

SCR

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A M E N D M E N T

Offered in the SENATE

*Coghill*  
By Sturgulewski

TO: CSSB 294 (Resources)

Page 12, line 5, after "camp" insert:

"or being present in the field for the purpose of providing  
meatpacking services for a big game animal only after the animal has  
been killed"

Hein  
3/17/86

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 294 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guiding; and providing for an  
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* [REDACTED] AS 08.01.010(14) is amended to read:

10 (14) Guide [LICENSING AND CONTROL] Board (AS 08.54.010);

11 \* [REDACTED] AS 08.03.010(c)(20) is amended to read:

12 (20) Guide [LICENSING AND CONTROL] Board (AS 08.54.010 -  
13 June 30, 1990 [1986]).

14 \* [REDACTED] AS 08.54.010 is amended to read:

15 ARTICLE 1. GUIDE [LICENSING AND CONTROL] BOARD.

16 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the  
17 purposes of licensing and regulating the activities of guides in the  
18 interest of the state's wildlife resources there [THERE] is created  
19 the Guide [LICENSING AND CONTROL] Board consisting of seven members.  
20 No more than three members of the board shall have a guide license.  
21 The other members must [SHALL] have a general knowledge of the game  
22 resources of the state. A minimum of 10 years residence in the state  
23 is required for all members of the board. For administrative pur-  
24 poses, the board is in the Department of Commerce and Economic Devel-  
25 opment.

26 \* [REDACTED] AS 08.54.020 is amended to read:

27 Sec. 08.54.020. APPOINTMENT AND TERM OF OFFICE. The members of  
28 the board shall be appointed by the governor and confirmed by the  
29 legislature for staggered terms of three years or until their

*Handwritten notes:*  
Department  
must not

1 successors are appointed. [INITIAL TERMS ARE AS FOLLOWS: THREE  
2 MEMBERS FOR ONE YEAR, TWO MEMBERS FOR TWO YEARS, AND TWO MEMBERS FOR  
3 THREE YEARS.] A member may be removed at the pleasure of the gover-  
4 nor.

5 [REDACTED] AS 08.54 is amended by adding a new section to read:

6 Sec. 08.54.035. QUORUM; VOTING REQUIREMENT. Four members of the  
7 board constitute a quorum for the transaction of business, for the  
8 performance of a duty, and for the exercise of any power under this  
9 chapter. The board may not adopt a regulation, revoke, suspend, or  
10 deny renewal of a license, or assign, modify, or revoke a restricted  
11 guide area unless the action is approved by a vote of a majority of  
12 the full membership of the board.

13 \* [REDACTED]. AS 08.54.040(a) is amended to read:

14 (a) Except as provided in AS 08.54.045, the board shall

15 (1) prepare, grade and administer examinations, which may  
16 include oral examinations of applicants who demonstrate limited abil-  
17 ity to read or write the English language;

18 (2) determine [AND PASS ON] qualifications of applicants  
19 for licenses and authorize the issuance of licenses to those who  
20 qualify;

21 (3) establish guide performance standards and regulate  
22 activity;

23 (4) compile, maintain and publish an annual [A GUIDE]  
24 register of master and registered guides who have not been convicted  
25 of a violation of a federal or state sport fish, game, or guiding  
26 statute or regulation; a guide listed in the register whose license is  
27 revoked or suspended shall be removed from the register while the  
28 guide's license is revoked or suspended;

29 (5) collect and maintain records of hunts conducted by

*Went*

1 guides [COMPILE, MAINTAIN AND PUBLISH A RECORD OF REGISTERED OR MASTER  
2 GUIDES WHO HAVE COMPLETED A CONTRACT HUNT IN ANY OF THREE YEARS IMME-  
3 DIATELY PRECEDING THE PUBLISHING OF THE RECORD];

4 (6) prohibit guiding activities which are unsportsmanlike,  
5 unethical, unsafe, against principles of conservation, degrading to  
6 the guiding profession, or which adversely affect the natural re-  
7 sources;

8 (7) after a hearing, revoke, suspend or deny renewal of a  
9 license in accordance with AS 08.54.200;

10 (8) establish a quota of licensed operating guides who may  
11 operate within designated geographical game units or subunits of the  
12 state and provide for an equitable, [AND] reasonable, and consistent  
13 procedure for limiting the number of guides to that quota; preference  
14 shall be given to qualified available and willing licensed guides who  
15 reside within the designated game unit or subunit;

16 (9) meet at least twice annually, once in Anchorage and  
17 once in another municipality.

18 ~~AS 08.54.045~~ AS 08.54.045 is repealed and reenacted to read:

19 Sec. 08.54.045. SPECIAL GUIDE LICENSE. The board may issue a  
20 special guide license to a person who applies to conduct a guided hunt  
21 for a specific species of marine mammal in a specifically designated  
22 area if the applicant

23 (1) is 21 years of age or older;

24 (2) has, for at least 10 years, resided and hunted in the  
25 area of the state in which the applicant is to guide;

26 (3) is physically able to perform the duties of a special  
27 guide;

28 (4) has demonstrated knowledge of the following areas to an  
29 extent and degree satisfactory to the board.

- 1 (A) fish and game laws and regulations;  
2 (B) relevant characteristics of the specific species  
3 to be hunted;  
4 (C) field preparation of trophies;  
5 (D) care of game meat;  
6 (E) use of guiding gear;  
7 (F) firearm safety;  
8 (G) practical first aid;  
9 (H) booking and contracting hunts;

10 (5) has not been convicted of a game or guiding law viola-  
11 tion during the previous five years.

12 \* [REDACTED] AS 08.54.110 is amended to read:

13 Sec. 08.54.110. QUALIFICATIONS FOR REGISTERED GUIDE LICENSE. A  
14 person is entitled to be licensed as a registered guide if the person

15 (1) is 21 years of age or older [MORE];

16 (2) [Repealed

17 (3)] has practical field experience in the handling of  
18 firearms, hunting, judging trophies, field preparation of trophies,  
19 first aid and photography;

20 (3) [(4)] is familiar with the terrain and transportation  
21 problems in the district for which the license is requested;

22 (4) [(5)] has passed the qualification examination prepared  
23 and administered by the board;

24 (5) [(6)] has demonstrated to the board sufficient stan-  
25 dards of competence and ethical conduct and has not been convicted of  
26 a crime involving moral turpitude;

27 (6) [(7)] has legally hunted in the state for all or part  
28 of each of five years in a manner directly contributing to the per-  
29 son's experience and competency as a guide;

1           (7) [(8)] has been licensed as and performed the services  
2 of an assistant guide in the state for a part of each of three years,  
3 or has guided in the state for a part of each of three years under a  
4 special guide license issued under AS 08.54.045;

5           (8) [(9)] submits a written recommendation to the board  
6 from a registered guide for whom the applicant has worked; however,  
7 the requirements of this paragraph do not apply to a person who has  
8 guided under a special guide license for three years;

9           (9) [(10)] is capable of performing the physical duties  
10 associated with guiding activities;

11           (10) [(11)] has been favorably recommended in writing by two  
12 hunters that the person has guided or assisted in guiding during each  
13 year of the person's three years as an assistant guide, whose recom-  
14 mendations have been solicited by the board from a list provided by  
15 the applicant [;

16           (12) MEETS ADDITIONAL QUALIFICATIONS WHICH THE BOARD MAY  
17 REQUIRE].

