

HB

266

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 26, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/7/94

The RESOURCES Committee considered:

HB 266

HOUSE BILL NO. 266

ELIGIBILITY FOR GUIDE-OUTFITTER LICENSE

"An Act relating to guide-outfitter and master guide-outfitter licenses; extending the termination date of the Big Game Commercial Services Board; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 266 (L&C) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Commerce / 1-24-94

SIGNING <u>DO PASS</u>	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<u>Bill Hudson</u> Hudson	<input checked="" type="checkbox"/>	<u>David Ankelstein</u> Ankelstein		<input checked="" type="checkbox"/>	
<u>John Carney</u> Carney	<input type="checkbox"/>				
<u>Green</u> Green	<input type="checkbox"/>				
<u>James</u> James	<input type="checkbox"/>				
<u>David N. Davies</u> Davies	<input checked="" type="checkbox"/>				
<u>Alton Mulder</u> Mulder	<input checked="" type="checkbox"/>				
<u>Car Bunde</u> Bunde	<input checked="" type="checkbox"/>				
<u>W.K. Williams</u> Williams	<input checked="" type="checkbox"/>				

W.K. Williams
CHAIRMAN'S SIGNATURE

REPRESENTATIVE GAIL PHILLIPS
SPONSOR STATEMENT FOR CSHB 266 (L + C)
GUIDE-OUTFITTER AND MASTER GUIDE-OUTFITTER
LICENSES

HOUSE RESOURCES COMMITTEE

FEBRUARY 7, 1994

THIS BILL SEEKS TO ACCOMPLISH THREE THINGS:

- 1. EXTEND THE BIG GAME COMMERCIAL SERVICES BOARD'S STATUTORY AUTHORITY TO JUNE 30, 1997.**
- 2. BROADEN THE STATUTE IN ONE SECTION TO ENABLE COMPLIANCE WITH A COURT DECISION IN COBB VS. STATE**
- 3. RE-ENACT AND DEFINE THE "MASTER GUIDE" LICENSE.**

THIS LEGISLATION IS SUBMITTED ON THE B.G.C.S. BOARD'S BEHALF AS A RESULT OF THEIR WORK AND DELIBERATIONS.

THE FIRST PART OF THIS BILL IS SELF EXPLANATORY. THE BOARD HAS REACHED THE END OF ITS TENURE AND CURRENTLY IS IN ITS SUNSET YEAR WHICH EXPIRES IN JUNE 1994. THIS IMPORTANT BOARD GOVERNS A 100 MILLION DOLLAR A YEAR INDUSTRY. IT RECEIVED HIGH MARKS ON LAST YEAR'S LEGISLATIVE AUDIT REPORT AND ENJOYS TREMENDOUS SUPPORT AND RESPECT STATEWIDE.

THE SECOND SECTION OF THE BILL DELETES LANGUAGE ON CLIENT RECOMMENDATIONS REQUIRED FOR OBTAINING A GUIDE-OUTFITTER LICENSE. THIS PART OF THE CURRENT STATUTE LANGUAGE IS TOO NARROW TO ADEQUATELY AND FAIRLY ADDRESS SOME SITUATIONS THE BOARD HAS COME ACROSS. FOR EXAMPLE, THE LAW STATES THAT AN APPLICANT FOR THIS LICENSE MUST HAVE TWO RECOMMENDATIONS PER YEAR FOR THE MOST RECENT THREE YEARS. IF AN APPLICANT HAD BECOME INCAPACITATED DURING ONE OF THOSE YEARS AND COULD NOT GUIDE, THEY WOULD BE INELIGIBLE REGARDLESS OF THE NUMBER OF CLIENTS THEY HAD GUIDED IN PREVIOUS YEARS.

SINCE THE PREMISE UNDERLYING THE LICENSING CRITERIA IS HISTORICAL EXPERIENCE, THE BOARD WOULD LIKE TO SEE THE MINIMUM NUMBER OF CLIENT RECOMMENDATIONS CHANGED FROM SIX TO EIGHT, AND HAVE THE WHEREWITHAL TO TAILOR THE QUALIFYING YEARS TO FIT THE SITUATION.

30 IN ORDER TO RESPOND TO THESE SITUATIONS IN A TIMELY FASHION, IT IS DESIRABLE TO HAVE A BOARD WITH THE ABILITY TO SET THESE REQUIREMENTS IN REGULATIONS, WHERE THEY CAN BE FINE TUNED MORE QUICKLY THAN HAVING TO GO THROUGH THE LEGISLATIVE PROCESS. THE B.G.C.S. BOARD CHAIRMAN, PAUL JOHNSON, IS HERE TODAY AND CAN ANSWER YOUR SPECIFIC QUESTIONS ON THIS SECTION.

SECTION THREE OF CSHB266 DETAILS THE CHANGES NEEDED TO MAKE THE MASTER GUIDE CLASSIFICATION FAIR AND WORKABLE. STATUTES ENACTED IN 1989, GRANDFATHERED IN SOME MASTER GUIDE LICENSES WITHOUT PROVISIONS TO ACCOMMODATE FUTURE QUALIFIED CANDIDATES. WHILE THE STATE RECOGNIZES NO SUBSTANTIVE DIFFERENCE BETWEEN THE MASTER GUIDE AND REGULAR GUIDE-OUTFITTER LICENSE, THE ABILITY OF THOSE GRANDFATHERED IN TO ADVERTISE AS MASTER GUIDES IS UNFAIR TO THOSE OF EQUAL EXPERIENCE WHO MAY ONLY ADVERTISE AS GUIDE-OUTFITTERS. THIS BILL LAYS OUT REQUIREMENTS FOR THE MASTER GUIDE LICENSE, INCLUDING PRIMARILY THE MINIMUM NUMBER OF CLIENT RECOMMENDATIONS, AND MINIMUM YEARS OF PARTICIPATION AS A GUIDE-OUTFITTER, WHICH ARE SUBSTANTIALLY ABOVE THOSE REQUIREMENTS FOR A REGULAR GUIDE-OUTFITTER LICENSE.

