

HEB

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LAW OFFICES
GROSS & BURKE
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801

AVRUM M. GROSS
SUSAN A. BURKE

19071 586-2777

May 6, 1995

Mr. Joe Klutsch, President
Alaska Professional Hunters Association
P. O. Box 91932
Anchorage, Alaska 99509

Re: Consequences of Termination of the Big
Game Commercial Services Board

Dear Mr. Klutsch:

You have asked us to advise you as to the consequences for future regulation of guides and guide outfitters if the Legislature fails to take action to amend the occupational licensing "sunset" statute (AS 08.03.010) to extend the termination date for the Big Game Commercial Services Board ("BGCSB").

AS 08.03.010(5) currently provides that the BGCSB terminates June 30, 1994. Thus, the Board was "terminated" effective June 30, 1994. Under AS 08.03.020(a), the BGCSB was allowed to continue in existence for a period of only one year following termination, "for the purpose of concluding its affairs," and as of June 30, 1995, the BGCSB will "cease all activities."

For purposes of this opinion I have reviewed a one sheet, undated document from the Division of Occupational Licensing that sets out what the Division believes will be the consequences of final termination of the BGCSB. I have also reviewed an opinion from the Attorney General's office dated June 10, 1992, dealing with the effects of termination of the Board of Electrical Examiners. 1/ In my view, based on my review of the applicable statutes, the Attorney General's opinion is a correct statement of the law.

The advice provided by the Division is, in a number of instances, inconsistent with the prior advice given by the Department of Law. The two most significant instances where

1/ I have attached a copy of that opinion as well as the one page advice document from the Division.

Mr. Joe Klutsch
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I believe the Division's advice is simply incorrect are the following:

"The result will be that state law will continue to require individuals to have licenses in order to guide, but there will be no way for new applicants to obtain those licenses. After December 31, 1995, no one will be able to legally guide."

* * * * *

"The guide use area system which was created by regulation will not go out of existence, but no new area permits will be issued and no regulation changes may be made."

Since the 1992 Department of Law opinion deals more directly with the second statement, I will address it first. In my opinion (and apparently that of the Department of Law), once a Board's existence has been finally terminated, regulations adopted by the Board are impliedly repealed. The reason for that is that the legal force and effect of regulations derives solely from the statutory authorization to a board to adopt regulations.

As the Department of Law advised the Division in 1992, "Your staff should provide to me a list of all regulations adopted by the board, so that, as regulations attorney, I can instruct the publisher of the Alaska Administrative Code to delete them." The only authority for the establishment of use areas contained in AS 08.54 is contained in AS 08.54.310(b)(1). That authority is granted only to the BGCSB. Thus, under the advice given by the Attorney General's office, the regulations that establish the guide use area system will be of no force or effect as of June 30, 1995, and presumably she will advise the publisher of the Alaska Administrative Code to delete not only those regulations but all others that have been adopted by the BGCSB to implement its exclusive authority over guide licensing, discipline, and guiding activities.

The Division's advice assumes that following termination of the BGCSB, persons will continue to be required to have guide licenses before they can engage in guiding activities, but that since the Division will have no authority to issue licenses, "no one will be able to legally guide" after December 31, 1995 when all current guide licenses will expire. The 1992 Attorney General's opinion does not address directly the issue of the practical effect of a board's termination on the State's ability to continue to require that a person be licensed before being able to engage in the occupation previously regulated by the

terminated board. Nonetheless I think the only possible interpretation of that opinion leads to the conclusion that where the statutes place discretionary authority for licensing and discipline of an occupation in a board (as opposed to the Division), the effect of terminating the board is that there is simply no longer any State regulation of that occupation. 2/ Guiding and guide-outfitting would simply be like any other occupation that is currently not licensed or regulated as an occupation -- like operating a grocery store or being a janitor. 3/ In other words, if the BGCSB terminates on June 30, 1995, there will be no requirement that a person must have a license before engaging in commercial guiding activity. Any person will be able to conduct guided hunts, regardless of qualifications.

