

Marine

Pilots ...

Minutes,

1991

Alaska State Legislature



Sen. Jay Keittula, Co-Chairman
Sen. Pat Pourchot, Co-Chairman

Sen. Al Adams
Sen. Jim Duncan
Sen. Lyman F. Hoffman
Sen. Dick Shultz
Sen. Rick Uehling

Senate Finance Committee

April 8, 1992

State Capitol
Juneau, AK 99801-1182
(907) 465-1200
(907) 463-3066 Fax

Box 1069
Palmer, AK 99645
(907) 376-2675
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VIA FAX
Shelby Stastny, Director
Office of Management and Budget
P.O. Box 110020
Juneau, AK 99811-0020

Dear Mr. Stastny:


It has come to my attention that the Department of Natural Resources's(DNR) operating budgets for FY 92 and for FY 93 have not included all positions and all funding sources. Apparently your office maintains separate PACs runs for these positions. I am upset that these positions and funds are not in the operating budget and want an immediate explanation. I also want to know by department every position and funding source amount that have not been included in the FY92 or FY93 operating budget.

A summary of the DNR positions and funding sources which are not in the operating budget are as follows:

FUND SOURCE	POSITIONS	COST
FY92		
CIP	23 FT	987.8
470 fund/EVOS Trustee	18 (7FT & 11PT)	545.1
470 fund/EVOS Trustee RSA		1433.6
FY 93		
CIP	23 FT	1025.5
470 fund/EVOS Trustees	7 positions	274.5
Estimated EVOS Tr. RSA		400.0
TOTAL	71 positions	4666.5

I look forward to receiving a prompt response and a commitment that this will not happen in the future.

Sincerely,


Senator Jay Keittula, Co-chair
Senate Finance

cc: All Senate and House Finance Committee members
JK:ms

House

①

WHILE HIS FORMER CONVICTION WAS ON APPEAL; AND THE LATER REVERSAL OF THE DEFENDANT'S FORMER CONVICTION BY THE COURT OF APPEALS IS NOT A DEFENSE TO A FELON IN POSSESSION OF A CONCEALABLE WEAPON CHARGE. CLARK

DFH22061 TRANSACTION STCY ABEND ATRI . BACKOUT SUCCESSFUL 11:06:09
NUMBER 438

3/1/91
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MR. GRAUSZ WARNED THAT A PILOT ORGANIZATION IS NOT A LABOR UNION OR A NONPROFIT GROUP. IT IS AN ASSOCIATION SET UP TO ALLOCATE THE MONIES EARNED BY ALL PILOTS ON AN ARBITRARY BASIS. IT IS NO DIFFERENT FROM ANY OTHER ENTITY. HE SAID IT SHOULD BE REQUIRED TO DEAL WITH OTHER PRIVATE ENTITIES AS AN EQUAL, NOT AS AN ARM OF GOVERNMENT. MR. GRAUSZ WENT ON TO EXPRESS CONCERN OVER THE AUDIT AND REVIEW POWERS GRANTED THE BOARD. AS TWO OUT OF A NINE MEMBER BOARD WHICH WILL BE WORKING FOR THE ORGANIZATION BEING REVIEWED, IT IS DIFFICULT TO FEEL SECURE THAT THE PUBLIC INTEREST WILL BE MAINTAINED BY THESE AUDIT AND REVIEW POWERS.

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THE THIRD CONCERN OUTLINED BY MR. GRAUSZ WAS THE ISSUE OF RATES FOR PILOTAGE. HE EXPRESSED FRUSTRATION AT THE NEED TO HAVE GOVERNMENT ASSIST IN RATE SETTING. CURRENTLY, HOLLAND AMERICA WETOURS, INC. PAYS BETWEEN \$10,000 AND \$12,500 IN PILOTAGE FEES FOR EACH INSIDE PASSAGE CRUISE. THIS WORKS OUT TO APPROXIMATELY \$275 PER HOUR FOR PILOTAGE. IN ADDITION, MEALS, LODGING AND TRAVEL EXPENSES ARE PROVIDED.

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TAPE 19, SIDE TWO
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CAPTAIN MURPHY, REPRESENTING THE SOUTHWEST PILOTS

ASSOCIATION, HAS THE NEXT PARTICIPANT TO TESTIFY.

OF THIS TESTIMONY CAN BE FOUND IN THE HOUSE TRANSPORTATION COMMITTEE ROOM, CAPITAL BUILDING 17, JUNEAU, ALASKA, AND AFTER THE ADJOURNMENT OF THE SECOND SESSION OF THE SEVENTEENTH ALASKA STATE LEGISLATURE IN THE LEGISLATIVE REFERENCE LIBRARY.) CAPTAIN MURPHY OUTLINED AREAS THAT MUST BE ADDRESSED TO ENSURE SAFETY AND THE CONTINUANCE OF RELIABLE PILOTAGE IN ALASKA. THESE INCLUDE:

1. UPGRADE ENTRY STANDARDS
2. REQUIRED PILOT TRAINING
3. REGIONALIZATION OF PILOTING AREAS WITHIN THE STATE
4. LIMITATION OF LIABILITY
5. AUTHORITY FOR BOARD OF MARINE PILOTS TO RECOGNIZE PILOT ORGANIZATIONS.

IN CLOSING CAPTAIN MURPHY STATED THAT A DECISION HAS TO BE MADE REGARDING PILOTING IN ALASKA. IS PILOTING GOING TO BE A COMPETITIVE BUSINESS OR A SERVICE PROVIDED FOR ALASKANS? LAST YEAR, THE FEDERAL GOVERNMENT RECOGNIZED A PILOTS RIGHT TO BE INDEPENDENT FROM AN EMPLOYER.

REP. PHILLIPS ASKED WHY THE REQUIREMENTS IN HB 194 ARE MORE STRINGENT FOR DEPUTY PILOTS THAN FOR PILOTS. CAPTAIN MURPHY STATED THAT THIS IS AN AREA OF THE BILL THAT NEEDS ADDITIONAL WORK.

DALE COLLINS, PRESIDENT OF SOUTHEAST PILOTS ASSOCIATION, EXPRESSED HIS STRONG SUPPORT FOR HB 194. HE INFORMED MEMBERS THAT THE BILL IS A MUCH NEEDED CHANGE IF PILOTING IN ALASKA IS GOING TO CONTINUE IN A SAFE AND EFFICIENT MANNER.

REP. KURINA ASKED IF PILOTS HAVE DUAL LICENSES TO PILOT IN WATERS THROUGHOUT EACH REGION. MR. COLLINS REPLIED THAT PILOTS DO HAVE DUAL LICENSES. REP. KURINA THEN INQUIRED IF A PILOT COULD LIVE IN SEATTLE AND HAVE LICENSES TO PILOT THE WATERS IN THE REGIONS FROM SEATTLE TO ALASKA. DALE INFORMED REP. KURINA THAT A PILOT COULD HOLD NUMEROUS LICENSES. MR. COLLINS THEN POINTED OUT THAT THE WIDER THE PILOTING AREA, THE LESS EXPERTISE A PILOT WOULD HAVE.

REP. LENAN ASKED HOW IMPORTANT IT IS TO HAVE THE BOARD SET THE TARIFFS. MR. COLLINS REPLIED THAT WITHOUT A SET TARIFF THERE IS NO DIRECTION AND REAL PROBLEMS REGARDING SAFETY, ETC., SURFACE. HE INFORMED MEMBERS THAT A COMBINATION OF MANDATORY TARIFFS, COMPULSORY PILOT TRAINING AND REGIONAL ORGANIZATION AVAILABILITY LEAD TO GOOD PILOTAGE FOR BOTH THE PUBLIC AND THE PILOTS.

NUMBER 290

JOE MERRILL, REPRESENTING ALEUTIAN PILOTS ASSOCIATION, SUPPORTED HB 194. HE INFORMED MEMBERS THAT HE WOULD LIKE TO SEE SEVERAL AREAS IN THE BILL CLARIFIED AND HE HAS FORWARDED SOME LANGUAGE TO THE COMMITTEE FOR CONSIDERATIONS.

DON KUBLY, REPRESENTING MASTERS, MATES AND PILOTS ASSOCIATION, EXPRESSED STRONG SUPPORT FOR THE BILL.