THE HOUSE LABOR AND COMMERCE COMMITTEE HEARD THIS BILL, AND AMENDED IT TO INCLUDE THE 1997 SUNSET DATE, AND THE NEW LANGUAGE IN SUBSECTION 10 OF SECTION 2. THE BILL WAS PASSED OUT OF THAT COMMITTEE WITH THREE DO PASS, FOUR NO RECOMMENDATION, AND ZERO DO NOT PASS VOTES.

I STRONGLY SUPPORT HOUSE BILL 266. THE CONTINUATION OF THIS BOARD IS VITAL TO THE CONTINUED HEALTH OF OUR BIG GAME RESOURCES, AND THE INDUSTRY IT SERVES.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 266 (L&C)

Revision Date: 1/31/94
 Title: An Act relating to Master-Guide Outfitters and Guide-Outfitters;...
 Sponsor: Rep. Phillips
 Requestor: Rep. Phillips

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

CSHB 266 (L&C) extends the Big Game Commercial Services Board to June 30, 1997, reinstates the Master Guide license category, and clarifies entry requirements for a guide-outfitter license. New funds are not required to implement provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 1/31/94
 Date: 2-3-94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 266

Revision Date: 1/23/94
 Title: An Act relating to Master-Guide Outfitters and Guide-Outfitters;...
 Sponsor: Rep. Phillips
 Requestor: Rep. Phillips

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS		FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME		0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
 HB 266 extends the Big Game Commercial Services Board to June 30, 1995, reinstates the Master Guide license category, and strengthens entry requirements for a guide-outfitter license. New funds are not required to implement provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 1/22/94
 Approved by Commissioner: Paul Fuhs Date: _____
 Agency: Commerce and Economic Development

PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

April 15, 1993

The Big Game Commercial Services Board was created by the guide-outfitter legislation of 1989 for the purpose of licensing and regulating the activities of those businesses providing services to big game hunters. These include guides, transporters, and gear and equipment service rental companies.

The value of Alaska's wildlife resources cannot be overstated. A rational utilization of these renewable resources facilitated by commercial entities requires a carefully structured system of regulations. These regulations should ensure high licensing and performance standards. They are necessary to enforce legal and ethical practices which support principles of game conservation. It is essential that we conduct our activities as stewards of the resource and not as unregulated exploiters of it.

It is in the best public interest that the Big Game Commercial Services Board regulate commercial activities related to the taking of game. Without this board, there would be chaos and the depletion of one of Alaska's most important value-added resources.

Joseph R. Klutsch, President
Alaska Professional Hunters
Association

ms 3/22/93

Judi

Jones' Guide & Outfitting
33675 Jones Dr.
Homer, AK 99603

March 11, 1993

Dear Representative Phillips,

Thank you so much for your efforts concerning the licensing of Master Guide/Outfitters and other issues regarding the Guiding industry. Your concern and actions are highly appreciated.

I have reviewed the draft bill on Master Guide/Outfitter licensing that you sent and am very pleased with it as it is written. Hopefully we can get some of these things straightened out. It certainly helps when we have people like yourself representing us in Juneau.

Unfortunately there seems to be a lot of misunderstanding these days about the Guide industry. I think a lot of people have the impression that the guides are a wealthy group of outlaws out there destroying the resource and ripping off the public. Certainly this description could be applied to a few guides, but the vast majority are small time operators, adhering to the game regulations, have a sincere concern for the resource, and work together with the Department of Fish & Game to take care of the resource. Only the outlaws ever make the Headlines, so people never hear about the rest. This adversative attitude sometimes makes it difficult to get laws and regulations passed that are beneficial to the industry. In these times of economic hardships it is certainly in our best interest to lend support to those industries in Alaska that are dependent on renewable resources and have the potential to provide jobs and employment on an ongoing basis. But I had better get down off my soap box for now. Take care and thanks again.

Sincerely Yours,



Cecil R. Jones

LETTER OF SUPPORT

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BIG GAME COMMERCIAL SERVICES
BOARD

October 8, 1993



Audit Control Number:

08-1408-94

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

BUDGET AND AUDIT COMMITTEE

Senator Randy Phillips, Chairman
Senator Al Adams
Senator Steve Frank
Senator Steve Rieger
Senator Bert Sharp
Senator Jay Kerttula (alternate)

Representative Terry Martin, Vice Chair
Representative John Davies
Representative Mark Hanley
Representative Ron Larson
Representative Eileen MacLean
Representative Sean Parnell (alternate)

DIVISION OF LEGISLATIVE AUDIT

Randy S. Welker, CPA
Legislative Auditor
Merle R. Jenson, CPA
Deputy Legislative Auditor

P.O. Box 113300
Juneau, Alaska 99811-3300

(907) 465-3830, Juneau
(907) 561-1445, Anchorage
(907) 465-2347, Juneau FAX

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

October 8, 1993

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BIG GAME COMMERCIAL SERVICES BOARD