In summary, in my view, the primary and most drastic consequences of the failure of the legislature to adopt legislation this session extending the termination date of the BGCSB will be as follows, effective June 30, 1995:

- In the absence of legislation amending AS 08.54 to expressly transfer BGCSB functions to the Division there will be no authority for any State agency to issue guide licenses or to discipline licensed guides.
- Most, if not all, regulations currently on the books that were adopted by the BGCSB to implement its licensing and disciplinary authority will cease to have the force and effect of law and will be effectively repealed.

2/ This is particularly true under the licensing statutes governing guiding activities. Many of the most significant qualifications for obtaining a guide license are, under the statute, to be judged by the Board in the exercise of its discretion. These include such matters as demonstrating "sufficient standards of competence and ethical conduct" and the ability to perform "the essential duties associated with guide-outfitting."

3/ Persons who conduct guided hunts would, of course, continue to be subject to all applicable statutes and regulations of the Board of Game or the Board of Fish governing hunting and fishing. But unlike the current law, which allows the BGCSB to revoke the guiding license of a person violating certain fish or game regulations, following termination of the BGCSB, a person convicted of even the most serious fish and game laws and regulations could continue to conduct guided hunts.

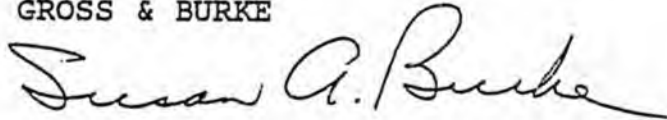
Mr. Joe Klutsch
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- There will be no restrictions on any person in the State conducting guided hunts. Anyone may do so. Guides with licenses that do not expire until December 31, 1995 will technically still have them, but they will be meaningless pieces of paper.
- The guide use area system, created by regulations under statutory authority given exclusively to the BGCSB, will cease to exist. Any person, licensed or not, will be able to conduct guided hunts in any area of the State, without regard to existing limitations on the number of areas in which a guide may operate.

I hope this answers your questions. Please let me know if you require additional information. 4/

Very truly yours,

GROSS & BURKE



Susan A. Burke

SAB:ps

4/ It is my understanding that the Legal Services Division of the Legislative Affairs Agency would, if asked, agree with both the conclusions reached by the Department of Law in its June 10, 1992 opinion and with the conclusions I have reached.

MEMORANDUM

State of Alaska
Department of Law

TO: Ann Boudreaux
Director
Div. of Occupational Licensing
Dep't of Commerce and
Economic Development

DATE: June 10, 1992
FILE NO.: 663-92-0591
TEL NO.: 465-3600
SUBJECT: Assumption of licensing
functions of the Board of
Electrical Examiners

FROM: Deborah Behr ^{/S/}
Legislation/Regulations Attorney

You have asked whether the Department of Commerce and Economic Development (department) may lawfully assume the licensing functions assigned to the sunset Board of Electrical Examiners (board), under your department's existing statutory authority. If not, may the department continue to collect fees from existing licenses under this program, and does the department itself have the authority to revoke or suspend licenses issued before July 1, 1992 for violations of licensing requirements occurring after that date?

SHORT ANSWER

The department does not have the statutory authority to adopt regulations to assume the licensing functions assigned to the sunset Board of Electrical Examiners. If the department wishes to assume these functions, the department will need to obtain additional statutory authority from the legislature. If the department does not wish to assume these functions, we recommend that the department pursue legislation to remove obsolete references to the licensing program for electrical administrators. Also, the department should review occupational licensing regulations to make or recommend necessary changes in accordance with this advice.¹

As to the collection of fees, the department should not accept new license applications after July 1, 1992, and therefore, no new application fees should be accepted after that date. Persons who submitted pending applications should be informed of the status of the board and be given an opportunity to receive a refund of fees paid. Because the electrical administrator license cannot be renewed without board involvement, renewal fees

¹ For example, we note that the Board of Mechanical Examiners has recently adopted regulations regarding controls and control wiring that appear to need revision due to the expiration of the Board of Electrical Examiners. 12 AAC 39.940.

Ann Boudreaux, Director
Div. of Occupational Licensing
Dep't of Commerce & Economic Development

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should not be accepted after July 1, 1992. The valid licenses issued before July 1, 1992 continue in effect until their renewal date.

As to enforcement, the department can only enforce statutes and regulations not assigned to the board to enforce. Since most of the key licensing requirements involve board enforcement, the department may have to look to other statutes and other departments, discussed below, to enforce safety concerns.