18 \* [REDACTED] AS 08.54 is amended by adding a new section to read:

19           Sec. 08.54.141. PRIVILEGES AND LIMITATIONS OF ASSISTANT GUIDE  
20 LICENSE. An assistant guide

21           (1) may not contract for guided hunts; and

22           (2) shall be employed and supervised by a registered or  
23 master guide at all times while the assistant guide is in the field on  
24 guided hunts.

25 \* [REDACTED] AS 08.54.170 is amended to read:

26           Sec. 08.54.170. LICENSE FEES. (a) The Department of Commerce  
27 and Economic Development shall set license fees under AS 08.01.065 for  
28 each of the following:

29           (1) master guide;

- (2) registered guide;
- (3) class A assistant guide;
- (4) assistant guide;
- (5) special guide [TRANSPORTER].

(b) The license fee for a master guide, registered guide, special guide, class-A assistant guide, or assistant guide license is in addition to the fee required for a hunting or fishing license.

\* [REDACTED] AS 08.54 is amended by adding a new section to read:

Sec. 08.54.186. REGISTERED GUIDE EXAMINATION. The board shall administer the qualification examination required under AS 08.54.110 at least twice a year. An examination may not be given within 90 days after the previous exam. At least once every other year the board shall give the examination at a location other than Anchorage.

\* [REDACTED] AS 08.54.190 is amended by adding a new subsection to read:

(d) A master guide, registered guide, special guide, class-A assistant guide, or assistant guide license expires biennially, on a date set by the Department of Commerce and Economic Development.

\* [REDACTED] AS 08.54 is amended by adding a new section to read:

Sec. 08.54.195. GUIDE AREAS. (a) Under AS 08.54.040(a)(8), the board may establish and assign guide areas for master guides or registered guides. The board shall adopt regulations under the Administrative Procedure Act (AS 44.62) that establish uniform and consistent criteria, including a point system, to be used by the board when it creates and assigns a restrictive guide area.

(b) The board shall consider the following factors before it assigns a restrictive guide area:

- (1) the extent to which the guide who has applied for the area has used the game management unit in which the area is located;
- (2) the extent to which the guide occupied and invested in

1 the area;

2 (3) the effect on other guides that would result from  
3 creation of the area;

4 (4) big game populations in the area;

5 (5) the land ownership status of the area; and

6 (6) other relevant facts or circumstances.

7 (c) The board may adopt regulations establishing a schedule of  
8 fees to be charged to persons to whom the board transfers restrictive  
9 guide areas.

10 (d) The board shall transfer a restrictive guide area to a  
11 person qualified for assignment who has been recommended by the guide  
12 to whom the area was assigned, or by a person on behalf of the guide,  
13 if the recommendation is made

14 (1) after five years have elapsed from the date of the  
15 assignment of the guide area; or

16 (2) during the first five years after the date of assign-  
17 ment and the guide has died or suffered a major disability, as defined  
18 by the board.

19 **[REDACTED]** AS 08.54.200(a) is repealed and reenacted to read:

20 (a) The board shall hold a hearing to determine whether disci-  
21 plinary action is necessary if (1) complaints concerning a licensee's  
22 guiding activities are filed with the board by three or more of the  
23 licensee's clients from separate parties; (2) a complaint concerning a  
24 guide's conduct during a life-threatening situation is filed with the  
25 board; or (3) a licensee has been convicted of a violation of a state  
26 hunting or guiding statute or regulation. The board may hold a hear-  
27 ing to determine whether disciplinary action is necessary if a com-  
28 plaint concerning a licensee's guiding activities is filed with the  
29 board by a client of the licensee.

*Chairman of Board  
Risk would  
like back to state*

\* [REDACTED] AS 08.54.200(b) is amended to read:

(b) After a hearing, the board may revoke, suspend, or deny renewal of a license if the board finds that the licensee

(1) engaged in unethical activity, unsafe activity, or activity that [WHICH] adversely affects the natural resources of the state when the [SUCH] activity is related [UNRELATED] to the [LEGAL AND LEGITIMATE] purposes of the contract hunt; or

(2) violated a provision of a federal or state sport fish, game, or guide statute or regulation.

\* [REDACTED] AS 08.54.200(c) is amended to read:

(c) After a hearing, the board shall revoke a license if the board finds that the licensee

(1) does not meet the qualifications specified by statute or regulation for the class of license held;

(2) is incompetent as a master guide, registered guide, special guide, class-A assistant guide, or assistant guide;

(3) during the five years immediately preceding the hearing has been convicted of a violation [TWO VIOLATIONS] of a federal or state statute or regulation prohibiting

(A) waste of a wild food animal;

(B) hunting on the same day airborne; or

(C) hunting during a closed hunting season; or

(4) during the five years immediately preceding the hearing, has been convicted of two violations of a state statute or regulation prohibiting hunting in

(A) a restricted area not assigned to the licensee and without proper written permission; or

(B) an area closed by the board [SPORT FISH, GAME OR

GUIDE STATUTES OR REGULATIONS].

1 [REDACTED] AS 08.54.200(d) is repealed and reenacted to read:

2 (d) A person who is disciplined under this section may not  
3 engage in a guiding activity during the period of license revocation  
4 or disciplinary action. A person licensed under this chapter may not  
5 knowingly hire as a guide a person whose guide license is suspended or  
6 revoked under this section. A guide whose license is suspended or  
7 revoked may not guide in the employ of a person licensed under this  
8 chapter.

9 [REDACTED] AS 08.54.200 is amended by adding new subsections to read:

10 (f) If certified copies of two judgments of conviction of a  
11 guide for offenses described under (c)(3) of this section are filed  
12 with the board, the board shall immediately suspend the guide's li-  
13 cense. The suspension may be ordered even if the conviction resulted  
14 from a plea of nolo contendere or if the conviction is under appeal.  
15 The order remains in effect until after the final disposition of the  
16 disciplinary proceeding under this section.

17 (g) A certified copy of a judgment of conviction of a guide for  
18 an offense is conclusive evidence of the commission of that offense in  
19 a disciplinary proceeding instituted against the guide or outfitter  
20 under this section based on that conviction.

21 (h) In this section "two violations of a state statute or regu-  
22 lation" means two violations of a single statute or a single regu-  
23 lation, or violations of two statutes or two regulations, or one  
24 violation of a statute and one violation of a regulation.