October 8, 1993

Audit Control Number

08-1408-94

The objective of the audit was to determine if the Big Game Commercial Services Board should continue its existence. AS 44.66.010 has scheduled the board for termination on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap-up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature extend the board's termination date to June 30, 1997.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

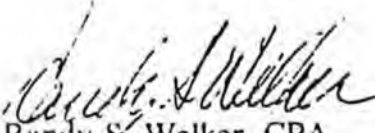

Randy S. Welker, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology	1
Organization and Function	3
Background Information	5
Report Conclusion	9
Findings and Recommendations	11
Analysis of Public Need	15
Appendixes:	
A. Department of Commerce and Economic Development Big Game Commercial Services Board Schedule of Revenues Compared with Expenditures	19
B. Big Game Commercial Services Board Application, License, and Other Fees	21
Agency Response:	
Department of Commerce and Economic Development	23
Legislative Audit's Additional Comments	27

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Big Game Commercial Services Board to determine if it should continue in existence as provided for under terms of the State's "sunset" legislation.

As required by legislative intent, this report is part of the oversight function when they consider if a board or commission should be reestablished. The law currently specifies that the board will terminate on June 30, 1993 and will have one year from that date to conclude its affairs. As of the date of this report, the board is technically in its one-year "wrap-up" period.

Objectives

Our specific audit objectives were:

1. To make recommendations to the legislature regarding the continued existence of the board.
2. To determine if the board is performing in compliance with state statutes and regulations.
3. To determine if the board is performing in the interest of the public.

Scope and Methodology

We focused on activities that have occurred since the board was established on May 12, 1939 to determine if it has been operating in the interest of the public. Also, we reviewed the proceedings of the current board to ensure that they are in compliance with Alaska statutes and regulations.

During the course of our audit, we attended a teleconference meeting of the board which focused on the requests for additional guide use areas under state regulations (12 AAC 38.82^f). During the meeting, we observed the proceedings of the board. We were able to see firsthand how the board operates and interacts with the public.

In order to address our audit objectives, we reviewed the following:

- Applicable sections of Alaska's statutes and regulations.
- Minutes of prior board meetings.
- The director's reading files.

- Investigation and litigation files.
- Office of the Ombudsman closed case file.
- Budget documents, session laws and other legislative information relating to the board's operations.
- Internal reports and documents prepared by the board.
- Other documents as deemed pertinent.
- Financial reports from the state accounting system.
- Prior year audit work papers and audit reports.
- Office of the Governor, Boards and Commissions' files.

In addition, we conducted interviews with the management and staff of the board and Department of Fish and Game employees involved in developing guide-outfitter use areas.

ORGANIZATION AND FUNCTION

In the October 21, 1988 *Owsichuk* decision, the Alaska Supreme Court decided that the statutes and regulations establishing the State's exclusive guide area system were unconstitutional. These statutes and regulations had been used by the Guide Licensing Control Board, and later the Guide Board, as an integral part of their oversight function. The Big Game Commercial Services Board was established in the Department of Commerce and Economic Development in May 1989 by Chapter 37, SLA 1989 [House Bill (HB) 112]. It was the intent of the legislature that the board establish a resource-based management system for allocating big game hunting opportunities among guide-outfitters. The management system was to:

1. Provide for the conservation of the game resources.
2. Provide for equal opportunity to all qualified guide-outfitters when access to hunting rights are assigned or reassigned.
3. Provide financial compensation to the State for the commercial harvest of Alaska's big game resources to be used for game management purposes.
4. Designate the Alaska Department of Fish and Game as the lead agency to formulate management areas.
5. Provide for long-term stability and economic health of any commercial industry utilizing big game resources.
6. Include recommendations from private and public land owners in order to ensure statewide applicability.

The provisions of AS 08.54 define the board's authority, purpose, and scope of work. In addition to establishing the resource-based management system above, the primary functions of the board include the following:

1. Determine qualifications of applicants for guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, and assistant guide-outfitter licenses.
2. Establish performance standards for providers of big game commercial services and regulate the activities of these providers.
3. Compile, maintain, and publish an annual register of big game commercial service providers.
4. Prohibit guide-outfitting, transporting, and other big game commercial services activities that are unsportsmanlike, unethical, unsafe, against principles of game conservation, degrading to the professions, or that adversely affect natural resources.

5. After a hearing, revoke, suspend, or deny renewal of a license or permit.
6. Authorize issuance of transporter licenses and commercial use permits.
7. Establish the level of supervision that a guide-outfitter will provide for class-A assistant guide-outfitters and assistant guide-outfitters.

**BIG GAME COMMERCIAL SERVICES BOARD
OCTOBER 1993**

Glen Alsworth, Transporter
Peter R. Buist, Guide-Outfitter
Richard Burley, Board of Game Representative
 (pending appointment by the Game Board)
Glenn W. Fredricks, Native Land Holder
Robert A. Hinman, Commercial Use Permit Holder
Paul E. Johnson, Guide-outfitter, Chairman
Scott Ogan, Public
Thomas N. Scarborough, Public
Eric C. Stirrup, Transporter

The board consists of nine members (see inset at above right) who, unless otherwise noted, are appointed by the governor and serve at the pleasure of the governor. By statute, the nine member board must be made up of:

1. two licensed guide-outfitters;
2. two transporters (one in the business of air transport);
3. one commercial use permit holder who does not hold any class of guide-outfitter license or a transport license;
4. one member of the Board of Game who is chosen by the Board of Game and does not hold a commercial use permit;
5. one member who represents Native landholders; and
6. two public members.

Members serve staggered four-year terms.

