at which time the board would discuss the changes.

[9:23:03 AM](#)

Mr. Tiffany agreed.

[9:23:08 AM](#)

Co-Chair von Imhof requested a written summary of the board's findings based on the recommendations.

[9:23:18 AM](#)

Mr. Tiffany agreed to provide the information.

[9:23:24 AM](#)

Co-Chair von Imhof asked whether the information could be provided in a timely manner.

[9:23:29 AM](#)

Mr. Tiffany replied in the affirmative.

[9:23:37 AM](#)

Senator Wielechowski asked about investigation timelines mentioned in Recommendation 2 of the legislative audit of the board (copy on file). He mentioned the governor's Administrative Order 306, which consolidated investigators, and asked how the division's ability to conduct investigations would be impacted.

[9:24:10 AM](#)

Ms. Chambers replied that the process had only just begun for refining how the order would implement. She assured the committee that the division was looking into opportunities to streamline resources. Ultimately, the details of how the order would impact investigations was unknown.

[9:25:07 AM](#)

Co-Chair von Imhof noted that the consolidation of investigations would affect all state boards. She wondered

whether a mini audit could be conducted on the investigations portion of the board, 3 years into the 6-year sunset. She furthered that perhaps an "investigations audit" could be done for all state boards to determine how the order affected their ability to investigate claims.

[9:26:22 AM](#)

Senator Wielechowski expressed concern about the administrative order and supported the idea of an "investigations audit".

[9:27:02 AM](#)

Co-Chair von Imhof understood that licenses could be suspended if there was a clear and immediate danger to public health and safety. She wondered whether hunting out-of-season, or outside of a permitted hunting area, was considered an immediate danger.

[9:27:24 AM](#)

MAJOR BERNARD CHASTAIN, DEPUTY DIRECTOR, ALASKA WILDLIFE TROOPERS (via teleconference), replied that those infractions would not be considered for the immediate revocation or suspension of a license.

[9:27:54 AM](#)

Co-Chair von Imhof understood that those examples did not pose enough of a public safety issue to warrant further review.

[9:28:08 AM](#)

Mr. Chastain replied that he worked on the criminal side of things and did not deal with license suspension or revocation. He said that once the criminal investigation was complete it was forwarded to the board for discussion. He said that typically a hunting violation of that nature would not constitute an immediate suspension.

[9:28:40 AM](#)

Senator Olson asked whether there had been incidence of immediate revocation or suspension in the past.

[9:29:02 AM](#)

Mr. Chastain responded that the licensing authority did not fall within his department.

[9:29:20 AM](#)

Senator Olson argued that the Alaska Wildlife Troopers played a significant role in whether a person had a license revoked or suspended.

[9:29:29 AM](#)

Mr. Chastain clarified that the troopers were involved as the criminal case worked through the court system. He said that once the criminal case was concluded, the report was given to the investigator for the board. Troopers would give information about the seriousness of the violation and any judges recommendations. He related that the decision to revoke or suspend a license fell to the board and the division.

[9:30:54 AM](#)

Co-Chair von Imhof reiterated her question and wondered whether the issue warranted further discussion by the committee.

[9:31:36 AM](#)

Mr. Francois did not believe that hunting outside of a designated hunting area, or outside of a game management unit, was a public safety concern. He felt it was a boundary violation and would be charged appropriately under statute.

[9:32:08 AM](#)

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, spoke on the idea of an audit on the investigative process for state board violations. She recommended making sure that there was ample time after implementation to determine any positive returns.

[9:33:20 AM](#)

Co-Chair von Imhof understood that legislative audit would need the process to exist for enough time that there would be data to analyze.

[9:33:30 AM](#)

Ms. Curtis replied in the affirmative.

[9:33:38 AM](#)

Co-Chair Stedman wondered whether it would be feasible to shorten the extension for 6-years to 5-years.

[9:33:50 AM](#)

Ms. Curtis relayed that if the question was whether the consolidation of the investigative staff should impact the extension of the board was a policy call. She said that the issue the division had with the board's investigations was that there was no documentation to use to determine any efficiency of practice. She said that there were long spans of time where nothing had been happening. She did not encourage making a change in the sunset date based on the consolidation. She noted that the board faced challenges that made investigations take longer; how the consolidation impacted all occupational boards was a different question and could be a topic for a special audit.

[9:35:18 AM](#)

Co-Chair von Imhof thought the issue should be discussed at the next Legislative Budget and Audit Committee meeting. She asked about whether a permit registered to a guide was considered a piece of property that could be revoked.

[9:37:07 AM](#)

ROBERT AUTH, ATTORNEY, DEPARTMENT OF LAW (via teleconference), replied that it was found that all licenses were considered property of the holder of the license and could not be taken away without due process. He said that circumstances were limited under which a license could be taken or suspended, prior to providing notice and a hearing. He said that a license could be immediately suspended if the owner represented a clear danger to public health and safety; statute required a hearing within 7 days of the suspension.

9:38:46 AM

Co-Chair von Imhof asked whether Mr. Auth had reviewed the proposed changes and if he found them permissible under due process.

9:39:05 AM

Mr. Auth replied in the affirmative. He thought that it would depend on when in the process the revocation or suspension took place; immediately, without notice of a hearing, or after a hearing had been noticed.

9:40:26 AM

Co-Chair von Imhof thought that it would be helpful for the committee to know whether the proposed changes were legal. She asked whether Mr. Auth thought it would be appropriate for his department to review the suggested changes and provide an opinion.

9:40:40 AM

Mr. Auth replied in the affirmative. He stated that he would be meeting with the board to discuss the issue and other matters.

Co-Chair von Imhof discussed housekeeping.

SB 43 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

9:41:47 AM

The meeting was adjourned at 9:41 a.m.