KIRBY DAY, REPRESENTING SOUTHEAST STEVEDORING, EXPRESSED SUPPORT FOR HB 194. HE AGREED THAT A STRONG ACTIVE BOARD IS REQUIRED ALONG WITH ADEQUATE PILOT TRAINING PROGRAMS. MR. DAY EXPRESSED CONCERN THAT THE BILL, AS CURRENTLY WRITTEN, MAY CREATE A MONOPOLY SITUATION. HE WOULD LIKE TO SEE LANGUAGE ADDED THAT WOULD ALLOW THE BOARD TO RECOGNIZE

ALL LANGUAGE MUST BE ADDED TO ALLOW THE BOARD TO REVENUE
MORE THAN ONE PILOTING ORGANIZATION FOR EACH REGION,
OTHERWISE, A MONOPOLY COULD RESULT. MR. DAY ALSO REQUESTED
THE COMMITTEE CONSIDER LANGUAGE THAT WOULD ALLOW THE BOARD
TO MEET "UP TO" FOUR TIMES PER YEAR INSTEAD OF REQUIRING
FOUR MEETINGS PER YEAR.

IN CLOSING MR. DAY HAD ONE LAST RECOMMENDATION: THAT HB
194 STIPULATE THAT THE PILOTING INDUSTRY IS FINANCIALLY
RESPONSIBLE FOR THE REQUIRED TRAINING.
ACTING CHAIRMAN MACKIE THEN ASKED IF THERE WERE ANY OTHER
PERSONS WISHING TO TESTIFY. THERE WERE NONE. REP. MACKIE
STATED HIS INTENTION TO MOVE HB 194 FROM COMMITTEE. REP.
LEMAN OBJECTED. HE STATED THAT HB 194 WAS A VERY COMPLEX
BILL AND HE BELIEVED THE COMMITTEE SHOULD CONSIDER SOME OF
THE CONCERNS BEFORE MOVING IT FROM COMMITTEE. REP. HUDSON
EXPLAINED THAT HB 194 HAD THREE OTHER COMMITTEES OF
REFERRAL AND THAT THE CONCERNS EXPRESSED FALL UNDER THE
PURVIEW OF THEIR FOCUS. REP. HUDSON STATED HE BELIEVED
THAT IT WAS THE TRANSPORTATION COMMITTEES RESPONSIBILITY TO
LOOK AT THE TRANSPORTATION AND SAFETY ASPECTS OF ALL
LEGISLATION. THIS HAS BEEN COMPLETED FOR HB 194. THE
CONCERNS REMAINING DEAL WITH LABOR ISSUES AND RATE
STRUCTURING. REP. HUDSON SUGGESTED THAT THE LABOR AND
COMMERCE AND JUDICIARY COMMITTEES ADDRESS THESE CONCERNS.

REP. LEMAN MAINTAINED HIS OBJECTION. ACTING CHAIRMAN
MACKIE CALLED FOR THE QUESTION, SHOULD HB 194 MOVE FROM THE
HOUSE TRANSPORTATION COMMITTEE WITH INDIVIDUAL
RECOMMENDATIONS.

- REP. GRUSSENDORF, YEA
- REP. HUDSON, YEA
- REP. GAIL PHILIPS, YEA
- REP. MACKIE, YEA
- REP. KUBINA, YEA
- REP. LEMAN, NAY

AS THERE WERE FIVE YEAS AND ONE NAY, HB 194 MOVED FROM THE
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4/2/91
H: LJC

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REP. PHILLIPS ASKED WHY THE REQUIREMENTS IN HR 194 ARE MORE

CHAIRMAN DAVE DONLEY CALLED THE MEETING TO ORDER AT 2:00 P.M. INVITING MEMBERS IN ATTENDANCE. THE FIRST ITEM ON THE AGENDA WAS CONSIDERATION OF HB 194 WHICH DEALT WITH THE REGULATION OF MARINE PILOTS.

MD
4/91
REPRESENTATIVE CHERI DAVIS, PRIME SPONSOR OF HB 194 INFORMED MEMBERS THAT MARINE PILOTING INVOLVED THE SKILL AND DISCIPLINE OF NAVIGATING LARGE SHIPS IN CLOSE PROXIMITY TO SHORE PORTS AND OTHER VESSELS. SHE NOTED THAT NO MATTER HOW COMPETENT THE MASTER OF A SHIP WAS IN OPEN SEA, HE/SHE COULD NOT BE EXPECTED TO BE FAMILIAR WITH THE LOCAL NAVIGATION HAZARDS AT EACH HARBOR ENCOUNTERED AS HE/SHE CONDUCTS A SHIP IN THE COURSE OF MARITIME TRADE.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT IT HAD LONG BEEN THE PRACTICE TO EMPLOY A LOCAL PILOT AT EACH PORT THE SHIP ENTERS AND LEAVES WHO HAS INTIMATE FAMILIARITY OF THE WATERS OF THE PORT TO GUIDE THE VESSEL TO AND FROM THE OPEN SEA.

REPRESENTATIVE DAVIS STATED THAT CONSUMERS OF PILOT SERVICES WERE OFTEN FOREIGN FLAGGED VESSELS ENTERING PORTS IN THE STATE WHOSE OWNERS WERE CONCERNED WITH PROFITS. SHE NOTED THAT THERE WAS A SIGNIFICANT CONFLICT OF INTEREST BETWEEN A VESSEL OWNER'S ECONOMIC NEEDS AND THE PUBLIC INTEREST IN SAFE PASSAGE. REPRESENTATIVE DAVIS EXPLAINED THAT IT WAS IN THE PUBLIC INTEREST FOR THE PILOT'S JUDGMENT TO BE ABSOLUTELY FREE OF THE ECONOMIC CONSIDERATIONS OF THE SHIP OWNER.

REPRESENTATIVE DAVIS FURTHER STATED THAT IT WAS FUNDAMENTAL TO AN EFFECTIVE, COMPULSORY PILOTAGE SYSTEM THAT THE SELECTION, CONTROL, AND COMPENSATION OF THE PILOT BE FIXED AND BEYOND THE INFLUENCE OF A SHIP OWNER.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT CSNB 194 (L & C) ESTABLISHES NEW TRAINING STANDARDS AND NEW GUIDELINES FOR PILOTS IN ALASKA. SHE NOTED THAT THE LABOR AND COMMERCE VERSION OF HB 194 WAS THE RESULT OF A COMPROMISE BETWEEN INDUSTRY AND PILOTS.

EDWARD MURPHY, MEMBER, SOUTHWEST ALASKA PILOTS ASSOCIATION, (SWAPA) ADVISED MEMBERS THAT HE PILOTED SHIPS THROUGHOUT SOUTHWEST ALASKA INCLUDING LARGE CRUDE CARRIERS AND OTHER TANKERS, CRUISE SHIPS, CONTAINER SHIPS, AND BULK CARRIERS. HE ADVISED MEMBERS THAT HE HAD SERVED ON THE ALASKA BOARD OF MARINE PILOTS FOR FOUR YEARS, AND WAS CHAIRMAN OF THAT BOARD FOR THREE YEARS.

MR. MURPHY ADVISED MEMBERS THAT IN JANUARY OF 1990 HE HAD WRITTEN GOVERNOR COWPER A LETTER CONCERNING GRAVE SAFETY PROBLEMS HE SAW EMERGING IN THE ALASKA STATE PILOTING SYSTEM. HE NOTED THAT ALASKA HAD ONE OF THE LOWEST ENTRY STANDARDS FOR LICENSING IN THE COUNTRY WITH NO STATE MANDATED STANDARDS OR REQUIREMENTS FOR PILOT TRAINING INORDINATE DELAYS IN PILOT DISCIPLINE CASES, AND PILOT ASSOCIATIONS HAD LEGAL PROBLEMS IN TRAINING PILOTS AND MAINTAINING HIGH STANDARDS.

MR. MURPHY EXPLAINED THAT GOVERNOR CORPER RESPONDED TO THE CONCERNS EXPRESSED IN HIS LETTER BY ORDERING THE OFFICE OF MANAGEMENT AND BUDGET TO CONDUCT AN INDEPENDENT STUDY OF ALASKA'S STATE PILOTING SYSTEM AND TO MAKE RECOMMENDATIONS FOR IMPROVEMENTS BASED ON THE FINDINGS. HE ADVISED MEMBERS THAT THE RESULT OF THAT STUDY WAS A REPORT ENTITLED IMPROVING ALASKA'S MARINE PILOTAGE SYSTEM.

MR. MURPHY STATED THAT THE PILOTS WHO LIVE AND WORK IN ALASKA BELIEVE THAT HB 194, BASED UPON THE FINDINGS OF THE OFFICE OF MANAGEMENT AND BUDGET (OMB), WAS LEGISLATION THAT ONE COULD BE PROUD OF BECAUSE IT WAS ULTIMATELY A SAFETY BILL. HE POINTED OUT THAT THE FINDINGS SECTION MAKE CLEAR FOR THE FIRST TIME THE PUBLIC SERVICE NATURE OF A PILOT'S WORK BY STATING THAT "THE FIRST AND PARAMOUNT DUTY OF MARINE PILOTS IS TO PROVIDE FOR THE PUBLIC SAFETY AND THE PROTECTION OF THE MARINE ENVIRONMENT". IT ALSO STATES THAT "MARINE PILOTS OPERATING INDEPENDENTLY IN THE SHIPPING INDUSTRY HAVE PROVIDED AND WILL CONTINUE TO PROVIDE ESSENTIAL SERVICE TO THE STATE". MR. MURPHY STATED THAT THE INDEPENDENCE OF THE PILOTS IS A CRUCIAL ELEMENT OF SAFETY, LONG RECOGNIZED BY STATE PILOTS AND IDENTIFIED BY THE OMB STUDY.