25 [REDACTED] AS 08.54.210 is amended to read:

26 Sec. 08.54.210. UNLAWFUL ACTS. (a) It is unlawful for

27 (1) a master guide, registered guide, special guide,  
28 class-A assistant guide, or assistant guide [OR TRANSPORTER] to fail  
29 to timely report to the Department of Public Safety, division of fish

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1 and wildlife protection, and in no event later than 30 days, a viola-  
2 tion [VIOLATIONS BY A CLIENT] of a state fish, game, or guiding stat-  
3 ute or regulation that the guide reasonably believes was committed by  
4 a client or an employee of the guide;

5 (2) a master guide, registered guide, special guide,  
6 class-A assistant guide, or assistant guide [OR TRANSPORTER] to aid  
7 the commission of a violation of this chapter or of AS 16.05 or a  
8 regulation adopted [PROMULGATED] under either chapter, or permit the  
9 commission of a violation in the guide's [OR TRANSPORTER'S] sight  
10 without attempting to prevent it, short of using force, and without  
11 reporting it;

12 (3) a person to guide [OR TRANSPORT] as defined in this  
13 chapter without being licensed under this chapter and without having  
14 the license in actual possession; [HOWEVER, FOR PURPOSES OF TRANSPORT-  
15 ING BY AIR, IN THE CASE OF A CORPORATION, COMPANY, PARTNERSHIP OR  
16 OTHER BUSINESS ENTITY, THE LICENSE MAY REMAIN AT THE PRINCIPAL PLACE  
17 OF BUSINESS OF THE BUSINESS ENTITY;]


18 (4) a person to imply by advertisement, representation, or  
19 conduct, or to provide services as [ADVERTISE AS OR REPRESENT TO BE] a  
20 licensed master guide, registered guide, special guide, class-A assis-  
21 tant guide, or assistant guide [OR TRANSPORTER] without being current-  
22 ly licensed [, OR TO FALSELY ADVERTISE SERVICES];

23 (5) a person to act as a registered or master guide as  
24 defined in this chapter without having a current valid resident hunt-  
25 ing [AND FISHING] license [IN THE PERSON'S POSSESSION.

26 (6) A MASTER OR REGISTERED GUIDE TO EMPLOY OR SUPERVISE  
27 MORE THAN THREE ASSISTANT GUIDES AT THE SAME TIME.

28 (7) A PERSON TO GUIDE AS DEFINED IN THIS CHAPTER WITHOUT  
29 PAYING A FEE AS PRESCRIBED IN AS 16.05.340(e)].

1 (b) A person who violates (a)(1) - (4) [(6)] of this section is  
2 guilty of a misdemeanor and upon conviction is punishable by a fine of  
3 not more than \$1,000 or by imprisonment for not more than one year, or  
4 by both, and the person's license may be revoked for a period up to  
5 five years. However, a person who engages in guiding [OR TRANSPORT-  
6 ING] activity during the period for which the person's license is  
7 suspended or revoked under this chapter, or who violates (a)(5) of  
8 this section, is guilty of a felony punishable, upon conviction, by a  
9 fine of not more than \$5,000 and by imprisonment for not less than one  
10 year nor more than three years. In addition to punishment for a  
11 felony, all guns, fishing tackle, boats, aircraft, automobiles or  
12 other vehicles, camping gear and other equipment and paraphernalia  
13 used in, or in aid of, guiding [OR TRANSPORTING] activity engaged in  
14 during the period of suspension or revocation shall be seized [CON-  
15 FISCATED] by persons authorized to enforce this chapter. [A PERSON  
16 WHO VIOLATES (a)(7) OF THIS SECTION, UPON CONVICTION, IS SUBJECT TO  
17 THE SAME LICENSE REVOCATION PROVISION AS FOR A VIOLATION OF (a)(1) -  
18 (6) OF THIS SECTION AND, IN ADDITION, IS PUNISHABLE BY A FINE OF NOT  
19 MORE THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY  
20 BOTH.]

21 . AS 08.54.240 is amended to read:

22 Sec. 08.54.240. DEFINITIONS. In this chapter

23 (1) "board" means the Guide [LICENSING AND CONTROL] Board;

24 (2) "guide" [, "GUIDES"] or "guiding" means (A) being  
25 physically present in the field to provide a service related to a hunt  
26 for compensation or with the intent or an agreement to receive  
27 compensation for the service; or (B) assisting another person directly  
28 or through an assistant, to locate or take, or attempt to locate or  
29 take, big game for compensation or with the intent or an agreement to

1 receive compensation for the assistance; "guide" or "guiding" does not  
 2 include the services of [licensed commercial carriers] who limit their  
 3 services solely to transportation and who do not remain in the field;  
 4 in this paragraph, "present in the field" does not include being  
 5 present at a lodge or camp [ASSISTING ANOTHER PERSON TO TAKE GAME WITH  
 6 THE INTENT OF RECEIVING MONETARY OR MATERIAL REMUNERATION FOR THE  
 7 SERVICES, BY ACCOMPANYING AND DIRECTING THAT PERSON PERSONALLY OR  
 8 THROUGH A LICENSED ASSISTANT GUIDE FOR THE DURATION OF A HUNT, AND NOT  
 9 SOLELY FOR THE PURPOSE OF PROVIDING TRANSPORTATION SERVICES];

10 (3) "resident" has the meaning given in AS 16.05.940 [MEANS  
 11 A PERSON WHO

12 (A) MAINTAINS A PLACE OF RESIDENCE WITHIN THE STATE;

13 (B) REPEALED

14 (C) SHOWS BY ALL ATTENDING CIRCUMSTANCES THE INTENTION  
 15 TO PERMANENTLY RESIDE IN THIS STATE];

16 (4) ["TRANSPORTING" OR THE "ACTIVITY OF TRANSPORTING" MEANS  
 17 CONVEYING A PERSON BY ANY LAWFUL MEANS TO AN AREA FOR REMUNERATION OR  
 18 MATERIAL BENEFIT IN EXCESS OF NORMAL OPERATING COSTS, WHEN THE PRIMARY  
 19 PURPOSE OF THE PERSON BEING CONVEYED IS THE TAKING OF BIG GAME AND THE  
 20 ASSOCIATED REMOVING OF BIG GAME MEAT AND PARTS OF BIG GAME AFTER BIG  
 21 GAME HAS BEEN TAKEN; BIG GAME AS USED IN THIS PARAGRAPH MEANS GAME  
 22 WHICH, IF TAKEN BY A NONRESIDENT, WOULD REQUIRE A BIG GAME TAG;

23 (5)] "unethical activity" means

24 (A) deception or misrepresentation [IN ANY DEGREE]  
 25 involving prospective or actual clients either before, during, or  
 26 following a contract hunt, including misrepresentation through  
 27 private or public advertising of the type, duration, cost or  
 28 conditions of the contract hunt [HUNTS];

29 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE

1 COMMUNICATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE,  
2 DURATION, COST, OR OTHER CONDITIONS OF CONTRACT HUNTS;

3 (C)] making a guaranty that a species or certain  
4 number of species of game will be taken on a contract hunt;

5 (C) engaging in unsafe or unsportsmanlike activities  
6 that are detrimental to the game resources of the state, as  
7 defined by regulations of the board, including violations of  
8 state or federal hunting or guiding laws or regulations; or

9 (D) accepting a deposit for guiding services before  
10 signing a contract to provide the services;

11 (5) "big game" means brown bear, grizzly bear, polar bear,  
12 caribou, moose, black bear, bison, Sitka blacktail deer, elk, mountain  
13 goat, musk-ox, wolf, wolverine, mountain or Dall sheep, and walrus.