OVERVIEW

In 1977, the Alaska State Legislature created the Board of Electrical Examiners. Ch. 53, SLA 1977. The purpose of the board was "to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment" AS 08.40.005. The board sets qualifications for licensure of electrical administrators. AS 08.40.045; 08.40.050.

The board is subject to routine "sunset" review by the legislature under AS 44.66.050. In the "sunset" review, the board carries "the burden of demonstrating a public need for its continued existence" AS 44.66.050(b). A board that is not continued in existence by the legislature is allowed one year after the date of termination to wind up licensing activities before ceasing all activities. AS 08.03.020(a).

The Board of Electrical Examiners has undergone "sunset" review by the legislature twice since 1985. On June 30, 1986, the legislature allowed the board to terminate. During the board's wind-up year of operations in 1987, the legislature transferred the board's functions to the department. Secs. 22-31, ch. 94, SLA 1987.

In 1988, the legislature recreated the Board of Electrical Examiners. Ch. 98, SLA 1988. In recreating the board, the legislature expressly removed the department's authority to adopt regulations "establishing categories of electrical administrators, establishing qualifications for those categories and the content of examinations for applicants for each category." Sec. 5, ch. 98, SLA 1988. Additionally, the legislature expressly removed and transferred to the board the department's authority to adopt regulations "relating to the examination and licensing of electrical administrators, the establishing of the continued competency of an applicant for license renewal and reinstatement, and the suspension and

revocation of licenses." Id. at sec. 6. The department retained certain ministerial functions related to this licensing activity, such as issuing licenses to applicants approved by the board or prescribing forms for applicants to apply for licensure. AS 08.40.090. Also, the department retained the authority to inspect or investigate the work of licensees. AS 08.40.070. Additionally, the department performed certain centralized licensing functions related to this board's activities under AS 08.01. Finally, the recreated Board of Electrical Examiners was again scheduled for sunset review to avoid termination on June 30, 1991. Sec. 3, ch. 98, SLA 1988.

In 1991, the governor requested that HB 159 be introduced to extend the board for four years, until June 30, 1995. Hearings were held on HB 159 before the House Labor and Commerce Committee. A committee substitute, CSIB 159(L&C), was adopted to extend the board only until June 30, 1992. That bill passed the House of Representatives on May 3, 1991. 1991 House Journal 1122. The bill was forwarded to the Senate and referred to the Senate Labor and Commerce Committee. 1991 Senate Journal 1112. The bill did not pass out of committee or the Senate during the 1991 and 1992 sessions.

As a result, the statutes were not amended to continue the board in existence. By operation of law, the board "shall cease all activities" effective July 1, 1992. AS 08.03.010(a)(11) and AS 08.03.020.

DISCUSSION

The Department of Commerce and Economic Development was created by statute and assigned certain duties by the legislature. AS 44.33. The department must look to its general and specific statutory authority to see if it has the authority to assume the duties of the sunset board. The department may not act beyond the scope of its statutorily assigned duties without, in essence, legislating new functions and running afoul of separation-of-powers principles. Also, the Alaska court has recognized that administrative agencies are creatures of statute deriving from the legislature the authority for the exercise of any power they claim. *Rutter v. State*, 668 P.2d 1343, 1349 (Alaska 1983).

AS 44.33.020 sets out the general power and duties of the department. Nowhere does that statute authorize the department to set qualifications for licensure of electrical administrators. Likewise, in centralized licensing statutes in

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AS 08.01.050, the department is not assigned these duties.² Since the setting of qualifications was not transferred to the department at the end of the existence of the board, the legislature did not provide authority for the department to assume these duties.³

While AS 08.40.090 states that a "person may not act as an electrical administrator in the state without a license issued by the department," this language by itself does not give the department the authority to adopt regulations to set qualifications, offer examinations, and take other actions previously assigned to the board.⁴ AS 08.40.045; 08.40.060.

Finally, you have asked about the department's authority to collect fees for this licensing program. Since the department is without statutory authorization to conduct licensing examinations or evaluate qualifications of applicants, new applicant fees should not be accepted on or after July 1, 1992. Already pending applicants who are scheduled for examinations in June 1992 should be informed of the status of the board and given an opportunity to request a refund of application fees submitted.