MR. MURPHY POINTED OUT THAT THE FEDERAL GOVERNMENT RECOGNIZES THE ESSENTIAL ELEMENTS OF PILOTING IN THE OIL POLLUTION ACT OF 1990. HE STATED THAT THE ACT REQUIRES STATE LICENSED PILOTS, WHO ARE NOT A MEMBER OF THE SHIP'S CREW, TO PILOT TANKERS IN PRINCE WILLIAM SOUND. MR. MURPHY STATED THAT HB 194 CLEARLY ESTABLISHED THE POWERS AND DUTIES OF THE BOARD OF MARINE PILOTS, POINTING OUT THAT THE AMBIGUITIES IN EXISTING LAW HAD LONG BEEN THE CAUSE OF CONFLICTING INTERPRETATIONS BY STAFF ATTORNEYS FROM THE ATTORNEY GENERAL'S OFFICE, RESULTING IN MORE CONFUSION, FRUSTRATION, AND LAW SUITS.

MR. MURPHY CONTINUED, POINTING OUT THAT THE PROPOSED LEGISLATION RAISED THE ENTRY STANDARDS FOR PILOT LICENSE APPLICANTS. THE BILL ALSO ESTABLISHES A DEPUTY PILOT SYSTEM IN WHICH NEW PILOTS CAN BE TRAINED UNDER THE SUPERVISION OF VETERANS, AND REQUIRES THE PILOT BOARD TO ESTABLISH STANDARDS FOR TRAINING PROGRAMS, NOTING THAT PILOT TRAINING WAS NOT CURRENTLY ADDRESSED IN PRESENT STATE STATUTES.

MR. MURPHY ADVISED MEMBERS THAT THE STAFF POINTED OUT THE IMPORTANCE OF LOCAL KNOWLEDGE IN ALL MARINE PILOTING, AND RECOMMENDED THAT ALASKA'S VAST COASTLINE BE DIVIDED INTO PILOT REGIONS WHICH WOULD RESTRICT PILOTS TO OPERATING IN ONE REGION. THIS WAS ADDRESSED IN HB 194.

MR. MURPHY ADVISED MEMBERS THAT THE BILL LIMITS A PILOT'S LIABILITY AND THAT OF PILOT ORGANIZATIONS. HE STATED THAT EVERY TIME A PILOT STEPS ON A SHIP THE PILOT FACES FINANCIAL RUIN. MR. MURPHY EXPLAINED THAT POSSIBLE CRIMINAL PENALTIES MAY ALSO BE IMPOSED ON A PILOT IF THE VESSEL SUFFERS AN ACCIDENT. HE EXPRESSED THAT CRIMINAL PENALTIES WERE PROVIDED FOR IN HB 315 WHICH PASSED THE LEGISLATURE THE PREVIOUS YEAR.

MR. MURPHY POINTED OUT THAT MARINE PILOTING WAS A HIGH RISK PROFESSION AND FEW PILOTS COULD STAND THE SORT OF LIABILITY THAT COULD BE IMPOSED. HE STATED THAT SOME SORT OF LIABILITY LIMITATION WAS REASONABLE, AS LEGISLATURES OF OTHER STATES HAD FOUND. MR. MURPHY STATED THAT WASHINGTON'S PILOT ACT SETS A LIABILITY LIMIT OF \$5000. HE ADVISED MEMBERS THAT NOTHING IN HB 194 LIMITS THE LIABILITY IF THE PILOT'S ERROR OR NEGLIGENCE WAS WILLFUL. MR. MURPHY STATED THAT HE WOULD LIKE TO SEE SOME LIMITS OF LIABILITY SET OUT IN THE BILL IN ORDER THAT TO ALLOW PILOTS TO OBTAIN INSURANCE.

MR. MURPHY STATED THAT LIABILITY WAS ALSO A MAJOR PROBLEM FOR PILOT ORGANIZATIONS BECAUSE THEY ARE CAUGHT IN A CATCH-22 SITUATION. HE ADVISED MEMBERS THAT THE STATE DOES NOT REQUIRE PILOT TRAINING, YET ALL MARINERS AND LAYMEN TOO, KNOW THAT PILOTS NEED TO BE WELL TRAINED. MR. MURPHY STATED THAT WHEN ASSOCIATIONS TRAIN NEW PILOTS, THE ASSOCIATION COULD BE SUED IF THE PILOT HAS AN ACCIDENT. HE POINTED OUT THAT IF AN ASSOCIATION FAILS TO TRAIN A NEW PILOT, THEY COULD BE LOUSILY LIABLE AND FELT THAT PRESENTED ANOTHER COMPELLING REASON WHY THE STATE MUST BOTH REQUIRE PILOT TRAINING AND LIMIT THE LIABILITY FOR PILOT ORGANIZATIONS IN THEIR TRAINING FUNCTION.

MR. MURPHY EXPLAINED THAT HB 194 GAVE THE BOARD THE AUTHORITY TO RECOGNIZE ORGANIZATIONS OF MARINE PILOTS FOR CERTAIN PILOT REGIONS OF THE STATE. HE FELT IT WAS IMPORTANT TO RECOGNIZE THAT THE STATE COULD NOT REALISTICALLY MAINTAIN ITS OWN PILOT TRAINING DISPATCH SERVICE. MR. MURPHY ADVISED MEMBERS THAT PILOTS FORM THEMSELVES INTO ORGANIZATIONAL STRUCTURES, AND THOSE ASSOCIATIONS PROVIDE PILOTS, CENTRAL DISPATCHING, EMPLOYEES, BOATS, EQUIPMENT, PILOT STATIONS, RADIOS, TRANSPORTATION, TRAINING AND ADMINISTRATION. MR. MURPHY ADVISED MEMBERS THAT HB 194 RECOGNIZED THOSE FACTS AND REQUIRES GROUPS OF PILOTS TO DO CERTAIN THINGS IN ORDER TO BE RECOGNIZED. HE NOTED THAT THE BILL REQUIRES COMPLIANCE WITH STATE STANDARDS IN TERMS OF NONDISCRIMINATION, PROMOTING A PROFESSIONAL PILOTING SERVICE, MAINTAINING SUFFICIENT PILOTS, AND MAINTAINING TRAINING PROGRAMS.

MR. MURPHY EXPRESSED HIS OPINION THAT HB 194 DID NOT FRANCHISE PARTICULAR PILOT GROUPS OR ASSOCIATIONS, AND DID NOT REQUIRE INDIVIDUAL PILOTS TO BELONG.

MR. MURPHY POINTED OUT THAT ALASKA'S PILOTING ACT HAD CHANGED LITTLE SINCE IT WAS ENACTED IN 1970, HOWEVER, SHIPPING IN THE STATE HAD INCREASED MANYFOLD WITH LARGER AND FASTER SHIPS, THAT CARRIED MORE DANGEROUS CARGOS. HE STATED THAT THE CONSEQUENCES OF A PILOT FAILING TO ADEQUATELY MEET THE DEMANDS PLACED UPON HIM OR HER COULD HAVE PROFOUND CONSEQUENCES FOR THE MARINE ENVIRONMENT AND CITIZENS OF ALASKA. HE STATED THAT ALASKA'S CITIZENS HAD THE RIGHT TO EXPECT THE STATE PILOTS TO MEET HIGH ENTRY STANDARDS, UNDERGO RIGOROUS TRAINING, AND POSSESS EXTENSIVE LOCAL KNOWLEDGE OF THE AREA. MR. MURPHY STATED THAT AS WAS RECOGNIZED BY THE OMB STUDY GROUP, SAFETY DEMANDS THAT PILOTS BE INDEPENDENT AND FREE OF THE SHIP OWNERS' AND AGENTS' INTERESTS AND CONTROL.

MR. MURPHY, IN CLOSING, ADVISED MEMBERS THAT THE SOUTHWEST ALASKA PILOTS ASSOCIATION FELT HB 194 WAS LONG OVERDUE AND THEY WERE IN STRONG SUPPORT OF ITS PASSAGE.