14 \* [REDACTED] AS 16.05.407(a) is amended to read:

15 (a) It is unlawful for a nonresident to hunt, pursue or take  
16 brown bear, grizzly bear, polar bear, or sheep in this state, unless  
17 personally accompanied by

18 (1) a person who is licensed as a master guide, registered  
19 guide, class-A assistant guide or assistant guide by the Guide [LI-  
20 CENSING AND CONTROL] Board; or

21 (2) a resident over 19 years of age who is

22 (A) the spouse of the nonresident; or

23 (B) is related to the nonresident, within and includ-  
24 ing the second degree of kindred, by marriage or blood.

25 \* [REDACTED] AS 16.05.407(b) is amended to read:

26 (b) An applicant for a nonresident big game tag for the taking  
27 of an animal specified in (a) of this section or in regulations adopt-  
28 ed under this section shall first furnish to the state, on a form  
29 provided by the state, an affidavit showing that the applicant will be

1 personally accompanied while hunting by a person who is qualified  
2 under the terms of (a) of this section. A person who falsifies the  
3 required affidavit is guilty of perjury under AS 11.56.200.

4 \* [REDACTED] AS 16.05.407(d) is amended to read:

5 (d) A nonresident who violates (a) [OR (c)] of this section, or  
6 who fails to furnish an affidavit under (b) of this section, is guilty  
7 of a misdemeanor and upon conviction is punishable by imprisonment for  
8 not more than one year, or by a fine of not more than \$5,000, or by  
9 both.

10 \* [REDACTED] AS 39.50.200(b) is amended by adding a new paragraph to  
11 read:

12 (48) the Guide Board.

13 [REDACTED] AS 08.54.040(b), 08.54.142 - 08.54.146, 08.54.185; AS 16.-  
14 05.340(e) and 16.05.407(c) are repealed.

15 \* [REDACTED] This Act takes effect July 1, 1986.

Introduced: 4/10/85  
Referred: Resources

*appeared before committee*

1 IN THE SENATE

BY FAIKS

2

SENATE CONCURRENT RESOLUTION NO. 18

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to the Guide Licensing and

6

Control Board.

7

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8

WHEREAS the Guide Licensing and Control Board governs a system that

9

controls entry into the big game guiding industry in the state and assigns

10

exclusive guiding areas throughout the state; and

11

WHEREAS three of the board's seats are occupied by licensed guides and

12

many of the remaining seats often have been occupied by former guides or

13

others having a direct personal interest in the industry; and

14

WHEREAS unless the board adopts objective criteria and complies

15

strictly with the criteria when issuing licenses and assigning exclusive

16

guide areas, the public may perceive that the board's decisions are based

17

on self-interest rather than the public interest, and this perception would

18

erode public confidence in state government;

19

BE IT RESOLVED by the Alaska State Legislature that the Guide Licens-

20

ing and Control Board is requested to adopt regulations relating to the

21

following:

22

(1) publication of notice of board meetings and the procedures

23

the board follows at its meetings;

24

(2) establishment of a maximum number of guides who can be

25

licensed for a particular area;

26

(3) objective and detailed criteria for the issuance and reas-

27

signment of guide area permits;

28

(4) guidelines for placing conditions on the issuance or reas-

29

signment of guide area permits;

1           (5) other matters in which the public may perceive an appearance  
2 of impropriety or conflict of interest by board members; and be it

3           FURTHER RESOLVED by the Alaska State Legislature that the Guide Li-  
4 censing and Control Board is requested to comply strictly with and document  
5 its deliberations on regulations adopted in accordance with this resolu-  
6 tion.

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
GUIDE LICENSING AND CONTROL BOARD

November 21, 1985

Audit Control Number

08-1253-86-R

Commissioner, Department of  
Commerce and Economic Development

Loren H. Lounsbury

Deputy Commissioners, Department of  
Commerce and Economic Development

Terry Elder  
Greg Baker

Members of the  
Guide Licensing and Control Board

Chairman  
Member  
Member  
Member  
Member  
Member  
Member

Ray McNutt  
Edward J. Shavings, Sr.  
Douglas Pope  
Charles Weir  
Poldine Carlo  
Ralph G. Fenner  
James Harrower

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

**THE LEGISLATURE**  
BUDGET AND AUDIT COMMITTEE

November 22, 1985

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the  
Alaska Statutes (sunset legislation), the attached report is  
submitted for your review.

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
GUIDE LICENSING AND CONTROL BOARD

November 21, 1985

Audit Control Number

08-1253-86-R



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

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## PURPOSE AND SCOPE OF THE REPORT

### Purpose

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Guide Licensing and Control Board for the past four fiscal years. Our examination was conducted to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Guide Licensing and Control Board should be reestablished. The law now specifies that the Board will terminate June 30, 1986 and will have one year from that date to conclude its affairs.

### Scope

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Interviews with the license examiners.
3. Tests of files and documents of licensees.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General Opinions applicable to professional boards.

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## ORGANIZATION AND FUNCTION

The Guide Licensing and Control Board was established by the 1973 Legislature and succeeded the Board of Fish and Game, Department of Fish and Game, which previously had regulated the guiding industry. The seven member Board is appointed by the Governor with confirmation by the Legislature and is restricted to having no more than three members as licensed guides. Board members serve staggered terms of three years or until their successors are appointed.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing. The Division assists the Board in the performance of their duties by providing administrative, licensure, and investigative support.

By law, a nonresident may not hunt, pursue, or take brown bear, grizzly bear, polar bear, or sheep in Alaska unless personally accompanied by a licensed master, registered, or assistant guide. Nonresidents hunting with an Alaskan relative are exempt from this requirement. The Guide Licensing and Control Board was appointed in part to protect these nonresident hunters from incompetent individuals holding themselves out to be qualified Alaskan guides.

The function of the Board is primarily regulatory, mandated by AS 08.54.040. Accordingly, the Board has the capacity to administer examinations, determine qualifications of guides, establish performance standards and regulate activities, maintain guide registers, prohibit harmful guiding activities, conduct hearings regarding licensure, and establish quotas of guides for specified geographical areas (exclusive guiding areas). The Board, through the assignment of exclusive guiding areas, limits hunting pressure by guides within a specific geographical area.

In addition, the Board licenses "transporters"; a licensed "transporter" is a person who transports hunters for hire.