As to renewal fees, the department can only renew licenses on dates set by the department "with the approval of the respective board." AS 08.01.100(a). Also, AS 08.40.135(a) provides that licenses may be renewed by the department "upon proof of continued competence," the standards which are established by the board, by regulation, under AS 08.40.050. Since

² AS 08.01.050 does assign to the department the authority to authorize license "for acupuncturists, audiologists, contractors, naturopaths, or hearing aid dealers." AS 08.01.050(a)(9).

³ Since the legislature knows how to transfer functions of the board to the department, as it did in 1987, the legislature's failure to act supports this conclusion.

⁴ We interpret "license issued by the department" to merely reflect the ministerial role assigned to the department to issue licenses based on board approval.

Also, since no new or renewal license may be issued by the department after July 1, 1992, we believe that the court would interpret the requirement of AS 08.40.090 as a nullity; a court would likely not require a person to complete the impossible act of obtaining a license that must be authorized by a nonexistent board.

Ann Boudreaux, Director
Div. of Occupational Licensing
Dep't of Commerce & Economic Development

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the Board of Electrical Administrators will not exist after July 1, 1992, to approve license renewal dates or to address continued competency requirements, electrical administrator licenses cannot be renewed after that date. Therefore, no renewal fees should be collected after July 1, 1992. Fees received after that date to renew licenses after July 1, 1992, should be returned. A valid license issued before July 1, 1992, continues in existence until its expiration date.⁵

Finally, you have asked what authority the department may have to suspend or revoke a license issued before July 1, 1992, for a license violation occurring after July 1, 1992. Again, the function of disciplining licensees was assigned to the board under AS 08.40.170. The legislature did not transfer this function to the department. Therefore, the department may not discipline licensees⁶ under AS 08.40.170. The department may conduct limited investigations under AS 08.01.087(a). Since no board is available to act on the violations or for the commissioner to notify, the department would have to seek an action in the superior court to obtain compliance. We would alert the department that it may only attempt to obtain compliance with the statutes or regulations remaining that do not involve the board.⁷ Since most safety statutes in AS 08.40.000 -- 08.40.200, and regulations adopted under them, will no longer be effective after July 1, 1992, the remedy for safety violations would likely be based on other statutes.⁸

⁵ We understand that the valid licenses issued before July 1, 1992 are due to expire in 1993.

⁶ We assume that disciplinary actions would have relevance only for licensees who possess valid licenses on July 1, 1992, but have expiration dates after July 1, 1992. Since the licenses cannot be renewed, the problem should not exist after 1993.

⁷ For example, AS 08.40.140 requires a licensee to prominently display a certificate of license, while in effect, in the holder's principal place of business. If the department investigated and determined that a person validly licensed before July 1, 1992, is not displaying that certificate, the department apparently could attempt to seek compliance through court action.

⁸ For example, the commissioner of the Department of Labor issues a certificate of fitness for a person involved in the electrical wiring trade. AS 18.62.070. Also, the Department of Commerce and Economic Development generally issues certificates of registration for construction contractors. AS 08.18. These
(continued...)

Ann Boudreaux, Director
Div. of Occupational Licensing
Dep't of Commerce & Economic Development

June 10, 1992

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CONCLUSION

For the reasons stated above, the department cannot adopt regulations to assume the licensing functions assigned to the Board of Electrical Examiners before its termination under "sunset" review.⁹ If the department wishes to assume these functions, it will need to obtain statutory authority from the legislature. If it does not wish to do so, the department should pursue legislation to clean up the statutes relating to licensing of electrical administrators. Additionally, the department should review occupational licensing regulations for appropriate amendment or repeal in accordance with this advice. Your staff should provide to me a list of all regulations adopted by the board, so that, as regulations attorney, I can instruct the publisher of the Alaska Administrative Code to delete them.

As to fees, the department should not be collecting fees from new applicants after July 1, 1992, because there is no legal means for these applicants to become licensed as electrical administrators. As to renewal fees, we believe that the department has no authority to renew licenses without board concurrence and therefore no renewal fees should be collected after July 1, 1992.