REPRESENTATIVE MARTIN ASKED MR. MURPHY IF A NATIONAL MODEL OR STANDARD WAS IN PLACE TO ASSIST PROVIDING TRAINING AND EDUCATION FOR YOUNG PEOPLE WISHING TO GET INTO THE PROFESSION OF MARINE PILOTING. MR. MURPHY ADVISED MEMBERS THERE WAS NO MODEL, HOWEVER, TWO BASIC TRADITIONS EXISTED IN THE COUNTRY BY WHICH AN INDIVIDUAL COULD ENTER THE PROFESSION. HE STATED THAT ON THE EAST COAST, YOUNG PERSONS COME IN AS DECK HANDS AND WORK THEIR WAY UP TO QUALIFYING FOR A DEPUTY PILOT'S LICENSE AND EVENTUALLY A FULL PILOT'S LICENSE, NOTING THAT THE PROCESS TOOK QUITE A NUMBER OF YEARS.

MR. MURPHY ADVISED MEMBERS THAT THE TRADITION ON THE WEST COAST WAS DIFFERENT. HE EXPLAINED THAT MOST PILOTS HAD SPENT A LOT OF TIME AT SEA ON LARGE TONNAGE VESSELS. MR. MURPHY STATED THAT THESE INDIVIDUALS GET THE REQUIRED TRANSITS OVER A PARTICULAR PILOTAGE ROUTE IN ORDER TO SATISFY THE COAST GUARD REQUIREMENT FOR FEDERAL LICENSING. MR. MURPHY STATED THAT AFTER THAT POINT, THE INDIVIDUAL ENTERS AN ASSOCIATION'S TRAINING PROGRAM, WHICH VARY DEPENDING ON THE AREA. HE EXPLAINED THAT THERE WERE STRINGENT REQUIREMENTS IN CALIFORNIA AND IN PUGET SOUND, HOWEVER, IN ALASKA THE TRAINING REQUIREMENTS WERE QUITE MINIMAL AND IN HIS OPINION WAS ONE OF THE PROBLEMS WITH ALASKA STATE LAW. MR. MURPHY STATED WITH RESPECT TO THE AVAILABILITY OF PILOTING SCHOOLS, THAT THE PROFESSION WAS MORE OF A "HANDS ON" LEARNING SKILL AND INVOLVED A LENGTHY APPRENTICESHIP PROGRAM.

MR. MURPHY STATED THAT THE SYSTEM HE WOULD LIKE TO SEE TO SATISFY CONCERNS ABOUT DISCRIMINATION AND WRONGFUL DEALING, WAS THAT QUALIFIED APPLICANTS WOULD APPLY TO THE STATE AND TAKE A COMPETITIVE EXAMINATION. HE ADVISED MEMBERS THAT AFTER THAT POINT, WHENEVER THERE WAS AN OPENING, THOSE INDIVIDUALS RECEIVING THE HIGHEST SCORES WOULD BE DIRECTED TO A PARTICULAR PILOT ASSOCIATION FOR THE PURPOSE OF TRAINING. MR. MURPHY EXPRESSED HIS OPINION THAT BY USING THIS TYPE OF METHOD, NO ONE COULD ACCUSE ASSOCIATIONS OR PILOTS OF EXCLUDING AN INDIVIDUAL.

PAUL KIRCHNER, GENERAL COUNSEL TO THE AMERICAN PILOTS' ASSOCIATION (APA), INFORMED MEMBERS THAT THE APA WAS A NATIONAL TRADE ASSOCIATION COMPOSED OF STATE PILOT ASSOCIATIONS LOCATED IN EACH OF THE COASTAL STATES AND THREE GROUPS OF PILOTS OPERATING ON THE GREAT LAKES. HE POINTED OUT THAT THERE WERE 57 STATE PILOT ASSOCIATIONS IN THE APA AND APPROXIMATELY 1,050 LICENSED, ACTIVE PILOTS.

MR. KIRCHNER ADVISED MEMBERS THAT AMONG THE OBJECTIVES OF THE APA WAS THE PROMOTION OF PUBLIC SAFETY AND THE PROTECTION OF LIFE, PROPERTY, AND THE ENVIRONMENT. HE STATED THAT THE FOUNDATION OF THAT SYSTEM, AND THE PRIMARY REASON FOR THE TRADITIONALLY HIGH STANDARDS OF THE STATE PILOT PROFESSION, HAD BEEN EFFECTIVE STATE REGULATION. MR. KIRCHNER ADVISED MEMBERS THAT THE APA FULLY SUPPORTED ALASKA, OR ANY OTHER STATE, ASSESSING ITS PILOTING STATUTES AND REGULATIONS AND MAKING IMPROVEMENTS WHERE NECESSARY AND APPROPRIATE.

MR. KIRCHNER ADVISED MEMBERS THAT APA FELT HB 194 PROVIDED A SIGNIFICANT IMPROVEMENT TO THE STATE'S PRESENT PILOTAGE REGULATORY SYSTEM. HE EXPRESSED HIS OPINION THAT THE BILL PROVIDED FOR A STRONG PILOT BOARD WITH SUFFICIENT STATUTORY AUTHORITY TO REGULATE TARIFFS TO SET MEANINGFUL LICENSING AND TRAINING REQUIREMENTS, TO PROVIDE OVERSIGHT OF PILOT ORGANIZATIONS, AND TO SET EFFECTIVE PENALTIES FOR VIOLATIONS OF THE STATE'S COMPULSORY PILOTAGE REQUIREMENT.

MR. KIRCHNER ADVISED MEMBERS THAT STATE CONTROL OVER PILOTAGE WAS THE RESULT OF A JUDGMENT MADE BY THE FIRST CONGRESS IN 1789 THAT PILOTAGE WAS A MATTER BEST LEFT TO THE STATES. HE POINTED OUT THAT THAT JUDGMENT HAD BEEN REPEATEDLY REAFFIRMED IN CONGRESS AND IN THE COURTS EVER SINCE 1789. MR. KIRCHNER EXPRESSED HIS OPINION THAT STATE PILOTAGE REGULATIONS RESPOND TO LOCAL CONDITIONS AND NEEDS, WITH EACH STATE'S SYSTEM BEING SOMEWHAT UNIQUE, AND EACH STATE DOING WHAT IT FEELS BEST FOR ITS OWN SITUATION AND PROTECTION OF ITS CITIZENS.

MR. KIRCHNER STATED THAT THERE WERE SOME CONSTANT DISTINGUISHING FEATURES OF STATE PILOTAGE LAWS IN THE COUNTRY. OF THOSE, HE EXPLAINED THAT STATE PILOTAGE WAS A PUBLIC SERVICE AND NOT SIMPLY A JOB DESCRIPTION, OCCUPATION, OR EVEN A PROFESSION. MR. KIRCHNER ADVISED MEMBERS THAT THE PILOTS SERVE THE PUBLIC INTEREST. IN SOME STATES THE PILOT IS RECOGNIZED EITHER BY STATUTE OR BY LEGAL OPINIONS AS A PUBLIC OFFICIAL. MR. KIRCHNER STATED THAT COURT CASES HAD GENERALLY DESCRIBED STATE PILOTS AS QUASI-STATE OFFICIALS.

MR. KIRCHNER ADVISED MEMBERS THAT IN ORDER TO PRESERVE THE PUBLIC INTEREST AS THE PARAMOUNT CONCERN OF A STATE PILOT, THE STATE PILOT MUST BE INDEPENDENT OF THE SHIP OWNERS AND THE SHIP OPERATORS. HE STATED THAT STATE PILOTAGE WAS A TOTAL COMPREHENSIVE REGULATORY SYSTEM. MR. KIRCHNER ADVISED MEMBERS THAT THE ROLE OF THE STATE WAS TO ASSURE EVERY VESSEL THAT A TRAINED, COMPETENT PILOT WOULD BE AVAILABLE WHEN NEEDED, AND ON A NONDISCRIMINATORY BASIS.

MR. KIRCHNER STATED THAT FOR THOSE REASONS THE STATES CONCERN THEMSELVES NOT ONLY WITH THE PILOT'S QUALIFICATIONS AND SKILLS WHEN ISSUING A PILOT LICENSE, BUT ALSO REGULATE PILOTAGE RATES, ENFORCE AVAILABILITY REQUIREMENTS, AND ENSURES THAT PILOTS HAVE SUITABLE EQUIPMENT AND SUPPORT SERVICES. REPRESENTATIVE MARTIN AGAIN EXPRESSED HIS CONCERN ABOUT THE LACK OF NATIONAL STANDARDS. MR. KIRCHNER STATED THAT THERE WAS NO NATIONAL TRAINING STANDARD PRESENTLY, REITERATING THAT THERE WERE TWO BASIC MODELS AS STATED BY MR. MURPHY; THE EAST COAST AND THE WEST COAST MODELS. MR. KIRCHNER POINTED OUT THAT EACH STATE DID ITS OWN THING AND THE BOARD WOULD NOT RECOMMEND A NATIONAL MODEL BECAUSE THEY WOULD WANT TO PRESERVE THE ESSENTIAL FEATURE OF STATE PILOTAGE AS A RESPONSE TO LOCAL CONDITIONS.