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## REPORT CONCLUSION

### Policy Issues

This report contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this report but require legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendations presented in this report so the potential impact of policy changes can be evaluated.

### Report Conclusion

In our opinion, the Guide Licensing and Control Board should be reestablished. The regulation and licensing of qualified guides is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum qualification and experience requirements that provide reasonable assurance that persons licensed are both capable of safely conducting guided hunts and familiar with their prospective guiding areas. Assurance that those licensed act in a competent manner is also provided by active investigation of complaints and revocation or suspension of licenses where appropriate.

However, the following findings describe areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the efficiency and effectiveness of the Board.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Guide Licensing and Control Board (GLCB) should develop a prioritized set of criteria to use in assigning both exclusive and joint-use guiding areas (EGAs).

Alaska Statute 08.54.040(a)(8) allows GLCB to:

Establish a quota of licensed operating guides who may operate within designated geographical units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified available guides who reside within the designated game unit or subunit.

GLCB has implemented this provision through the establishment of both exclusive and joint-use guide areas (EGAs), which limit the number of guides who can conduct hunts in various regions of the State. The GLCB's authority to assign EGAs is supported by an April 1977 Attorney General memorandum which determined that GLCB's regulations and activities implementing exclusive guiding areas were within their statutory powers.

This limitation on the practice of guiding ostensibly provides public benefits by providing for better game management, promotion and enforcement of ethical guiding practices; maintaining the "wilderness" aspect of big game hunting experience by separating guided hunting parties; and allows for the separation of non-compatible forms of hunting. The limits are also designed to provide for a greater degree of safety to the guided hunter by allowing guides to become familiar with the terrain and seasonal weather conditions of their assigned area.

GLCB does not act consistently when considering the assignment of exclusive and joint-use guiding areas. The criteria on which any given area assignment decision is made varies from decision to decision. Additionally, GLCB often does not adequately document the basis on which they make their assignments. We found inconsistencies and contradictions in the way that GLCB applied the following criteria when awarding EGAs:

1. Game Management Information - GLCB does not consistently review game management information in their area assignment decisions. What game information they do consider usually is second hand and anecdotal, provided by applicants or current users (see Recommendation No. 2).

2. Demonstration of Experience - When applying for an EGA, applicants must demonstrate that they have had guiding experience in the applicable game unit. Guides demonstrate their experience through the submittal to GLCB of a Statement of Financial Remuneration (SFR) for each guided hunt. SFRs list the names of hunters, guides assisting in the hunt, game units hunted, and the type of game taken.

Under the Board's regulations, SFRs are the primary evidence of a guide's activity and familiarity with the game unit involved. However, we found instances where the Board awarded EGAs to guides with no SFRs in the appropriate game unit, while denying other EGA applicants because they had no SFRs on file demonstrating their experience or activity.

3. Transfers of guiding areas - GLCB has been essentially approving transfers of guiding areas with little or no consideration of any other criteria such as game management, objections of joint users, or experience of the guide receiving the transferred area (see Recommendation No. 3).

This inconsistency on the part of GLCB in its decision-making, along with the lack of proper documentation of its rationale, ultimately results in a loss of effective control over the activities and policy of the guiding industry.

During the past four years, hearing officers have repeatedly found Board decisions to be arbitrary and capricious with little or no support. In effect, the Board has abdicated much of its control over area assignments through its inconsistent application of criteria. Hearing officer decisions are beginning to effectively replace GLCB in setting quotas for guides. Essentially, GLCB has not fully met its statutory responsibility to adopt an equitable and reasonable procedure for the assignment of guide areas.

We believe GLCB's responsibility would be better met by identifying pertinent criteria to be used in area assignment decisions, assigning some priorities to those criteria, and applying them consistently.

#### Recommendation No. 2

GLCB should improve methods of obtaining game management information from independent sources, such as the Alaska Department of Fish and Game (ADFG).

One of the primary justifications for the whole concept of EGAs is to enhance overall management of the public's game resources. Guides are awarded exclusive or joint-use areas so that they have a long-term interest in managing the game

in their EGA. GLCB has adopted regulations [12 AAC 38.053(d) (1)] that require it to consider an area's ability "... to sustain an additional guided hunting operation, in terms of game populations, terrain, methods of hunting, and use by other guides and hunters."

As stated in Recommendation No. 1, we found that GLCB rarely considers independent information regarding game populations and management concerns when assigning EGAs. GLCB relies on information provided by applicants and guides operating in the region under consideration. Certainly, the assessment of an active registered guide is important and should be considered. However, whether coming from an applicant or current user, it must be recognized that the guide has a vested interest in how the information is presented and interpreted.

Oftentimes, information presented to the Board is conflicting, depending on the desire of the guide. New applicants for areas claim game is plentiful, and the area is under-utilized. Current users, on the other hand, emphasize game scarcity and hunting pressures.

If GLCB established better, more formal communications with ADFG they would better meet their regulatory and statutory obligation to enhance the management of the State's game resources. ADFG information may be no better than that of guides; however, it is more independent and more objectively developed. ADFG is charged with management of the State's game resources, and guided, non-resident hunters take up to an estimated 40% of the game in the State. We believe GLCB should attempt to improve communications and coordination with ADFG while taking steps to include their assessment of game populations and hunting pressures when considering assignment of EGAs.

### Recommendation No. 3

GLCB should take more responsibility for area assignments by repealing regulations that allow a guide to designate to whom his EGA be reassigned.

Registered and master guides may each have a maximum of three EGAs. Typically, when a guide wishes to retire or perhaps become eligible for another, different EGA, he is allowed to turn back an existing EGA to the Board and designate the recipient of this reassignment. GLCB regulations currently allow, but do not necessarily require, this practice.

We found that these designated transfers override all other area assignment criteria. Essentially, GLCB has been automatically approving transfers of EGAs regardless of game management considerations, demonstration of experience

in the area by the transferee, and over the objections of affected joint users. Whereas GLCB evaluates, albeit inconsistently, regular area assignments, our review indicated they gave transfers much less scrutiny.

We believe that this lack of scrutiny encourages the practice of guides selling their EGAs to other guides in violation of GLCB regulations. With the Board giving little review to transfers, they greatly increase the potential of EGAs being awarded based solely on economic consideration; i.e., can the designated recipient afford to buy the area from its holder? This potential abuse is contrary to GLCB's statutory responsibility of establishing quotas for guide areas in an equitable and reasonable manner. We feel that all qualified guides for the area should receive equal chance at receiving an EGA, regardless of their ability to "buy" the rights from the previous holder.

By not adequately reviewing transfers of guide areas, the GLCB is missing an opportunity to achieve one of its stated policy goals. In the Board's FY 85 annual report, they state one of their policy objectives is to not allow additional joint use in areas that already have enough guides operating.