As to enforcement, the department can only pursue enforcement of very limited responsibilities not assigned to the board to enforce. As a practical matter, this will likely mean that complaints against persons holding licenses on July 1, 1992, until those licenses expire in 1993, will likely have to be pursued under other statutory authorities (and then perhaps by the Department of Labor).

If we may be of further assistance, please contact us.

DB:tg

cc: Hon. Glenn Olds, Commissioner
Department of Commerce & Economic Development

⁸(...continued)

statutes, and regulations adopted under them, might provide some additional authority to enforce safety concerns.

⁹ We reached a similar conclusion regarding the Board of Welder Examiners, after it was sunset. See 1982 Inf. Op. Att'y Gen. at 1 (July 16; 366-756-82).

Ann Boudreaux, Director
Div. of Occupational Licensing
Dep't of Commerce & Economic Development

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Hon. Charles W. Mahlen, Commissioner
Department of Labor

Donald Parks, Chairperson
Board of Electrical Examiners

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

TONT KNOWLES, GOVERNOR

William P. Knowles, Governor

P.O. BOX 110806
JUNEAU, ALASKA 99811-0806
PHONE: (907) 465-2534

Consequences of BGCS BD Sunset

AS 08.54.310 gives the board the authority to prepare, grade and administer examinations for all categories of guide licenses, the authority to issue licenses, the authority to revoke or suspend licenses, and the authority to establish a resource based management system.

If the BGCS Bd is sunsetted, there will be no authority for any entity to administer examinations, issue new guide licenses or new guide use area permits. All current guide-outfitter licenses will expire on 12/31/95 and there will be no authority to renew those licenses.

The Division will not be able to take over board functions without legislative action formally transferring board powers.

The result will be that state law will continue to require individuals to have licenses in order to guide, but there will be no way for new applicants to obtain those licenses. After December 31, 1995, no one will be able to legally guide.

The guide use area system which was created by regulation will not go out of existence, but no new area permits will be issued and no regulation changes may be made.



SINDER RIVER LODGE



Gary "Butch" King, Jr. • Registered Guide/Outfitter
2024 Stonegate Circle • Anchorage, Alaska 99515 • (907) 522-1164

The Honorable Rick Halford
Alaska State Senate
Mail Stop 3100, State Capitol
Juneau, Alaska 99801-1182

Dear Senator Halford:

May 4, 1995

I greatly appreciate the opportunity to meet with you yesterday concerning the fate of HB-102 and the Big Game Commercial Services Board. However, there are a couple very critical points that I failed to make during our short meeting.

I would like to emphasize that I, and the APHA Board of Directors, were not aware of any agreement to make changes in statutory authority of the BGCSB until just yesterday. Our part in introducing HB-102 was in no fashion designed to disrupt your plan to streamline the duties of the board. I agree with many of your points. The current system has become very cumbersome and time consuming. Had the APHA Board been aware of your willingness to work on these issues, we surely would have been available to work out these problems much earlier in the current legislative session.

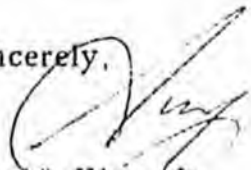
Unfortunately, we are again in the last hours of the session. To sunset the BGCSB, on a matter of principle, would once again throw the guiding industry into yet another tail spin. Please consider your decision's effect on the perceived stability that the industry has attempted to project, since the Owsichek decision. The Alaska guiding industry is just now regaining the confidence of the international hunting community, Federal land managers and general public. To sunset the BGCSB now is to destroy what confidence that we have worked so hard to regain during the past several years.

As you know, Alaska guides have always operated under FAA Part 91. Use of aircraft by guides has been considered incidental to the primary service provided. FAA has created a task force as a result of recent aviation accidents throughout the country and in Alaska.

During recent FAA Task Force meetings in Alaska, Neal Webster who you met yesterday and is considered an expert in this field, represented the guide industry. Neal was quite successful in comparing the guide industry's low accident rate with that of the Part 135 air taxis. However, the primary factor in Neal's convincing argument, and one which impressed the FAA and NTSB, was the fact that the BGCSB had in regulation minimum requirements for guide-outfitters utilizing aircraft to support their guided hunting operations. It appears that the FAA is satisfied with the aviation requirements set forth by the board and may not pursue the matter further. If the BGCSB sunsets, these regulations go out the door and the guiding industry can look forward to more red tape under FAA Part 135 air taxi than the BGCSB could cook up in a lifetime.