JOSEPH MERRILL, ADVISED MEMBERS HE WAS REPRESENTING THE ALASKA MARINE PILOT DISPATCH SERVICE HEADQUARTERED IN DUTCH HARBOR, ALASKA, AND ALSO WAS A PROFESSOR OF ACCOUNTING AND INCOME TAX AT THE UNIVERSITY OF ALASKA, ANCHORAGE.

MR. MERRILL ADVISED MEMBERS HE HAD BEEN INVOLVED IN PILOTAGE FOR APPROXIMATELY 10 YEARS AS THE MANAGER FOR TWO STATE BODIES AND AS A CONSULTANT ON RATES AND TARIFFS TO PILOTS IN BEHALF AND WASHINGTON.

MR. MERRILL ASKED THAT WHILE CONSIDERING THE BILL, MEMBERS KEEP IN PERSPECTIVE THE POSITIVE ASPECTS OF THE LEGISLATION, AND THE IMPROVEMENTS IT MAKES OVER THE EXISTING LAW. HE STRONGLY FELT THAT A LOT OF THE DETAILS OF THE LAW SHOULD NOT BE SET OUT IN THE STATUTE BECAUSE OF THE DIFFICULTY OF CHANGING THE LAW IF IT IS WRONG.

MR. MERRILL POINTED OUT THAT HE 194 ACKNOWLEDGES THAT THE STATE IS A HUGE AREA HAVING SEVERAL DISTINCT SHIPPING NEEDS; I.E., TOUR SHIPS, TANKER AND HEAVY CARGO VESSELS AND FISHING INDUSTRY VESSELS, ALONG WITH THE FERRY VESSELS. HE STATED THAT THE BILL ALLOWS THE BOARD TO ESTABLISH REGIONS FOR VARIOUS PURPOSES. MR. MERRILL ADVISED MEMBERS THAT IT WAS NOT A MATTER OF SHALL THERE BE REGIONS OR NOT, BUT IT ALLOWS REGIONS TO BE DELINEATED FOR THE PURPOSE OF ESTABLISHING TRAINING PROGRAMS. HE EXPRESSED THAT IT WAS IMPORTANT TO HAVE REGIONAL TARIFF DIFFERENCES BECAUSE OF THE NATURE OF THE ACTIVITY OF THE VESSELS.

MR. MERRILL FELT THE BILL RECOGNIZED ALSO THAT THE STATE AND PILOTS WERE IN SOMEWHAT OF A PARTNERSHIP AGREEMENT, REALIZING THAT EVERY PROFESSION HAS TO BE EVALUATED BY ITS OWN PROFESSIONALS, AND PILOTS HAVE TO TRAIN PILOTS. HE STATED WITH RESPECT TO THE LIABILITY ASPECT OF THE BILL, THAT WHEN PILOTS' ASSOCIATIONS ARE TRAINING OR TESTING SOMEONE, AND CONCLUDE THAT A PARTICULAR INDIVIDUAL DOES NOT HAVE THE NECESSARY QUALIFICATIONS AND TRAINING IS DISCONTINUED, THE ASSOCIATION SHOULD NOT GET SUED FOR RELEASING THE INDIVIDUAL FROM FURTHER TRAINING.

MR. MERRILL STATED THAT AS A TARIFF EXPERT IN SEVERAL INDUSTRIES, HE WAS CONVINCED THAT AT THE BOARD LEVEL, A TARIFF COULD BE IMPLEMENTED THAT WOULD ACKNOWLEDGE A DISTINCTION BETWEEN PROFESSIONAL SERVICES AND WORKING CONDITIONS THAT HAD BUILT-IN INCENTIVES. HE STATED THAT PRESENTLY THE REGULATIONS ALLOW ANY PARTY WITH A MATERIAL INTEREST IN THE TARIFF TO GO TO THE BOARD AND HAVE THE TARIFF OPENED UP TO REVAMP THE WHOLE STRUCTURE. MR. MERRILL ADVISED MEMBERS THAT HE WAS CONVINCED THAT ONCE THE BOARD'S AUTHORITY OVER TARIFFS WAS CLARIFIED, THAT A TARIFF COULD BE DESIGNED THAT WOULD SATISFY MOST OF INDUSTRY'S CONCERNS ABOUT THE TARIFF.

MR. MERRILL STATED THAT AS A BUSINESS PERSON AND BUSINESS TEACHER, HE COULD NOT SEE ANYTHING IN THE PROPOSED LEGISLATION THAT WOULD CREATE MONOPOLIES OR BARRIERS TO ENTRY TO THE PROFESSION THAT WERE NOT INHERENT TO ANY PROFESSION.

JOSEPH W. HOMER, ADVISED MEMBERS HE WAS A FEDERALLY LICENSED MARINE PILOT AND A MEMBER OF THE ALASKA COASTWISE PILOTS' ASSOCIATION. HE ADVISED MEMBERS THAT THE BILL CONTAINED NOTHING THAT WOULD HAVE PREVENTED THE EXXON VALDEZ OIL SPILL IN PRINCE WILLIAM SOUND. MR. HOMER STATED THAT THE PROVISIONS OF HB 194 DID THE CONTRARY BY REQUIRING THAT A MARINE PILOT COULD ONLY OPERATE IN ONE DESIGNATED REGION.

MR. HOMER REQUESTED THAT THE COMMITTEE RECOMMEND THAT HB 194, AND SIMILAR LEGISLATION, NOT TAKE AWAY FROM THE BOARD OF MARINE PILOTS THE POWER TO LICENSE PILOTS WHERE THEY ARE QUALIFIED, FOR MORE THAN ONE REGION IN THE STATE. IT WAS ALSO SUGGESTED BY MR. HOMER THAT NO LAWS, RULES, OR REGULATIONS BE IMPLEMENTED THAT WOULD HAVE THE EFFECT OF ELIMINATING COMPETITION OR RESTRAINING TRADE ON THE PILOT GROUNDS. MR. HOMER FELT HB 194 WAS AN IMPORTANT PIECE OF LEGISLATION, HOWEVER, FELT MORE TIME WAS NEEDED TO FURTHER EVALUATE THE DETAILS OF THE BILL.

BOB ARIS, REPRESENTING ALASKA MARITIME AGENCIES AND THE ALASKA STEAMSHIP OPERATORS ASSOCIATION, (ASSOA), ADVISED MEMBERS THEY WERE IN SUPPORT OF MANY OF THE PROVISIONS INCLUDED IN HB 194. HE EXPRESSED THAT BILL SHARP WOULD BE REQUESTING THE COMMITTEE'S CONSIDERATION OF SEVERAL AMENDMENTS.

BILL SHARP, ASSOA, ADVISED MEMBERS THE ASSOCIATION DID SUPPORT HB 194 AND THE EFFORTS THAT HAD GONE INTO ITS FURNISHING. HE EXPLAINED THAT ASSOA HAD CONCERNS ABOUT THE BILL AS IT RELATED TO TARIFFS. MR. SHARP ADVISED MEMBERS THEY WOULD LIKE TO SEE A TARIFF WITH BASE RATES ESTABLISHED AND ALLOWANCES FOR DAY-TO-DAY OPERATING COSTS LEFT TO THE MARKET DEMAND.

MR. SHARP POINTED OUT THAT PRESENTLY THE STATE OPERATED WITHOUT REGIONS BEING IDENTIFIED IN REGULATION. HE ADVISED MEMBERS WITH RESPECT TO REGIONALIZING A PILOT'S AREA OF OPERATION, THAT ASSOA WOULD LIKE PILOTS GIVEN THE ABILITY TO OPERATE IN OVERLAPPING REGIONS OR DISTINCT PORTS OR WATERWAYS IN A SECONDARY REGION IF THE PILOT QUALIFIES.

MR. SHARP STATED THAT ASSUA WAS ALSO CONCERNED ABOUT THE ANTITRUST PROVISIONS OF THE BILL. HE POINTED OUT THAT NO OTHER STATES INCLUDED ANTITRUST PROVISIONS IN THEIR PILOTAGE LAWS AND ASKED WHY THOSE PROVISIONS WERE INCLUDED IN '82 194.

DAN GRAUSZ, GENERAL COUNSEL FOR HOLLAND-AMERICA, A MEMBER OF THE NORTHWEST CRUISE SHIP ASSOCIATION, ADVISED MEMBERS THEY FULLY SUPPORTED THE POSITION OF THE ALASKA STEAMSHIP OPERATORS ASSOCIATION. HE STATED THAT HOLLAND-AMERICA DID NOT WANT TO SEE THE BILL KILLED, THAT THE LEGISLATION WAS A GOOD OVERVIEW, AND THAT THERE WAS A NEED TO UPGRADE THE QUALITY OF PILOTS IN THE STATE OF ALASKA AND INCREASE THE ENTRY LEVEL REQUIREMENTS OF THE PROFESSION.