We feel that it would be better if the EGAs were surrendered to the Board; the Board review pertinent and prioritized criteria to determine if the region would support one or more additional guide operations; then consider all applications for the area under a equitable and reasonable method of allocation. Such a method could take into consideration unique qualifications such as a son or daughter who had worked as an assistant to their father, or perhaps a registered guide, who had "apprenticed" in the region under the surrendering EGA holder and accordingly, is more knowledgeable of the area than other applicants. By following such a procedure the Board would promote compliance with its own regulation restricting the transfer of guiding area permits.

#### Recommendation No. 4

GLCB should adopt procedures to improve the administration of the oral portion of the registered guide examination.

The oral portion of the registered guide examination is arbitrary and inconsistent in content and grading. This is because the examination content and grading guidelines are left to the discretion of the individual examiners.

To qualify for licensure as a registered guide, an applicant must successfully pass the registered guide examination. This examination, which is prepared and administered by GLCB, is composed of two parts, a written and an oral section. Passage of the examination requires the applicant to obtain a score of 80% on both sections.

GLCB procedures require the oral portion of the registered guide examination to be administered by three examiners, consisting of a Board member and two master guides. Questions asked by the examiners are based on an oral exam sheet, which does not limit examiners to specific questions nor does it provide predetermined question grading values.

This allows individual examiners to emphasize whatever subject areas they wish in the questioning of applicants. Despite the lack of specific grading criteria on which to base examination scores, instances were noted in which applicants narrowly failed exams by combined examiner scores as high as 79%.

The inconsistency of exam content and grading is demonstrated by the following example. In February 1985, an applicant failed the oral portion of the examination. The reason for failure noted by the examiners was that the applicant needed more hunting experience in the field. Examiners recommended the applicant obtain specific area experience along with spring, late fall, and winter experience. One month later, the applicant took the oral examination again, and was passed by an examination committee made up of three different examiners.

GLCB appears to have demonstrated its own doubts regarding the validity of oral examination results. GLCB's regulation 12 AAC 38.010(c), states the failure to achieve a passing score on either section of the examination constitutes failure of the entire examination. However, on several occasions, after having been petitioned by applicants who passed the written portion of the exam while failing the oral portion, the Board waived the requirement that the written portion of the examination be retaken.

The lack of specific guidelines dictating the objective administration of the oral portion of the registered guide examination has resulted in inconsistent content and grading between individual examinations. The likelihood of exam passage is as much affected by who the examiners are and their individual judgement as it is by the knowledge and competence of the applicant.

Structured guidelines governing the administration of the oral portion of the registered guide examination should be implemented by GLCB. These guidelines need to provide examiners with specific directions as to examination questions to be asked and their assigned grading values. If implemented, structured guidelines will provide a more objective means of administering the examination. This will provide the Board with more of a fair and consistent test of applicant competence.

## Recommendation No. 5

GLCB should seek both statutory and regulatory changes in order to improve the protection of the public from unethical guiding practices.

One of the primary purposes of licensing and regulating guides is to protect the public from unethical guiding practices. We identified regulations and statutes that serve to block effective consumer protection action on the part of GLCB and serves to protect guides at the expense of the public. We recommend that GLCB enhance its consumer protection responsibilities by taking the following actions:

- A. Pursue amendment of statutes that limit GLCB's authority to discipline guides for unethical activity.
- B. Adopt regulations and/or recommend legislation to require guides to post performance bonds.

### Statutory Constraints to Effective Disciplinary Action

Alaska Statute 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from "... three or more clients [hunters] of separate [hunting] parties."

In the course of our review we found four instances where guides had two allegations of unethical guiding activity, as defined by GLCB's regulations, but still had not been brought before the Board for review. Law enforcement officials told us that the statute requiring three separate complaints was particularly onerous for effective resolution of consumer complaints. Law enforcement officials are put in the position of consumer ombudsman, trying to mediate and negotiate settlements of hunter-and-guide or guide-and-guide disputes.

GLCB's effectiveness and visibility would be enhanced if all allegations regarding unethical guide practices was brought to it for review on a case-by-case basis. It appears that the intent of the statute was to keep down the number of frivolous and unfounded complaints against guides. Other professional licensing boards listen to, and sort through, all cases and complaints, no matter how trivial, as a means of keeping apprised of the conduct of their licensees. We recommend that GLCB begin doing the same.

### Bonding of Guides

Almost all hunters who use guiding services are non-residents, a large number from outside of the United States. As a result, when disputes arise between guides and hunters it is often very difficult and expensive for the complaining

hunter to seek legal remedies or implement administrative action. This difficulty is compounded by the three complaint requirement of the statutes discussed previously.

In the course of our review, we noted four cases where a non-resident hunter and guide were disputing the refundability of a deposit. One example, two out-of-state hunters sent in deposits of \$2,500 six months in advance of a hunt. Just prior to their departure for Alaska, the guide notified them that he would have to cancel their hunt. He offered to apply their deposits to a hunt the next year, but the hunters decided they wanted a refund. The guide did not respond to requests, and due to the statutory three complaint requirement, law enforcement officials were not able to bring the dispute before GLCB. The two hunters retained a Fairbanks attorney to pursue legal remedies, but soon abandoned the effort due to costs of litigation.

We recommend that GLCB pursue the necessary statutory and regulatory changes that would implement a mandatory requirement that guides post performance bonds. Performance bonds would allow hunters with legitimate grievances and claims against guides an easier, less expensive alternative in obtaining settlement of their claims. Guiding is a large industry in the State. It is important that GLCB do all it can to maintain the integrity of the guiding industry and uphold the reputation of the Alaskan guides with hunters outside of the State. The Board should recognize the unique type of consumer for guide services and take steps to adequately protect the interest of the out-of-state hunter/consumer.

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## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our review.

- I. The extent to which the board, commission, or program has operated in the public interest.
  - A. The Board has adopted regulations defining unethical conduct which clarify and strengthen the professional's responsibility to the public.
  - B. The Board does not consistently review the Department of Fish and Game game management information prior to assignment or transfer of an exclusive guiding area (EGA) (see Recommendation No. 1).
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
  - A. Regulation 12 AAC 38.054(b) allows an EGA permit holder to designate the qualified guide to whom he wishes to transfer his guide area. These transfers often take precedence over other guide area assignment criteria such as joint user objections, experience in the game unit, or game management considerations (see Recommendation No. 3).
  - B. Alaska Statute 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from three or more clients of separate parties regardless of the potential magnitude of the unethical act (see Recommendation No. 5).
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
  - A. Senate Bill No. 294, which was introduced in April 1985 by the Resources Committee, contains the following items which should enhance public protection if ratified:

1. An amendment to AS 08.54.010 would increase game management considerations in regulating guide activities (see Recommendation No. 2).
2. An amendment to AS 08.54.040 and a proposed new section (AS 08.54.195) would require consistency in procedures used in allocating EGAs (see Recommendation No. 1).
3. New sections would require those guides that contract with more than one client at a time (an outfitter) to maintain a surety bond of \$5,000 (see Recommendation No. 5).
4. The bill would require closer supervision over assistant guides while in the field.
5. Unethical activities would be amended to include unsafe or unsportsmanlike actions that are detrimental to the game resources of the State.
6. Statutes dictating qualifications for, and restrictions on, transporters would be repealed. Many of the services now being provided by transporters would be subject to the proposed outfitter statutes contained in this bill.