Rick, there are too many related issues to just can the board. What I am asking you to do is reconsider your ultimatum, for the sake of stability in a viable big game commercial services industry, so important to the State economy and the livelihood of so many through out Alaska. Give us another year with this board to diligently work and reconsider each layer of red tape which we have created for ourselves, look at both sides of each issue and come up with some positive changes which we will introduce, with the help of Rep. Scott Ogen, next legislative session. We are struggling to improve. Please give us the time we need to build workable regulations, without having to go back to square one and start all over again.

Most sincerely,



Gary "Butch" King, Jr.
Vice President, APHA
Guide-Outfitter #433

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 102

Revision Date: January 27, 1995 Department: Commerce and Economic Development
 Title: An Act extending the termination date of the BRU: Occupational Licensing
Big Game Commercial Services Board. Component: Operations
 Sponsor: House Resources Committee
 Requestor: House Resources Committee COMPONENT SERIAL N 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	174.0	174.0	174.0	174.0	174.0	174.0
TRAVEL	17.3	27.5	27.5	27.5	27.5	27.5
CONTRACTUAL	56.7	56.7	56.7	56.7	56.7	56.7
SUPPLIES	1.2	1.2	1.2	1.2	1.2	1.2
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	249.2	259.4	259.4	259.4	259.4	259.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	324.1	188.1	324.1	191.1	324.1	194.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	249.2	259.4	259.4	259.4	259.4	259.4
1006 GF/MHTIA						
Other						
TOTAL	249.2	259.4	259.4	259.4	259.4	259.4

Estimate of any current year (FY 95) cost: \$ 219.6

POSITIONS

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 102 extends the termination date of the Big Game Commercial Services Board to June 30, 1998. The expenditures shown above are included in the FY 96 operating budget request and the revenue identified are reflected in revenue projections. The board is in its final year of existence unless legislation is passed to continue the board.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: 1/27/95
 Approved by Commissioner: William L. Hensley Date: 1/27/95
 Agency: Commerce and Economic Development

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HOUSE RESOURCES COMMITTEE
Roll Call and Members' Bill Votes

* (indicates first public hearing)

Room 124, Capitol Bldg.

Mon. Wed., Fri.

Date: 2/8/95

Tape# 95-11 Joint _____

Time: 8:07 am/pm Time Adjourned: 9:29 am/pm

ROLL CALL:	PRES	ABS	TIME	AR			
Rep. Joe Green	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		
Rep. Bill Williams	<input checked="" type="checkbox"/>		<u>8:12</u>		<input checked="" type="checkbox"/>		
Rep. Scott Ogan	<input checked="" type="checkbox"/>		<u>8:10</u>		<input checked="" type="checkbox"/>		
Rep. Alan Austerman	<input checked="" type="checkbox"/>		<u>8:10</u>		<input checked="" type="checkbox"/>		
Rep. Ramona Barnes	<input checked="" type="checkbox"/>		<u>8:27</u>		<input type="checkbox"/>	<u>N</u>	
Rep. John Davies	<input checked="" type="checkbox"/>		<u>8:13</u>		<input checked="" type="checkbox"/>		
Rep. Pete Kott		<input checked="" type="checkbox"/>					
Rep. Eileen MacLean	<input checked="" type="checkbox"/>		<u>8:20</u>		<input type="checkbox"/>	<u>N</u>	
Rep. Irene Nicholia	<input checked="" type="checkbox"/>		<u>8:15</u>		<input checked="" type="checkbox"/>		

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Other Legislators Present _____

AGENDA:

Bill No.	Short Title	Action Taken
<u>HB 102</u>	<u>Extend Big Game Commercial Services Board</u>	<u>HB 102 Oct.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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Mail Stop 3101

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Juneau, Alaska 99801-2105

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

House Resources
2-8-95 8:07am
Tape #95-11, Side A, #000
HB102

Mary Pagenkopf

HOUSE RESOURCES COMMITTEE



Alaska State Legislature
House of Representatives

SUBJECT OF MEETING:
HB 102 - Extend Big Game
Commercial Services Board

DATE: 2/8/95

PLACE: ROOM 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Steven Bruce	ADF+G	B1 25526	99102		66143	<input checked="" type="radio"/> Y	<input type="radio"/> N	Questions (Answer) HB 102
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
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						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