MR. GRAUSZ ADVISED MEMBERS THAT HOLLAND-AMERICA WAS ALSO CONCERNED ABOUT THE ANTITRUST PROVISIONS OF THE BILL. HE STATED THAT AS HE READ THE BILL, IT WAS STATING THAT PILOTING ORGANIZATIONS COULD ENGAGE IN EXCLUSIVE DEALING AND PRICE FIXING, AS WELL AS ANTICOMPETITIVE AGREEMENTS WITHOUT BEING ANSWERABLE TO THE STATE OF ALASKA. MR. GRAUSZ FELT THAT MEANT THAT A PILOT ORGANIZATION COULD GO TO A SHIPPER AND SAY THE ORGANIZATION WOULD HANDLE THE SHIPPER'S SHIPS, WITH THE SHIPPER HAVING THE ABILITY TO SAY IF THE PILOT ORGANIZATION WANTED TO HANDLE THOSE SHIPS THAT THEY WOULD HAVE TO PROMISE NOT TO DEAL WITH ANYONE ELSE'S SHIPS. MR. GRAUSZ ADVISED MEMBERS THAT SHOULD BE ILLEGAL, POINTING OUT THAT IT WAS ILLEGAL UNDER CURRENT ANTITRUST LAWS AND SHOULD CONTINUE TO BE ILLEGAL.

MR. GRAUSZ STATED THAT IN THE AREA OF PRICE FIXING, THE BILL WOULD ALLOW A PILOT ORGANIZATION TO GO TO ONE SHIPPING COMPANY AND SAY THE ORGANIZATION WAS WILLING TO HANDLE SHIPS AT A CERTAIN PRICE AT A PARTICULAR PORT, AND AGREE TO CHARGE EVERYONE ELSE A HIGHER RATE. MR. GRAUSZ POINTED OUT THAT THAT WAS PRICE FIXING, WAS ILLEGAL UNDER CURRENT LAW, AND SHOULD CONTINUE TO BE ILLEGAL.

MR. GRAUSZ STATED WITH RESPECT TO RATES, HOLLAND-AMERICA FELT THAT IT WAS IMPERATIVE THAT A MAXIMUM RATE BE SET. HE STATED THAT ONCE A MAXIMUM RATE IS SET, THE PUBLIC INTEREST IS SERVED AND THE PILOTS AND SHIPPERS SHOULD BE ALLOWED TO NEGOTIATE RATES BELOW THE MAXIMUM RATE. MR. GRAUSZ STATED THAT THAT WOULD ALLOW THE MARKET TO DETERMINE THE AMOUNT OF THE RATES.

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MR. GRAUSZ STATED THAT ONE CONCERN THAT HAD BEEN EXPRESSED ABOUT RATES WAS THAT THE SHIPPING INDUSTRY WOULD FORCE PILOTS TO CUT THEIR RATES SO LOW THAT THEY WOULD PROVIDE INFERIOR SERVICE AND ALLOW UNTRAINED PEOPLE TO PROVIDE PILOTAGE. HE POINTED OUT THAT UNDER THE THEORY BEING ADVANCED IN '82 194, EVERY TIME A PRICE IS NEGOTIATED, SAFETY IS COMPROMISED.

MR. CRADOCK STATED THAT HOLLAND-AMERICA WANTED TO MAKE SURE THAT PILOT ORGANIZATIONS COULD NOT ESCAPE LIABILITY FOR SIMPLE NEGLIGENCE OR BREACH OF CONTRACT. HE STATED THAT HOLLAND-AMERICA WANTED A SYSTEM TO BE IMPLEMENTED THAT WOULD BE ECONOMICALLY VIABLE AND FAIR FOR ALL PARTIES CONCERNED.

JARICE ADAMS, REPRESENTATIVE OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC), ADVISED MEMBERS THAT DEC BELIEVED THAT THE MANDATORY USE OF LOCAL MARINE PILOTS WITH A KNOWLEDGE OF THE AREA IN WHICH THEY OPERATE WAS AN INTEGRAL PART OF OIL SPILL PREVENTION. SHE STATED THAT THE DEPARTMENT WAS IN SUPPORT OF STRENGTHENING AND CLARIFYING THE DUTIES OF THE MARINE PILOTS' BOARD, IMPROVING ENTRY REQUIREMENTS, AND PROVIDING TRAINING AND EXPERIENCE STANDARDS.

MS. ADAMS STATED THAT THERE WERE LEGAL QUESTIONS ABOUT HB 194 THAT THE DEPARTMENT WAS NOT PREPARED TO TAKE A POSITION ON, HOWEVER, ADVISED MEMBERS THAT THEY WERE IN SUPPORT OF OTHER ASPECTS OF HB 194.

TERRY BENNETT, PRESIDENT, ALASKA COASTWISE PILOTS (ACP), ADVISED MEMBERS HE HAD BEEN PILOTING IN ALASKA SINCE 1981. HE STATED THAT HB 194 WAS BASED ON THE PILOTAGE STUDY COMPLETED BY OMB. MR. BENNETT FELT THAT THE STUDY ITSELF WAS FLAWED IN A NUMBER OF AREAS, AND BELIEVED THAT FURTHER STUDY WAS NECESSARY PRIOR TO ENACTING LEGISLATION SUCH AS HB 194.

MR. BENNETT POINTED OUT THAT THE STUDY CONTRADICTED ITSELF IN SEVERAL AREAS, NOTING THAT THERE WERE APPROXIMATELY 50 PAGES OF THE STUDY DEVOTED TO LETTERS FROM ATTORNEYS FOR THE TWO DOMINANT PILOT GROUPS, AS WELL AS THEIR LOBBYING, MR. KLIMBERG OF APA. HE EXPLAINED THAT THE STUDY DID NOT LIST ANY OF THE ARGUMENTS OF THE PILOTS WHO DID NOT BELONG TO THOSE TWO DOMINANT GROUPS. IT WAS MR. BENNETT'S BELIEF THAT THE CONCLUSIONS DRAWN, RECOMMENDATIONS MADE, AND ARGUMENTS PRESENTED BY THE STUDY WERE SOLELY THE OPINION OF THE TWO DOMINANT GROUPS PRESENTED AS AN OMB STUDY.

MR. BENNETT ADVISED MEMBERS THAT ACP BELIEVED THE STATE CURRENTLY REQUIRES QUALIFIED, SKILLED, INDEPENDENT PILOTS, AND THAT ACP PROVIDES WORK OF THE HIGHEST QUALITY AVAILABLE IN THE STATE. HE POINTED OUT THAT THE STUDY ALSO SUGGESTED THAT THE STATE SET HIGHER TRAINING STANDARDS IN RETURN FOR LIMITING PILOTS' LIABILITY AND GIVING PILOTS' ORGANIZATIONS ANTITRUST PROTECTION. MR. BENNETT SUBMITTED THAT THE STATE WAS NOT REQUIRED TO TRADE ANYTHING FOR HIGHER SAFETY REQUIREMENTS.

MR. BENNETT ADVISED MEMBERS THAT ACP FELT THE LANGUAGE REGARDING LICENSING AND TRAINING WAS AMBIGUOUS AND GRANTED TOO MUCH POWER TO THE BOARD OF MARINE PILOTS, AND THAT THE POWER WAS SUBJECT TO ABUSE BY THE BOARD. HE STATED THAT THE BOARD HAD A HISTORY OF OVEREMPHASIZING PROTECTION OF PILOTS FROM CIVIL LIABILITY TO THE EXCLUSION OF THEIR RESPONSIBILITY TO MONITOR SAFETY INFRACTIONS AND MISCONDUCT BY PILOTS. MR. BENNETT POINTED OUT THAT ACP DID NOT FEEL THE BILL WAS DIRECTED AT IMPROVING SAFETY OF NAVIGATION, BUT WAS SOLELY AN ATTEMPT TO PUT ACP OUT OF BUSINESS.

MR. BENNETT POINTED OUT THAT THE BILL SUGGESTS THERE IS A NEED TO IMPROVE SAFETY OF NAVIGATION AND TO UPGRADE TRAINING AND ENTRY STANDARDS, HOWEVER, THE BILL REALLY ONLY PROVIDES AN ECONOMIC ANSWER, THEREBY EXPOSING ITS REAL PURPOSE: THE EVENTUAL, IF NOT IMMEDIATE, ELIMINATION OF COMPETITION.