BACKGROUND INFORMATION

As discussed in the Organization and Function section, the *Owsichek* decision handed down in October 1988 by the Alaska Supreme Court struck down the legality of statutes and regulations related to the exclusive guide area (EGA) system. In many respects, the decision was the culminating blow for the State's guiding industry as it then existed and was regulated. The decision was a watershed event that lent even more urgency to the effort to overhaul how the State's hunting guides were regulated.

Owsichek decision was the major, but not the only critical problem facing guide regulators

The EGA system was an integral part of the administrative responsibility of the former Guide Board. The legal demise of EGA came on the heels of other problems and concerns facing guide regulation in general, and the Guide Board in particular, such as:

1. The lack of regulation of air taxi operators, many calling themselves "outfitters," who in the view of many guides were acting as unlicensed competitors.
2. Complaints by individuals that the guide licensing process was too subjective and that obtaining a license or an EGA depended more on "connections with the right people" and subjective evaluation, than objective consideration of relevant experience.
3. The problem that the Division of Fish and Wildlife Protection was having enforcing guiding laws, due to difficulty in defining what constituted unlicensed guiding activity.

Legislature had already established a task force to consider changes in guide regulation

Even before the *Owsichek* decision brought the problems of the industry to a cataclysmic pitch, the legislature was already considering a public policy response. Chapter 160, SLA 1988 established what was termed the Interim Task Force on Guiding and Game, under the jurisdiction of the legislative council. The task force was to examine these various problems and develop a proposed alternative regulatory method. The task force consisted of:

1. the commissioners of the Departments of Fish and Game, Commerce and Economic Development, and Public Safety, (or their designees);
2. two members of the Senate and two members of the House of Representatives; and
3. six other "special interest" members appointed by the governor as follows:
 - a. one member of the Guide Board,
 - b. one big game licensed guide, not a member of the Guide Board;

- c. two persons engaged in a business, other than guiding, that were involved in transporting big game hunters to and from the field (but only one of the two could be an air taxi operator); and
- d. two public members, neither of whom had a financial interest in any business involving or related to the commercial taking of game.

Chapter 10, SLA 1989 extended the task force's termination date to the earlier of January 15, 1990 or the enactment of legislation establishing:

1. A licensing system for hunting guides and other providers of big game services to hunters; and
2. A management system for allocating rights of access to big game to licensed guides.

The legislation also added two additional members to board: (1) an individual with expertise in research and analysis, and (2) a representative of Native landholders.

Task force recommended creation of Big Game Commercial Services Board

The task force recommended that a new regulatory board be created. It also recommended expanding the regulatory purview of the new board to cover both the guides and outfitters (classifying a singular group as "guide-outfitters") in addition to a group designated as transporters. The House Resources Committee introduced legislation that incorporated much of what the task force recommended.

The legislature allowed for the reestablishment of what was termed "area assignments" which were, to a very limited degree, analogous to the old EGA concept, whereby certain license holders would be permitted to guide in designated geographic areas. But in various intent statements, the legislature directed that the precepts of the *Owsichek* decision be respected in the development of any new guide area system. The intent from the Senate Finance Committee directed, in part, that

it is the intent of the legislature that the Big Game Commercial Services Board, with recommendation from the Task Force on Guiding and Game, . . . shall consider the implications of the Owsichek decision issued by the Alaska Supreme Court . . . when establishing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

Regulations for area assignments started adoption process in January 1992

In January 1992, maps of designated use areas were first developed. The first draft of associated regulations which established how license holders could apply and qualify for areas were finished in July. The BGCSB held public hearings on the proposed regulations in late September 1992, after the new rules had been circulated publicly for more than 60 days. At their September 27, 1992 meeting, the board adopted the regulations, as amended based on public comment. The regulations were forwarded to the Department of Law for legal review in early October and were approved in their final form by the lieutenant governor in late January 1993.

Areas began being assigned by the Division of Occupational Licensing (OL) in July of 1993. As of the date of this report, OL has received 845 applications for area assignments from 330 guides. As of the same date, 720 of the area permits had been granted. As discussed in Recommendation No. 1, we have excluded any analysis of the area assignment process from our sunset review. We feel that there has not been enough experience to assess the fairness and objectivity of the area assignment process. However, we are encouraged by the initial role played by the Department of Fish and Game in establishing relevant game management units that serve as the underlying structure for the area assignments.

(Intentionally left blank)

REPORT CONCLUSION

Alaska Statute 44.66.010 requires that the Big Game Commercial Services Board be terminated on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap-up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature extend the board's termination date until June 30, 1997 (see Recommendation No. 1).

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The statutory sunset provision for the Big Game Commercial Services Board should be extended until June 30, 1997.

Under Alaska Statute [AS 08.03.010(c)(5)], the termination date for the Big Game Commercial Services Board (BGCSB) was June 30, 1993. As of the date of this report, the BGCSB is technically in its one-year "wrap-up" period. If no action is taken by the legislature, the BGCSB will be dissolved at June 30, 1994.

We have reviewed the activities of the BGCSB since it was created as the successor to the Guide Board. In our view, the BGCSB is operating in the public's interest. The board, through the licensing and supervision of big game guides is adequately protecting the hunting public. Accordingly, we recommend that the board continue operations through FY 97.

The establishment and allocation of designated guiding areas between licensed guides was still very much in its "start-up" phase at the time of our audit fieldwork. The use, trading, and allocation of previous exclusive guiding areas was the central issue in the 1988 *Owsichek v. State* court decision. The *Owsichek* decision determined that the statutes under which the Guide Board was issuing and designating exclusive guide areas were unconstitutional.