HOUSE COMMITTEE REPORT

2/8/95

(9)

Date Referred: January 20, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-8-95

The RESOURCES Committee considered:

HB 102

HOUSE BILL NO. 102

EXTEND BIG GAME COMMERCIAL SERVICES BOARD

"An Act extending the termination date of the Big Game Commercial Services Board."

recommends it be replaced the same title
 with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal note(s) C+ED fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Nicholia</i> Nicholia			X	
<i>David</i> Davies	✓			
<i>W.K. Williams</i> Williams	✓			
<i>Green</i> Green	✓			
<i>Alan</i> Alan	✓			
<i>Barnes</i> Barnes		X		
<i>Austerman</i> Austerman			X	
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CHAIR'S SIGNATURE _____

[Handwritten Signature]



Alaska State Legislature
HOUSE OF REPRESENTATIVES
Committee on Resources

State Capitol
Juneau, Alaska
99801

Sponsor Statement

HB 102 - Big Game Commercial Services Board

HB 102 extends the Big Game Commercial Services Board whose duties are set forth in AS 08.54.300-330.

In 1989 the Legislature passed HB 112 (Ch. 37, SLA 89), which repealed the Big Game Guide Board and replaced it with the Big Game Commercial Services Board. HB 112 was the product of work by the Legislative Task Force on Guiding and Game. The Task Force was created to address conflicts between different groups profiting from the harvest of Alaska's big game.

The primary conflicts were between guides, who were highly regulated, and outfitters, who were unregulated. HB 112 eliminated the distinction between guides and outfitters and created a new "guide-outfitter" class. Under the system created in Ch. 37, the degree to which a commercial big game services provider is regulated depends on the level of interface with consumers and the resource.

Some service providers - hunt brokers, or sporting goods stores that rent hunting gear - are required only to register with the Board. Other service providers are required to meet certain conditions before they may be licensed and receive compensation for their services.

HB 112 included language to sunset the Board in 1993, but the Legislature allowed a one-year extension last year with HB 266. Title 8, which regulates Boards & Commissions, allows the board one year after the sunset date to terminate its operation. Unless the legislature passes HB 102 this session, those who receive compensation from the commercial harvest of Alaska's big game resources will not be regulated.

DEPARTMENT OF FISH AND GAME
POSITION PAPER

Bill No: HB 102

Sponsor: House Resources Committee

Division: Wildlife Conservation

Bill Title: An Act extending the termination date of the Big Game Commercial Services Board.

Department Position: Support

Background/Legislative Intent: This bill would extend the termination date of the Big Game Commercial Services Board until June 30, 1998.

Analysis of Bill/Program Effects: A sunset provision in statute resulted in termination of the board in June 1994. This board provides a valuable service by assuring that those individuals licensed as big game guide-outfitters are qualified and capable of providing the services expected of them by their clients. The board also plays an important role in distributing the guided hunting effort so that discrete big game populations are not subjected to excessive hunting pressure.



Commissioner's Signature

2.2.95

Date

Article 1. Big Game Commercial Services Board.

Section	Section
300. Creation and membership of board	320. Board regulations
310. Duties and powers	330. Board assistance

Cross references. — For transitional provisions, see §§ 13 — 15, and 17, ch. 37, SLA 1989 in the Temporary and Special Acts.

Sec. 08.54.010. Guide Board. [Repealed, § 18 ch 37 SLA 1989.]

Sec. 08.54.020. Appointment and term of office. [Repealed, § 49 ch 94 SLA 1987.]

Secs. 08.54.030 — 08.54.141. Board powers and duties, etc.; licensing. [Repealed, § 18 ch 37 SLA 1989.]

Secs. 08.54.142 — 08.54.146. Transporter licensing. [Repealed, § 27 ch 71 SLA 1986.]

Secs. 08.54.150 — 08.54.180. Miscellaneous licensing provisions. [Repealed, § 18 ch 37 SLA 1989.]