MR. BENNETT STATED THAT ACP HAD NO PROBLEMS WITH THE SAFETY AND TRAINING REQUIREMENTS IN THE BILL, HOWEVER, ACP WAS CONCERNED ABOUT HOW THOSE REQUIREMENTS WOULD BE IMPLEMENTED, AND FELT THE REMAINING PROVISIONS OF THE BILL SHOULD BE DISCARDED. HE STATED THAT ACP HAD PROVIDED WRITTEN AMENDMENTS FOR THE COMMITTEE'S CONSIDERATION THAT IF ADOPTED WOULD ALLOW ACP AND OTHER NEW PILOT GROUPS TO COMPETE SUCCESSFULLY WITH THE TWO DOMINANT GROUPS IN THE STATE.

REPRESENTATIVE CHERI DAVIS STATED THAT SHE HAD RECEIVED A COPY OF MR. BENNETT'S WRITTEN TESTIMONY EARLIER THAT MORNING AND WAS SHOCKED TO SEE THAT HE WOULD LIKE THE COMMITTEE TO DISCARD HB 194. REPRESENTATIVE DAVIS ALSO POINTED OUT THAT BILL SHARP HAD STATED HIS ABILITY TO LIVE LIVE WITH THE PROPOSED LANGUAGE OF HB 194 DURING A PREVIOUS COMMITTEE HEARING. IF THE PORTION OF THE BILL REGARDING REGIONAL WAS REMOVED, SHE STATED THAT MR. SHARP SUGGESTED HER OFFICE WITH SUGGESTED DRAFT LANGUAGE THE PREVIOUS DAY, LATE IN THE AFTERNOON, TO MAKE NUMEROUS CHANGES TO THE BILL.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT THE ATTORNEY GENERAL'S OFFICE SUPPORTED THE PROPOSED LEGISLATION, THE PILOT BOARD FELT IT WAS A GOOD PIECE OF LEGISLATION, AS DID THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE THREE FUNCTIONING PILOTS' ASSOCIATIONS.

REPRESENTATIVE NORTON QUESTIONED WHETHER OR NOT THERE WERE STANDARDS AVAILABLE TO ADDRESS THE ISSUE OF PRICE CUTTING AND THE PROBLEM OF CREATING MONOPOLIES. JOSEPH MERRILL ADVISED MEMBERS THAT THE PRESENT TARIFF HAD BEEN SET BY AN ADMINISTRATIVE HEARING OFFICER IN APPROXIMATELY 1969. HE EXPLAINED THAT THE TARIFF HAD BEEN SET BY TAKING THE OPERATING COSTS AND ADDING THE PILOT'S INCOME. HE STATED THAT IN THAT PROCESS, THE ONLY VARIABLE IS DECIDING THE AMOUNT OF THE PILOT'S INCOME.

MR. MERRILL STATED THAT THE BOARD, THROUGH ITS REGULATORY PROCESS, SETS CRITERIA FOR THE COST OF OPERATING, BASED ON DATA PROVIDED BY THE SHIPPING COMPANIES (WHAT IT COSTS THEM TO OPERATE). HE EXPLAINED THAT THE TARIFF ALSO TAKES INTO CONSIDERATION THE REGIONAL COST DIFFERENCES IN ALASKA.

MR. MERRILL STATED THAT HB 194 ATTEMPTS TO RESOLVE A CONFLICT CREATED BY AN ATTORNEY GENERAL'S OPINION THAT CONCLUDED THE BOARD DID NOT PRESENTLY HAVE THE AUTHORITY TO SET RATES, EVEN THOUGH THE BOARD WAS SETTING RATES. HE EXPLAINED THAT BECAUSE IT WAS NOT CLEAR THAT THE BOARD COULD SET RATES, IT WAS NOT CLEAR WHETHER ONE HAD TO COMPLY WITH THE RATES SET BY THE BOARD. MR. MERRILL ADVISED MEMBERS THAT WHAT HE WOULD LIKE TO SEE IN THE TARIFF WAS A RATE BASED ON THE PROFESSIONAL FEE CHARGED BY A WORKING PILOT AS HIGH ENOUGH TO MAINTAIN THE HIGH QUALITY OF PILOTS GETTING INTO THE BUSINESS.

REPRESENTATIVE MIKE MILLER POINTED OUT THAT THE BILL ADDRESSED LICENSING PILOTS BY REGION AND ASKED HOW PILOTS WERE CURRENTLY LICENSED. MR. MERRILL ADVISED MEMBERS THAT CURRENTLY LICENSING OF MARINE PILOTS WAS TIED TO THE COAST GUARD LICENSING PROGRAMS. HE STATED THAT IN ORDER TO RECEIVE A COAST GUARD LICENSE, AN INDIVIDUAL WOULD HAVE TO HAVE FAMILIARIZATION TRIPS IN THE MAJOR WATERWAYS OF EACH AREA OF THE STATE. MR. MERRILL ADVISED MEMBERS THAT PRESENTLY THERE WERE TWO REGIONS FOR LICENSING, THAT OF SOUTHEAST ALASKA AND WESTERN ALASKA, BASED IN PART ON COAST GUARD TRADITION. REPRESENTATIVE MILLER ASKED IF A PILOT COULD BE LICENSED IN BOTH REGIONS. MR. MERRILL ADVISED MEMBERS THAT PRESENTLY SOME PILOTS WERE LICENSED IN BOTH THE SOUTHEASTERN AND WESTERN REGIONS OF THE STATE.

REPRESENTATIVE MARTIN POINTED OUT THAT THERE WERE CURRENTLY THREE REGIONS, AND ASKED IF THERE WOULD BE ANY REASON TO BREAK THOSE REGIONS DOWN FURTHER. REPRESENTATIVE DAVIS ADVISED MEMBERS THAT POSSIBILITY HAD BEEN CONSIDERED BUT THE LANGUAGE IN THE BILL HAD BEEN LEFT AS FLEXIBLE AS POSSIBLE IN ORDER TO ALLOW THE BOARD TO MAKE THOSE DETERMINATIONS. HE POINTED OUT THAT THE BOARD COULD DECIDE TO LET THE REGIONS OVERLAP, AND THAT THE BOARD COULD DECIDE THAT THREE REGIONS WAS NOT ENOUGH.

REPRESENTATIVE MARTIN REITERATED HIS CONCERN FOR THE LACK OF STANDARDS. MR. MERRILL STATED THAT IN THE ABSENCE OF STATE STANDARDS SET BY LAW, PILOT ASSOCIATIONS WERE EXPERIENCING AN INCREASINGLY DIFFICULT TIME MAINTAINING THEIR OWN INTERNAL STANDARDS. HE ADVISED MEMBERS THAT IF STATE STANDARDS WERE SET IN A STATUTE, LAWSUITS WERE LESS LIKELY TO BE FILED AGAINST ORGANIZATIONS WITH RESPECT TO TRAINING PILOTS.

MR. MURPHY EXPLAINED THAT WHEN ASSOCIATIONS MAINTAIN TRAINING PROGRAMS, THEY ARE SUBJECT TO LAWSUITS IF AN ACCIDENT OCCURS. HE STATED THAT IF THE ASSOCIATIONS DROP THEIR TRAINING PROGRAMS IT WOULD BE IMPOSSIBLE FOR THE ASSOCIATIONS TO MAINTAIN ANY TYPE OF LIABILITY, AND WOULD ALSO SUBJECT THEM TO LAWSUITS. MR. MURPHY POINTED OUT THAT PILOTS TRAIN OTHER PILOTS AND FORM THEMSELVES INTO ORGANIZATIONS, WHICH ARE REQUESTING LIABILITY PROTECTION IN THEIR TRAINING FUNCTION. HE ADVISED MEMBERS THAT MOST PILOTS CARRY TWO KINDS OF COVERAGE, LICENSE INSURANCE AND DEFENSE COST INSURANCE. MR. MERRILL STATED THAT UP UNTIL A COUPLE OF MONTHS AGO, PILOTS HAD NOT BEEN ABLE TO OBTAIN INSURANCE FOR THE PURPOSE OF PAYING OFF A DAMAGE CLAIM.

CHAIRMAN DONLEY STATED THAT THE COMMITTEE WOULD CONSIDER THE PROPOSED AMENDMENTS AND ASKED IF REPRESENTATIVE DAVIS WISHED TO MAKE A CLOSING STATEMENT.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT SHE ALSO HAD PREPARED SOME ADDITIONAL AMENDMENTS FOR THE COMMITTEE TO CONSIDER THAT WOULD DEFINE TARIFFS SET BY THE BOARD AS INCLUDING VESSEL MOVEMENT FEES, TRANSPORTATION CHARGES FOR DISPATCH POINT TO PILOT STATION, FUEL BOAT CHARGES, AND DAILY PER DIEM. ANOTHER PROPOSED AMENDMENT WOULD MAKE THE LAW CONSISTENT WITH THE FEDERAL ALCOHOL TESTING PROGRAM AS SUGGESTED BY THE COAST GUARD, AND AN ADDITIONAL AMENDMENT WOULD DELETE INLAND AND COASTAL WATERS AND ADD THREE MORE TERRITORIAL SEA LINES, AS WAS ALSO SUGGESTED BY THE COAST GUARD. REPRESENTATIVE DAVIS WOULD THAT SHE ALSO HAD AN AMENDMENT TO PROPOSE AT THE REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

NUMBER 731

ADJOURNMENT

THERE BEING NOTHING MORE TO COME BEFORE THE COMMITTEE, CHAIRMAN DONLEY ADJOURNED THE MEETING AT 4:00 P.M.