The BGCSB and the Division of Occupational Licensing (OL) has just recently started the allocation and distribution of guide areas (on a non-exclusive basis) using regulations formally adopted in January 1993. Since this critical function is in the "start-up" phase, we suggest extending the board's "sunset" date for three years. By doing so, our agency can better assess and consider the manner the original area allocation process was carried out by OL and the board. At that time there would be two years of actual experience to analyze and consider when we conducted the subsequent BGCSB "sunset" review in the summer or fall of 1996.

Recommendation No. 2

The Department of Commerce and Economic Development (DCED) and OL should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

OL's methodology for determining FY 93 fees allocates costs to a board or occupation in one of two ways. Some costs, termed direct costs by OL, are directly distributed to a specific licensing program. Direct costs include personnel assigned to one specific occupation, travel associated with board business, public notices of board proceedings, and

printing of board applications and statute booklets. Other costs, termed indirect costs, are allocated based upon the percentage of licensees in each occupation compared to the total number of occupational licensees. These costs include the expenditures associated with licensing examiners', investigators', hearing officers', management's, and clerical staff's time.

Effective August 24, 1992, DCED was required to establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for that occupation [AS 08.01.065(c)]. Prior to FY 93, DCED could establish fees that reflected, but did not exceed, the actual costs of the activity for which the fee was charged and could establish a fee at less than full cost if they deemed it unreasonable to impose the full cost of the activity on the licensee.

Our office and OMB have both reviewed OL's cost allocation methodology to determine if it is sufficient to meet the requirements of AS 08.01.065(c). Both our office and OMB do not believe that OL's cost allocation methodology distributes costs reflective of the actual effort spent. The primary disparity involves the classification of licensing examiners', investigators', and hearing officers' time. The manner in which these three categories of employees' cost have been allocated prior to FY 94 can cause occupations with a large number of licensees to absorb costs that are not reflective of the actual effort spent regulating their profession.

In addition to our concerns with OL's cost allocation methodology, we found problems in how they distributed costs in their calculation of a two-year average of expenditures used in determining FY 93 license fees. The percentages applied to allocate indirect costs were not always correct. These inconsistencies were caused by formula errors on spreadsheets prepared by OL staff. Also, documentation supporting some expenditures on the spreadsheets has not been retained. Review of the selected current information available does not confirm these numbers. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distributions of costs.

In their September 1993 report, *Occupational Licensing Fee-Setting Policy Assessment*, OMB made seven recommendations to OL on how to allocate costs so that the intent of AS 08.01.065(c) is met. According to OMB's report, "A follow-up review for this project will be scheduled for March 1994." DCED has recently indicated that, for the determination of the FY 94 fees, they will allocate costs for licensing examiners, investigators, and hearing officers based on estimated time spent by those employees, with periodic adjustments to actual time spent in accordance with our office and OMB's recommendations. As of October 1993, the allocation of direct and indirect costs using FY 93 expenditure data has not been performed.

DCED should continue to work with OMB in establishing fee levels for occupational licensees that are more reflective of actual regulatory cost of the occupation.

Recommendation No. 3

OL should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

Alaska Statute 08.01.050 establishes DCED's administrative duties for professional licensing boards. Alaska Statute 08.01.070 identifies the administrative duties of the boards. Included in the board's responsibilities are the taking of minutes and records of all proceedings, forwarding of a draft of the minutes of proceedings to the department within 20 days after the proceedings, and submission of an annual performance report to the department before the end of the fiscal year. However, we found that OL rather than the Big Game Commercial Services Board performed these duties.

For example, the licensing examiner is responsible for tape recording the board proceedings, recording votes, taking notes, and preparing the minutes. OL also compiles much of the information in the board's annual report. OL has the records needed to determine statistics such as the number of licenses issued and examinations given and passed.

We recommend that OL review the statutes and request changes that reflect actual responsibilities and timelines that are both practical and timely.

Recommendation No. 4

DCED, OL should, in conjunction with the Equal Employment Office, review the licensure application for each professional occupation to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

The guide-outfitter, class-A assistant guide-outfitter, and assistant guide-outfitter applications require the height and weight of the candidate. The Equal Employment Office (EEO) within the Department of Administration, Division of Personnel discourages agencies from asking applicants information on height and weight. If an applicant were denied a license, the board or OL may find it difficult to prove that there was no discrimination involved if this type of information had been provided to the persons reviewing the application for licensure.

The application forms used by OL should be reviewed with EEO to make sure that the height and weight are pertinent to the licensure of guide-outfitter candidates. One of the reasons height and weight were requested was for identification. However, the information has not been used for identification, it is no longer printed on licenses, and it is no longer entered into the licensing data base. If this information is considered necessary for identification or other reasons, it should be separated from the application prior to review of the application for licensure. If the information is not necessary, the request for it should be removed from the application.

Recommendation No. 5

DCED, OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law.

The Alaska Executive Branch Ethics Act (AS 39.52) requires members of boards and commissions to disclose potential violations of that Act to their designated supervisor. The designated supervisor for members of a board is the chair or acting chair of the board. Functionally, OL staff advise the professional licensing boards associated with them as to the reporting necessary for compliance with the Ethics Act, as does the Department of Law (Law). Disclosures by board members are compiled by OL for submission to Law. These reports are required to be submitted on a quarterly basis. Law reviews these submissions and makes available to the public a summary of the reports received with sufficient deletions to prevent disclosure of a person's identity.