B. Additional portions of SB 294 which do not appear to us to be in the public's best interest are as follows:

1. Current law limits the number of Board members that have guide licenses to no more than three of the seven members. SB 294's amendment of AS 08.54.010 would require that at least three Board members be active guides. This amendment would increase the potential for expanding the number of industry members on the Board at the expense of public participation.
2. Currently, AS 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from three or more hunters of separate parties. SB 294 contains an amendment of this statute which would require that these complaints be received within five years prior to the hearing date. This would compound those problems outlined in Recommendation No. 5.

3. Currently, AS 08.54.210(a)(6) makes it unlawful for a master or registered guide to employ or supervise more than three assistant guides at the same time.

SB 294 would repeal this statute and could allow a master or registered guide to employ more assistants than they are capable of effectively supervising. The experience and professional judgement of the master or registered guide may not be available to clients when needed.

Alaska Statute 08.54.141 of this bill also provides that assistant guides shall be supervised at all times while in the field on guided hunts. The potential problem noted above will depend on enactment of this new section and on the Board's interpretation of the term "supervised."

4. Enactment of amendments to AS 08.54.200(c)(3) may unnecessarily restrict those hunting statutes or regulations upon which the Board can take disciplinary action.

IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

- A. The public is invited to attend Board meetings and to give their input about the workings of the Board. Notices of meetings are advertised in at least five newspapers throughout the State. In addition, guides are notified by registered mail of meetings that might affect them.
- B. Publication of meeting information does not always precede the meeting by a reasonable time period. We found that the public was given less than a one week notice for two of the last eleven Board meetings.
- C. Teleconference meetings are not being noticed publicly. This limits public input at those meetings and may legally jeopardize Board decisions and actions.

V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

- A. As stated under IV, the public is invited, by published notices in newspapers, to attend Board meetings to give their input about Board regulations or submit written testimony.
- B. Those problems noted in IV B and C above also represent potential problems in this public need area.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

- A. Since July 1983, ten complaints have been filed with the Ombudsman's Office concerning Board activity. Only one of these complaints, alleging improper denial of a registered guide license, was found to be justified.
- B. Since August 1984, 19 complaints against guides have been submitted to the Department of Commerce and Economic Development, Division of Occupational Licensing for investigation. These cases appear to have been investigated in a reasonable fashion and are pending Board action or court rulings.
- C. As mentioned in TII above and in Recommendation No. 5, AS 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from three or more hunters of separate parties.

VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

- A. As of September 1985, 46 master guides and 361 registered guides were licensed in Alaska. These individuals were required to pass both a written and an oral exam, as well as obtaining practical experience in the field, prior to licensure.
- B. The oral portion of the registered guide examination is arbitrary and inconsistent in content and grading. This is because the examination content and grading guidelines are left to the discretion of the individual examiners (see Recommendation No. 4)

VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity of interest.

A. The Board established 12 AAC 38.010(c) whereby an applicant for licensure who:

because of a language barrier, is unable to read and competently understand the English language may be excused from taking the written examination, and may be issued a license based on successful completion of the oral portion of the examination and demonstration of his capabilities and experience.

B. Regulations also provide that when assigning guide area permits,

the board will give preference to qualifying guides whose permanent residence is within the district in which the area is located.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

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APPENDIX A

GUIDE LICENSING AND CONTROL BOARD  
REVENUES COMPARED WITH EXPENDITURES

June 30, 1985  
(UNAUDITED)  
(Note 1)

	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>
Revenues (Schedule 1, Note 2)	\$46,000	\$53,735	\$88,678
Expenditures (Note 3)	<u>21,663</u>	<u>13,483</u>	<u>11,777</u>
Excess of Revenues over Expenditures	<u>\$24,337</u>	<u>\$40,252</u>	<u>\$76,901</u>

Schedule 1  
Types of Revenues  
(Note 4)

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Master Guide License	\$150	Biennially
Registered Guide License	150	Biennially
Class-A Assistant Guide License	30	Biennially
Assistant Guide License	20	Biennially
Transporter License	10	Biennially
Application For A Guide Examination	25	With Application

Note 1

This revenue/expenditure comparison was prepared from available reports prepared by Occupational Licensing personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Revenues Compared with Expenditures.

Note 2

Revenue amounts reported do not include revenue obtained from the sale of game tags or hunting licenses. They only include revenue obtained from fees required to obtain and/or renew guide licenses.

Note 3

Expenditures consist of direct costs resulting from Board activities. These include miscellaneous contractual, travel, and per diem costs incurred by Board members and the Board's licensing examiner. The amounts do not include the administrative expenditures of the Division of Occupational Licensing such as employee salaries or the expenditures made to other departments such as the Department of Law, which assist the boards and the Division.

Note 4

Amounts reflected are those established by statute for FY 85. Chapter 37, SLA 1985 provides that the Department of Commerce and Economic Development shall set license fees effective upon adoption of said regulations.

APPENDIX B  
GUIDE LICENSING AND CONTROL BOARD  
EXAMINATION STATISTICS

Number of Examinations Given in FY 1984-1985 (Note 1)

<u>Fiscal</u> <u>Year</u>	<u>Written Exam</u>		<u>Oral Exam</u>		<u>Total</u>
	<u>Passes</u>	<u>Fails</u>	<u>Passes</u>	<u>Fails</u>	
1984	22	13	26	7	41
1985	19	9	17	4	30

Note 1

Licensure as a registered guide requires a passing score on both a written and oral examination. Licensure as a master guide requires a passing score on an oral examination only. Licensure as assistant guides and transporters does not require examination.

APPENDIX C

GUIDE LICENSING AND CONTROL BOARD  
ADMINISTRATIVE STATISTICS  
September 30, 1985

Currently Licensed

Master Guides	46
Registered Guides	361
Class-A Assistant Guides	139
Assistant Guides	829
Transporters	141

Board Meetings Between  
July 1, 1983 and June 30, 1985

July 17-22, 1983  
October 25-26, 1983  
December 7-13, 1983  
March 12-17, 1984  
December 13-14, 1984  
February 9-17, 1985  
March 18-19, 1985

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

*DIVISION OF OCCUPATIONAL LICENSING*

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2534

December 23, 1985

Mr. Gerald L. Wilkerson  
Legislative Auditor  
Legislative Audit Division  
Pouch W  
Juneau, AK 99811

**RECEIVED**  
**DEC 24 1985**  
**LEGISLATIVE  
AUDIT**

Dear Mr. Wilkerson:

Re: Preliminary Audit Findings  
Guide Licensing and Control Board

Thank you for the opportunity to comment on your preliminary audit report on the Guide Licensing and Control Board.