Sec. 08.54.185. Additional fees. [Repealed, § 27 ch 71 SLA 1986.]

Secs. 08.54.186 — 08.54.240. Exams; restricted areas; prohibitions; general provisions. [Repealed, § 18 ch 37 SLA 1989.]

Sec. 08.54.300. Creation and membership of board. (a) For the purposes of licensing and regulating the activities of providers of commercial services to big game hunters in the interest of the state's wildlife resources there is created the Big Game Commercial Services Board. For administrative purposes, the board is in the Department of Commerce and Economic Development.

(b) The board consists of nine members:

- (1) two members who are licensed guide-outfitters;
- (2) two members who are licensed transporters, one of whom must be engaged in the business of providing air transportation services;
- (3) one member who holds a commercial use permit, but does not hold any class of guide-outfitter license or a transporter license;
- (4) one member of the Board of Game who is chosen by the Board of Game and who does not hold a commercial use permit;
- (5) one member who represents Native landholders; and
- (6) two public members. (§ 3 ch 37 SLA 1989)

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Chapter 54. Guides and Related Occupations.

Article

1. Big Game Commercial Services Board (§ 08.54.310)
2. Licensing (§§ 08.54.350 — 08.54.395)

Article 1. Big Game Commercial Services Board.

Section

310. Duties and powers

Sec. 08.54.310. Duties and powers. (a) The board shall

(1) prepare, grade, and administer

(A) a written and oral examination of an applicant for a guide-outfitter license that requires demonstration that the applicant is qualified generally to provide guide-outfitted hunts and, in particular, to guide-outfit in each game management unit the applicant has selected; if an applicant demonstrates limited ability to read or write the English language, the entire examination shall be administered orally; and

(B) an oral examination of a guide-outfitter who seeks an amendment of a game management unit certification; the examination must require demonstration that the guide-outfitter is qualified to provide guide-outfitted hunts in each new game management unit for which the guide-outfitter seeks to be certified;

(2) determine qualifications of applicants for class-A assistant guide-outfitter, marine mammal guide-outfitter, and assistant guide-outfitter licenses and authorize the issuance of licenses to those who qualify;

(3) establish performance standards for providers of big game commercial services and regulate the activities of these providers;

(4) compile, maintain, and publish an annual register of big game commercial service providers subject to this chapter who have not been convicted of a violation of a state or federal statute or regulation relating to the provision of big game commercial services; a big game commercial services provider listed in the register whose license or permit is revoked or suspended shall be removed from the register while the provider's license or permit is revoked or suspended;

(5) prohibit guide-outfitting, transporting, and other big game commercial services activities that are unsportsmanlike, unethical, unsafe, against principles of game conservation, degrading to a profession subject to this chapter, or that adversely affect natural resources;

(6) after a hearing, revoke, suspend, or deny renewal of a license or permit under AS 08.54.500 — 08.54.510;

(7) authorize issuance of transporter licenses;

(8) authorize issuance of commercial use permits;

(9) meet at least twice annually, once in Anchorage and once in another municipality;

(10) provide for registration of base camps and facilities used by persons who are licensed or who hold a permit under this chapter:

(11) require an applicant for issuance or renewal of any class of guide-outfitter license to state in a written and signed document whether the applicant's right to obtain, or exercise the privileges granted by, a sport fishing, hunting, trapping, or guide-outfitting license is revoked or suspended in another state.

(b) The board may

(1) establish, subject to the prior approval of the commissioner of fish and game, a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters licensed under this chapter;

(2) establish the level of supervision that a guide-outfitter shall provide for class-A assistant guide-outfitters and assistant guide-outfitters who are employed by the guide-outfitter. (§ 3 ch 37 SLA 1989; am § 1 ch 106 SLA 1992)

Effect of amendments. — The 1992 amendment added paragraph (a)(11) and made a related stylistic change. effective January 1, 1993.

Sec. 08.54.320. Board regulations. The board shall adopt procedural and substantive regulations required by this chapter or reasonably necessary for its administration. (§ 3 ch 37 SLA 1989)

Sec. 08.54.330. Board assistance. The Department of Fish and Game, Department of Natural Resources, and Department of Public Safety shall provide the board with information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of providers of commercial services to big game hunters. (§ 3 ch 37 SLA 1989)