These reports have not been submitted in a timely manner. In 1991, no reports were submitted to Law. In 1992, reports were submitted three to six months after the end of the quarter. In 1993, the first two quarters' reports were submitted in July. In addition division personnel have indicated that there is some confusion as to what should be reported. While staff at the Department of Law believe that OL understands what should be reported, written policies and procedures governing the reporting of potential ethical violations would benefit OL as well as board members. There would be clear criteria for OL staff to follow as to what should be reported as well as when it should be reported.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

1. The board adopted regulations concerning guide-outfitter qualifications, guide-outfitter operations, professional conduct, transporters, guide-outfitter use areas, and use area registration to insure the public of qualified practitioners. The public is notified about upcoming examinations and meetings and is invited to provide input at board meetings.
2. The board has developed goals and objectives. Some of the goals the board achieved in FY 93 include:
 - a. The board continued to place a strong emphasis on maintaining a consistent discipline program to ensure compliance with the new statutes and regulations.
 - b. With the exception of the assistant guide-outfitter examinations, many board members actively participated in the administration of the registered guide-outfitter written and oral examinations offered in Anchorage.
 - c. The board continued to define current regulations relating to transporters, commercial use permit holders, and guide-outfitters, and worked in conjunction with the Department of Natural Resources and the Department of Fish and Game with the implementation of the guide-outfitter use area registration system.
3. The board has conducted guide-outfitter examinations twice a year, and the exam for class-A assistant guide-outfitters and assistant guide-outfitter 6 times a year.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

See the following section.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board has been seeking further definition from the legislature on several issues:

1. **Alaska Statute 08.54.350(a)(10)** requires a guide-outfitter candidate to have

been favorably recommended in writing by six big game hunters, two for each year of the person's most recent three years as a class-A assistant guide-outfitter or assistant guide-outfitter, whose recommendations have been solicited by the board from a list provided by the applicant.

In several cases, an assistant guide-outfitter or class-A assistant guide-outfitter has been injured after working for one client. As a result that year is the most recent year, but there is no way s/he can be licensed as a guide-outfitter until three years later. This is not fair.

Under House Bill 266 eight recommendations will be required, one of which must be for a grizzly hunt and another for a mountain or Dall sheep or mountain goat hunt. Also, the applicant must have spent at least 90 days in the field during three of the last five years.

This will help assure: (1) that the guide is qualified by having been on the type of hunt guide-outfitters are hired for and, (2) eliminate the incompetent but not the unfortunate.

2. House Bill 87 and Senate Bill 52 make amendments to AS.08.54.395 regarding insurance requirements for guide-outfitter, marine mammal guide-outfitters, class-A assistant guide-outfitters, and assistant guide-outfitters.
3. The board also requested legislation relating to commercial users other than guide-outfitters and transporters. This includes people who sell wildlife photos and videos, military bases that use wildlife resources and brokerage firms, and "ecotourism" operators who commercially exploit big game resources without board overview and without compensation to the State. The legislation did not pass.

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 that it has provided.

The public is invited to attend board meetings. Notices of meetings and examinations are published in at least three major newspapers and a time for public comment is reserved at board meetings.

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

Public notices of proposed regulations are published in major newspapers. Public comment to proposed regulations, both written and oral, are considered at board meetings.

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.

The Division of Occupational Licensing (OL) receives more complaints regarding the activities of license holders regulated by the Big Game Commercial Services Board (BGCSB) than for any other profession for which the agency is responsible. Since FY 89, OL investigators have opened more than 100 complaint investigations involving guide-outfitters. When added with other guiding-related complaints and those involving assistant guides, guide applicants, and unlicensed guides the total comes to more than 180.

More than half of these complaints have originated from the Department of Law and state or federal officials responsible for enforcement of laws protecting wildlife resources. Seventeen complaint cases since December 1988 have resulted in the revocation of licenses for four or more years.

We reviewed a sample of cases that were both currently open or had recently been closed by OL in consultation with the Department of Law (Law). For those cases reviewed, particularly those involving consumer complaints regarding guide services we felt OL and Law resolved the complaints in a timely and appropriate manner considering the resources available.

Further, review of recently closed Ombudsman's case files and inquiries with the Human Rights Commission, Equal Employment Opportunities Office, and the Attorney General indicated that no significant complaints were either unresolved or outstanding involving the BGCSB or their licensing activities.

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

As of June 30, 1993, the board regulated 423 guide-outfitters, 116 class-A assistant guide-outfitters, 551 assistant guide-outfitters, 134 transporters, and 31 commercial use permit holders.

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 or interest.

The Equal Employment Opportunity Office has not received any complaints related to the board's activities.

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.

See above.

APPENDIX A

Department of Commerce and Economic Development
Big Game Commercial Services Board
Schedule of Revenues Compared with Expenditures
(Unaudited)
(Note 1)

Revenues (Note 2)	\$190,270
Expenditures (Note 3)	<u>205,707</u>
Excess of Expenditures over Revenues (Note 3)	<u>\$(15,437)</u>

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from discussions with Division of Occupational Licensing (OL) personnel and from OL prepared documents comparing revenue and expenditures for fee determination. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is comprised of license renewal fees. For the current fee structure, see Appendix B. Most licenses are renewed biennially. Because of the renewals, revenues vary substantially year to year. Therefore, OL combined revenues collected in FY 90 and FY 91 and calculated an average in order to obtain a representative amount of annualized revenues collected for comparison with expenditures.