CHAIRMAN DAVE DORLEY CALLED THE MEETING TO ORDER AT 10:00 AM. PLM. NOTING MEMBERS IN ATTENDANCE. THE FIRST ITEM ON THE AGENDA WAS CONSIDERATION OF HB 194 WHICH DEALT WITH THE REGULATION OF MARINE PILOTS.

WD
4/91
REPRESENTATIVE CRYST DAVIS, PRIME SPONSOR OF HB 194 INFORMED MEMBERS THAT MARINE PILOTING INVOLVED THE SKILL AND DISCIPLINE OF NAVIGATING LARGE SHIPS IN CLOSE PROXIMITY TO SHORE PORTS AND OTHER VESSELS. SHE NOTED THAT NO MATTER HOW COMPETENT THE MASTER OF A SHIP WAS IN OPEN SEA, HE/SHE COULD NOT BE EXPECTED TO BE FAMILIAR WITH THE LOCAL NAVIGATION HAZARDS AT EACH HARBOR ENCOUNTERED AS HE/SHE CONDUCTS A SHIP IN THE COURSE OF MARITIME TRADE.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT IT HAD LONG BEEN THE PRACTICE TO EMPLOY A LOCAL PILOT AT EACH PORT THE SHIP ENTERS AND LEAVES WHO HAS INTIMATE FAMILIARITY OF THE WATERS OF THE PORT TO GUIDE THE VESSEL TO AND FROM THE OPEN SEA.

REPRESENTATIVE DAVIS STATED THAT CONSUMERS OF PILOT SERVICES WERE OFTEN FOREIGN FLAGGED VESSELS ENTERING PORTS IN THE STATE WHOSE OWNERS WERE CONCERNED WITH PROFITS. SHE NOTED THAT THERE WAS A SIGNIFICANT CONFLICT OF INTEREST BETWEEN A VESSEL OWNER'S ECONOMIC NEEDS AND THE PUBLIC INTEREST IN SAFE PASSAGE. REPRESENTATIVE DAVIS EXPLAINED THAT IT WAS IN THE PUBLIC INTEREST FOR THE PILOT'S JUDGMENT TO BE ABSOLUTELY FREE OF THE ECONOMIC CONSIDERATIONS OF THE SHIP OWNER.

REPRESENTATIVE DAVIS FURTHER STATED THAT IT WAS FUNDAMENTAL TO AN EFFECTIVE, COMPULSORY PILOTAGE SYSTEM THAT THE SELECTION, CONTROL, AND COMPENSATION OF THE PILOT BE FIXED AND BEYOND THE INFLUENCE OF A SHIP OWNER.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT HB 194 (1 & 2) ESTABLISHES NEW TRAINING STANDARDS AND NEW GUIDELINES FOR PILOTS IN ALASKA. SHE NOTED THAT THE LABOR AND COMMERCE VERSION OF HB 194 WAS THE RESULT OF A COMPROMISE BETWEEN INDUSTRY AND PILOTS.

EDWARD MURPHY, MEMBER, SOUTHWEST ALASKA PILOTS ASSOCIATION, (SWAPA) ADVISED MEMBERS THAT HE PILOTED SHIPS THROUGHOUT SOUTHWEST ALASKA INCLUDING LARGE CRUDE CARRIERS AND OTHER TANKERS, CRUISE SHIPS, CONTAINER SHIPS, AND BULK CARRIERS. HE ADVISED MEMBERS THAT HE HAD SERVED ON THE ALASKA BOARD OF MARINE PILOTS FOR FOUR YEARS, AND WAS CHAIRMAN OF THAT BOARD FOR THREE YEARS.

MR. MURPHY ADVISED MEMBERS THAT IN JANUARY OF 1990 HE HAD WRITTEN GOVERNOR COMPER A LETTER CONCERNING GRAVE SAFETY PROBLEMS HE SAW EMERGING IN THE ALASKA STATE PILOTING SYSTEM. HE NOTED THAT ALASKA HAD ONE OF THE LOWEST ENTRY STANDARDS FOR LICENSING IN THE COUNTRY WITH NO STATE MANDATED STANDARDS OR REQUIREMENTS FOR PILOT TRAINING INORDINATE DELAYS IN PILOT DISCIPLINE CASES, AND PILOT ASSOCIATIONS HAD LEGAL PROBLEMS IN TRAINING PILOTS AND MAINTAINING HIGH STANDARDS.

MR. MURPHY EXPLAINED THAT GOVERNOR COMPER RESPONDED TO THE CONCERNS EXPRESSED IN HIS LETTER BY ORDERING THE OFFICE OF MANAGEMENT AND BUDGET TO CONDUCT AN INDEPENDENT STUDY OF ALASKA'S STATE PILOTING SYSTEM AND TO MAKE RECOMMENDATIONS FOR IMPROVEMENTS BASED ON THE FINDINGS. HE ADVISED MEMBERS THAT THE RESULT OF THAT STUDY WAS A REPORT ENTITLED IMPROVING ALASKA'S MARINE PILOTAGE SYSTEM.

MR. MURPHY STATED THAT THE PILOTS WHO LIVE AND WORK IN ALASKA BELIEVE THAT HB 194, BASED UPON THE FINDINGS OF THE OFFICE OF MANAGEMENT AND BUDGET (OMB), WAS LEGISLATION THAT ONE COULD BE PROUD OF BECAUSE IT WAS ULTIMATELY A SAFETY BILL. HE POINTED OUT THAT THE FINDINGS SECTION MAKE CLEAR FOR THE FIRST TIME THE PUBLIC SERVICE NATURE OF A PILOT'S WORK BY STATING THAT "THE FIRST AND PARAMOUNT DUTY OF MARINE PILOTS IS TO PROVIDE FOR THE PUBLIC SAFETY AND THE PROTECTION OF THE MARINE ENVIRONMENT". IT ALSO STATES THAT "MARINE PILOTS OPERATING INDEPENDENTLY IN THE SHIPPING INDUSTRY HAVE PROVIDED AND WILL CONTINUE TO PROVIDE ESSENTIAL SERVICE TO THE STATE". MR. MURPHY STATED THAT THE INDEPENDENCE OF THE PILOTS IS A CRUCIAL ELEMENT OF SAFETY, LONG RECOGNIZED BY STATE PILOTS AND IDENTIFIED BY THE OMB STUDY.

MR. MURPHY POINTED OUT THAT THE FEDERAL GOVERNMENT RECOGNIZES THE ESSENTIAL ELEMENTS OF PILOTING IN THE OIL POLLUTION ACT OF 1990. HE STATED THAT THE ACT REQUIRES STATE LICENSED PILOTS, WHO ARE NOT A MEMBER OF THE SHIP'S CREW, TO PILOT TANKERS IN PRINCE WILLIAM SOUND. MR. MURPHY STATED THAT HB 194 CLEARLY ESTABLISHED THE POWERS AND DUTIES OF THE BOARD OF MARINE PILOTS, POINTING OUT THAT THE AMBIGUITIES IN EXISTING LAW HAD LONG BEEN THE CAUSE OF CONFLICTING INTERPRETATIONS BY STAFF ATTORNEYS FROM THE ATTORNEY GENERAL'S OFFICE, RESULTING IN MORE CONFUSION, FRUSTRATION, AND LAW SUITS.

MR. MURPHY CONTINUED, POINTING OUT THAT THE PROPOSED LEGISLATION RAISED THE ENTRY STANDARDS FOR PILOT LICENSE APPLICANTS. THE BILL ALSO ESTABLISHES A DEPUTY PILOT SYSTEM IN WHICH NEW PILOTS CAN BE TRAINED UNDER THE SUPERVISION OF VETERANS, AND REQUIRES THE PILOT BOARD TO ESTABLISH STANDARDS FOR TRAINING PROGRAMS, NOTING THAT PILOT TRAINING WAS NOT CURRENTLY ADDRESSED IN PRESENT STATE STATUTES.

STATE OF ALASKA THE LEGISLATURE

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

5/13/91	Senate Labor & Commerce		?
5/17/91	" " "		?
5/18/91	" " "		9:15 am
4/30/91	Senate Transportation		?
5/2/91	" "		?
4/2/91	House Labor & Commerce	#482 (tape)	?
4/9/91	House " "	#150	?
5/14/91	House Finance		?