Our position remains the same from previous correspondence in that, we concur with your findings and recommendations, and also support continuation of the board. We once again offer the following comments regarding your recommendations:

In reference to recommendation #1, it is important to note that many of the actions or decisions made by the Guide Licensing and Control Board were made upon advice and support of counsel from the Department of Law. This is done especially in relation to your finding that hearing officer decisions are replacing that of the Guide Licensing and Control Board where setting quotas for guides are concerned. However, we believe the board has demonstrated an honest effort to act accordingly within the parameters of what they perceived to be correct, based on legal advice.

Regarding recommendation #4, this matter was brought to the attention of the board by staff of the Division of Occupational Licensing during previous board meetings. Although the board did acknowledge the need to address this issue, no time was given to address the oral examination for registered guides.

Mr. Gerald L. Wilkerson

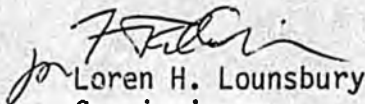
-2-

December 23, 1985

We strongly support your suggestions in recommendation #5 and feel that, although performance bonds posted by master and registered guides may not be entirely adequate to rectify all complaints, it would certainly allow some means of restitution for injured parties from receiving unethical services.

Thank you once again for the opportunity to comment on your findings and for your cooperation.

Sincerely,

  
Loren H. Lounsbury  
Commissioner

LHL/sa1444s  
122385b

The Legislature  
Budget and Audit Committee  
Jim Griffin, Auditor

DEC 19 1985

**LEGISLATIVE  
AUDIT**

Recommendation #1

The Guide Licensing and Control Board (GLCB) uses the Statements of Financial Remunerations as proof of use and experience in areas when assigning Exclusive Guide Areas (EGA). There have been discrepancies in the past, the last year the GLCB have been adhering closely to the criteria of using SFRS. The GLCB seeks biological and Fish & Game surveys when they are available. This cannot always be done. Some areas Fish & Game haven't run surveys or recent surveys. Most of the time, the GLCB doesn't know which areas will be before them until the applicant comes before the GLCB with his application. This doesn't allow enough time to obtain the information. In cases that are held over and coming before the GLCB at a later date do allow time for soliciting biological information from the Fish & Game biologist located in the area involved. I have solicited Fish & Game information in several cases that are coming before the GLCB this next meeting in December 1985.

I hope to get a regulation passed that requires an applicant applying for an EGA to obtain this information from the Fish & Game for presentation to the GLCB.

Along these lines there also should be a regulation requiring the same criteria for a transfer be the same as a new applicant. That is to show proof of experience in the area as would a new applicant. And going farther, an applicant for a transfer from an EGA holder to himself show proof of working with the EGA holder for a certain time. One or two years. Co-signing SFRS could be used as proof as well as additional proof, either in EGAS or joint use areas.

Recommendation #2

Regulation (12 AAC 38.053 (D) (1) applies mostly to applications for joint use areas and EGAs being applied for by more than one guide. The proposal to pass a regulation requiring the applicant to obtain Fish & Game biological information on the area applied for will help in this area.

Recommendation #3

I do not agree that an EGA holder should have to surrender his EGA to the GLCB and not have the opportunity to transfer the EGA to a guide of his choice with the approval of the GLCB. There are many cases where an EGA holder has farmed his area, carefully not to over harvest, so has improved both game populations and size of the animals in the area. To enhance game populations and sportsmen enjoyment is one purpose of the GLCB. Financial investments should also be considered in transfers, land, buildings and equipment related to guiding in the area. A guide who has spent many years building up an area with improvements to game populations should certainly have something to say about who's care the area ~~XXXXXX~~ comes under. Son, ~~XXXXXX~~ Daughter, apprentice or a guide who is well qualified to guide in the area.

The GLCB has a policy not to issue a new applicant an area X in joint use. In other words filing over an area that is already in joint use, or use by only one EGA holder. The GLCB is working to eliminate as much joint use as possible. This can only be done through natural attrition. The GLCB cannot choose two permit holders out of six joint users and pull their permits without due cause. I do think, and it has been the GLCB's policy the last two years. A Ega holder is convicted of some violation that merits revoking his area that is in joint use with others, that area will not be reassigned ~~XXXXXXXXXXXX~~ ..

Where the area is extremely large and doesn't have many joint users some leeway should apply to a new applicant. The guide losing the area should not have a say one way or the other in the matter. However, in cases such as this very careful scrutiny in all criteria must be made. One thing along these lines. At one time the intent of GLCB to review and reassess all EGAS. Considering size, utilization and condition of game populations. This was never done, primarily because time and budget restrictions wouldn't allow it.

#### Recommendation #4

##### Oral guide examinations:

There are inconsistencies in administering oral tests. The purpose of the oral test is to determine the applicant's practical field experience and knowledge of game habits, size and the area he is being tested for. Most of this is impossible to determine with a ~~XX~~ tightly held oral tests with set questions and answers. The examiner should have some flexibility but should not be allowed to wander far afield and asking impertinent questions. There should also be a standard time for the test, say 1 or 1½ hours. One ~~xx~~ problem that keeps cropping up is first aid. I propose that an applicant be required to have passed a first aid course within the year prior to taking the guide exam.

The GLCB has been trying to upgrade this portion of the guide test. Here again, the increasing number of applications for testing each meeting is also increasing the work load of the GLCB.

#### Recommendation #5

There should be some changes in Statute 08.54.200 (A) (1). The change should give the GLCB some flexibility on guide complaints. Taking in consideration of the severity of the complaint. Endangering life, flagrant game violations, and unethical practices, etc. The GLCB does have a guiding ethics regulation (12AAC 38.180) The complaints are slowly being corrected since the administration was consolidated in the Department of Commerce, Division of Occupational Licensing. The GLCB investigator is investigating all complaints that come in now.

We are trying to get a section in the new guide bill, (Senate Bill #294) to satisfy the change mentioned above. Bonding is already addressed in S294.

The bill also creates an outfitter's license and repeals the transporters license. This should help to alleviate the wide spread unlicensed guiding. These unlicensed guides are a big factor in guiding complaints.

The bill also goes into more detail on what guiding is. Enforcement people say the present bill doesn't explain guiding enough for them to make a case on ~~unknown~~ unlicensed guiding. The new bill should give them the tools they need to enforce that section.

The GLCB would like to conduct more work on all these programs and others as well.

It is very important to the guiding industry that the GLCB not be sun setted. If the guide bill is not extended or a new bill passed, the guiding industry will be plunged into a chaos that it could never recover from. Just about everyone with a super cub or 185 will become instant guides creating an impossible situation for game populations and sportsmen safety.

An addition to recommendation #4.

At this last GLCB meeting we appointed 2 master guides and a registered guide to study the oral test and make up a new one that would standardize the test. These men ~~are~~ all have an educational background.