Note 3

Expenditures consist of direct costs resulting from board member activities, (i.e., travel and per diem) and an allocation of overhead costs of OL. Our understanding of the allocation methodology is discussed in Recommendation No. 2 of this report and is the subject of a September 1993 Office of Management and Budget (OMB), Division of Audit and Management Services report entitled *Occupational Licensing Fee-Setting Policy Assessment*. Both our office and OMB do not believe that OL's method of allocating costs to a professional licensing board distributes costs reflective of the actual effort spent regulating their profession.

(Intentionally left blank)

**Appendix B
Big Game Commercial Services Board
Application, License, and Other Fees¹**

Application and Other Fees²			
Type of Fee	Guide- Outfitter	Class-A Assistant and Assistant Guide- outfitters	Commercial Use Permits and Transporter Licenses
Application	\$50	\$50	\$50
Examination	50	50	N/A
Unit examination for taking initial examination, retaking examination, or adding units	50/per unit	N/A	N/A
Use area registration application for each use area	50	N/A	N/A
License Fees			
License Category	Initial	Renewal ¹	
Guide-outfitter	\$200	\$200	
Class-A Assistant and Assistant Guide Outfitter	200	200	
Use area registration for each use area (The fee is due for each year of the registration)	100	N/A	
Transporter license	150	150	
Commercial Use Permit	100	100	

¹The licensing fees charged by the Division of Occupational Licensing for Big Game Commercial Services Board are set out in the Alaska Administrative Code at § 12 AAC 02.230. The last change to the board's fee regulations became effective February 25, 1993. According to Division of Occupational Licensing staff, at this time there are no planned fee changes for this board.

²The Division of Occupational Licensing is also authorized to charge administrative fees. Administrative fees include duplicate license fee, photocopying fee, and penalty for reinstatement of a registration, license, permit, or certificate which remains lapsed for more than 60 days.

³The renewal periods for the Big Game Commercial Services Board license categories are as follows: Annual guide outfitters, December 31, 1993; biennial Class-A Assistant and Assistant Guide-outfitter license, December 31, 1994; annual Transporter license, December 31, 1993; and annual Commercial Use Permit, December 31, 1993.

(Intentionally left blank)

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P O BOX 110800
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465 2500
FAX: (907) 463-3841

November 24, 1993

Mr. Randy Welker
Legislative Auditor
Legislative Budget and
Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED
LEGISLATIVE AUDIT

Dear Mr. Welker:

Thank you for the opportunity to review the preliminary audit report regarding whether the Big Game Commercial Services Board (BGCSB) should be continued or terminated under AS 44.66.010.

The department concurs with **Recommendation No. 1, The statutory sunset provision for the Big Game Commercial Services Board should be extended until June 30, 1997.** The department believes that the Big Game Commercial Services Board is operating in the public's interest and protecting the hunting public. The establishment of the nonexclusive guide-outfitter use area system in 1993 has helped to stabilize the industry which has been troubled since the Owsichuk Decision in 1988 which declared the exclusive guide area system unconstitutional. The Big Game Commercial Services Board is also working toward regulation of the transporter industry and revision of the examination process.

Recommendation No. 2, The Department of Commerce and Economic Development (DCED) and the Division of Occupational Licensing (DOL) should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

During 1993, the division accomplished fee revisions for all program areas to reflect program expenses. The calculations were based upon all available data regarding direct and indirect program costs.

Concerns were voiced by various boards regarding their fee increases/program costs. Based on these concerns, the department requested an independent review by OMB of the procedures used in calculating expenses by the Office of Management and Budget. The OMB

audit was completed early October. OMB's recommendations for defining direct costs, including the implementation of timekeeping records for licensing staff, investigators, and hearing officers has been implemented effective July 1, 1993 by the division.

The OMB audit recommended a cap on incremental fee increases of no more than 10-25% per licensing period. This is problematic inasmuch as it places a limit on recovering the actual cost of licensing the industry. OMB budget reviewers placed an even more restrictive cap of 7% on the license fee this fiscal year. Unpredictable and unforeseen program expenses occur due to, investigations, litigation and legal challenges which are not controlled by the board or the division. Limiting expenditures in order to comply with these caps is anticipated to have serious effects on the boards' abilities to comply with their statutory mandates. Under the present scheme, once a program has expended its "acceptable" limit for fee increase adjustments under the OMB recommendations and in accordance with AS 08.01.065, the board will effectively be shut down for the remainder of the fiscal year. The consequences have potential health and safety risks as well as potential economic hardships for licensees who wish to renew their licenses, complete area applications, etc. The division will make requests for additional spending allocation to Legislative Budget and Audit to alleviate these harsh consequences, but failing favorable consideration, the division must control its expenditures.

The division does not fully concur with the audit findings that errors were made in the calculation of a two-year average of expenditures used to determine the FY 93 license fees, and as a result, license fees did not truly reflect the cost of providing regulatory services to each occupation. Detailed expenditure information used in calculating a two-year average was based on information obtained from the state accounting system. It is a real possibility that data generated from the state accounting system for the purposes of this audit has changed from data obtained by division staff at the end of the fiscal year. Since appropriate division staff was not consulted regarding specific financial information, the division cannot agree with this finding until both audit and division staff has had the opportunity to discuss this matter.

The recommendation of estimating time spent by certain job classes of employees stated in the OMB fee-setting policy assessment audit was implemented on July 1, 1993; and at the start of FY 94, the division prepared an FY 94 budget allocation for each licensing program.

In conclusion, DCED has attempted to work with the OMB auditor regarding this issue, but we have been informed that the audit is over and no more time will be allocated to this issue.

The department concurs with **Recommendation No. 3, the Division of Occupational Licensing should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.**

A rewrite of AS 08.01 is available, and we are seeking legislative support to introduce it. This rewrite makes numerous revisions including amendments to the statutes cited in this recommendation.

The rewrite includes revisions which make drafting minutes a department responsibility. It also provides for annual report deadline submission of August 1. The annual report deadline revision is necessary as many statistics needed for the annual report are not available until June 30, thus making it impossible for the boards to meet the existing deadline of submission by June 30.

The department strongly disagrees that the annual report authorship should be amended to make annual report submission a department responsibility. We recognize that division staff are instrumental in assisting boards when completing reports. Staff provide statistical and clerical assistance, however, this report must be reflective of the boards' position on various matters involving the profession regulated including legislative and regulatory needs, budget requests, and upcoming goals. These are areas which the board is solely responsible for developing.

The department disagrees with **Recommendation No. 4, DCED, DOL should, in conjunction with the Equal Employment Office, review the licensure application for each professional occupation to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.**

Height and weight questions continue to be reflected on the initial applications for Guide-Outfitters, Assistant Guide-Outfitters, and Class A Assistant Guide-Outfitters. The data from initial applications is entered in the computer and is considered appropriate for identification purposes. Height and weight information is printed on the wallet card portion of the license; the wallet card is typically the document carried in the field and shown to protection officers as proof of licensure.

We have removed height and weight questions from renewal applications for the following reasons: 1) typically, a licensee's height is not expected to change; 2) an individual's weight generally does not fluctuate a great deal and the administrative benefits of not being required to make minor weight alterations annually on each license screen overrides the need for "exact" weight at renewal; and 3) if the height/weight questions were left blank at renewal, the renewal would be processed with data already noted in the computer and reflected on the wallet card. Our experience in other license programs is that if a person's weight has greatly changed due to weight loss, we are notified by the licensee who wants his/her wallet card corrected to reflect the new weight; weight increase is not always reported.

Your suggestion of separating the information from applications before the board reviews them is troublesome for two reasons: 1) licensing applications are public records, and we believe it would be inappropriate for division staff to withhold public information from the board; and 2) the mandate for an oral exam prior to guide-outfitter licensure would defeat any

meaningful attempt to conceal the height and weight of an applicant since applicants are visually observed by board members.

License denials must be based upon a provision in boards' statutes or regulations. Denial notices must list the specific authority for rejection. We believe the procedures for denying an applicant, and the practice of listing the specific reasons for denial in the notice to the applicant provides adequate protection for the board from being subject to discrimination complaints based on the height/weight questions.

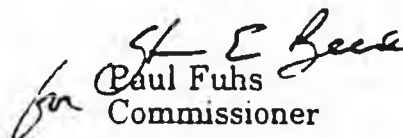
Recommendation No. 5, DCED, DOL should develop and implement written policies and procedures for reporting potential violations of conflict of Executive Branch Ethics Act to the Department of Law.

The department agrees and will comply with this recommendation. A written procedure developed by staff will be limited to include directives for staff follow-up at each meeting with collection of ethic reports as well as clarifying dates which quarterly reports must be compiled and forwarded to the Attorney General's Office. We concur that staff is responsible for the timely submission to the Department of Law. This is the limit of responsibility recognized on behalf of the department.

All other policy, procedures, interpretations, and written directives for what must be reported must come from the Department of Law. Guidance on when a member must report a conflict, what should be reported, confirmation of what constitutes a conflict, and who has authority to rule/overrule a decision made by a designated supervisor are all matters which are beyond the scope of DCED staff expertise. Consequently, the department disagrees with the statement in the text of recommendation #5 which states "Functionally, DOL staff advise the professional licensing boards associated with them as to the reporting necessary for compliance with the Ethic Act"

The department has asked for a written directive, from the Department of Law, in layman's terms which clarify these matters. Any forthcoming directives from the Department of Law will be distributed to board members.

Sincerely,


Paul Fuhs
Commissioner

PF/sh033.fuh
112493a

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2117

December 16, 1993

Members of the Legislative Budget
and Audit Committee:

We have reviewed the Department of Commerce and Economic Development, Division of Occupational Licensing (OL) response to our preliminary audit report on the Big Game Commercial Services Board. For those areas where they do not agree, we have considered their responses and in one case have modified the report because we believe that additional clarification was warranted. In particular, the section of Recommendation No. 2 regarding OL's cost allocation methodology was changed. After review by audit and OL staff, it was found that the percentages applied to allocate indirect costs were not always correct due to formula errors on spreadsheets prepared by OL staff. Also documentation supporting some expenditures on the spreadsheets has not been retained. Review of selected current information available does not confirm these numbers. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distribution of costs.

This change is considered minor and does not lead us to change our overall stated position. We therefore reaffirm our conclusions and recommendations as contained in this report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Randy S. Welker".

Randy S. Welker, CPA
Legislative Auditor



HOUSE RESOURCES COMMITTEE

DATE: 2/7/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 266-Elig. for Guide Outfitter Lic
 HB 343-Res. Sport Hunting Licenses

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Geron Bune ✓	ADFG	P.O. Box 25526	99802	555	465-6143	<input checked="" type="radio"/>	<input type="radio"/>	HB 343
Kevin Brooks	ADFG	" "			465-5999	<input type="radio"/>	<input checked="" type="radio"/>	HB 343
BILL VALSANTINE ✓	PUBLIC SAFETY	450 WITTIER ST. JUNO			465-4322	<input checked="" type="radio"/>	<input type="radio"/>	HB 343
Paul Johnson	BCCSB	Box 22 Ektinole	99825			<input checked="" type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	