

HB

315

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/27/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered HOUSE BILL NO. 315

HB 315 EXTEND BIG GAME COMMERCIAL SERVICES BOARD

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

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
CED	2/25/08	✓			3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elb	✓			
	THOMAS	✓			
	OLSON			✓	
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman	✓			

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 315
(S) Publish Date: 2/27/08

Identifier (file name): HB315-CED-OL-02-25-08 Dept. Affected: DCCED
Title: Extend Big Game Commercial Services Board RDU: Corp, Bus & Prof Licensing (117)
Sponsor: Rules by Request of LB&A Component: Corp, Bus & Prof Licensing
Requester: Senate Resources Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services		215.7	215.7	199.2	199.2	199.2		
Travel		25.6	25.6	25.6	25.6	25.6		
Contractual		163.8	163.8	108.5	108.5	108.5		
Supplies		19.6	19.6	14.5	14.5	14.5		
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	424.7	424.7	347.8	347.8	347.8		

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES (1156)	0.0	849.4	0.0	695.6	0.0	347.8		
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
1156 Receipt Supported Services		424.7	424.7	347.8	347.8	347.8		
TOTAL	0.0	424.7	424.7	347.8	347.8	347.8		

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This legislation extends the Big Game Commercial Services Board to June 30, 2012. In accordance with AS08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. Programs operate on a two year cycle (biennium). Operating expenditures are calculated by averaging the last full biennium cycle and anticipated increases in program costs. Anticipated new costs for this time frame include funds for contractual services for investigations, for the development and maintenance of a new database program, for managing guide applications, as well as for increased publication costs for examination materials. FY 2009 funding is included in the Operating Budget request. The program is required to cover its costs with licensing fees under AS 08.01.065. Revenue generated by board fees collected on a biennial renewal basis is anticipated to cover the full operating costs.

Prepared by: Chris Wyatt, Administrative Officer
Division: Corporations, Business, and Professional Licensing
Approved by: Emil R. Notti, Commissioner
Agency: Commerce, Community, and Economic Development

Phone (907) 465-2572
Date/Time 2/25/08 11:14 AM
Date 2/25/2008



LEGISLATIVE BUDGET & AUDIT COMMITTEE

Representative Ralph Samuels, Chairman

Sponsor Statement

HB 315 Extend Big Game Commercial Services Board

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

House Bill 315 extends the sunset date of the Big Game Commercial Services Board until June 30, 2012.

The Big Game Commercial Services Board was reestablished by Chapter 84, Section 3, SLA 2005 and became effective July 26, 2005. The board is responsible for licensing and regulating activities of big game guides and transporters. Guiding involves providing, services, equipment or facilities to a big game hunter in the field. Transporting, which can be provided both by a guide or a separately licensed transporter means delivery of big game hunters, their equipment or harvested animals to, from or in the field.

The board is comprised of nine members. Membership consists of two public members, two currently licensed registered guide-outfitters, two licensed transporters, one member of the Board of Game, and two private landholders.

It is the opinion of the Legislative Budget and Audit Committee that the Big Game Commercial Services Board should be extended. I ask for your support in extending its sunset date to June 30, 2012.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME BOARD OF GAME

SARAH PALIN, GOVERNOR

ADF&G
P.O. BOX 115526
JUNEAU, AK 998011-5526
PHONE: (907) 465-4110
FAX: (907) 465-6004

January 26, 2008

Representative Ralph Samuels, Chairman
Legislative Budget and Audit Committee
State Capitol, Room 204
Juneau, AK 99801

Dear Representative Samuels,

Re: Board of Game support to extend sunset date of the Big Game Commercial Services Board to 2012 (HB 315 and SB 225).

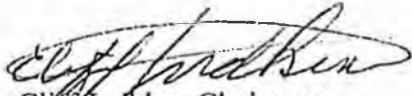
The Board of Game supports the legislation to extend the sunset date for the Big Game Commercial Services Board (BGCSB). Our board works closely with the BGCSB to support the adoption of regulations affecting service providers operating as guide/outfitters and transporters across the state.

The Board of Game has not been given the statutory authority to regulate the guides, outfitters and transporters that impact Alaska's wildlife resources. Since the loss of the former guide area system utilized by the guide industry, prior to 1988, the BOG has received a continuous flow of proposals that ask to reduce or even eliminate the amount of wildlife harvested on state lands by guided hunters. These proposals are variously supported by the public, impacted rural communities, local state Fish and Game Advisory Committees and the Department of Fish and Game. Unfortunately, the programs the BOG has developed to address the wildlife conservation concerns have little ability to provide for one service provider over another. As the BOG cannot control the number of guides, the manner of responding to these concerns is most commonly development and adoption of a complex set of regulations that limits guided hunter opportunity. Changing general hunts to limited entry permit hunts, registration permit hunts and restricting use by establishing controlled use areas represent some of the programs used to limit hunter conflicts.

We see the actions of the BGCSB as a more palatable resolution to this problem with far less negative impact on Alaska's big game guide industry. We also retain a Board of Game seat on the 9 member BGCSB to facilitate additional coordination.

Thank you for your time and efforts on Senate Bill 225 and House Bill 315. Please let us know if there is anything more we can do to ensure the sunset set for the Big Game Commercial Services Board is extended.

Respectively yours,



Cliff Judkins, Chairman
Alaska Board of Game

cc: The Honorable Sarah Palin, Governor
Senator Gary Stevens, Chairman, Senate Rules Committee
Representative John Coghill, Chairman, House Rules Committee

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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Juneau, AK 9811-3300
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SUMMARY OF: A Sunset Review of the Department of Commerce, Community, and Economic Development, Big Game Commercial Services Board, August 16, 2007.

PURPOSE OF THE REPORT

In accordance with Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Big Game Commercial Services Board (board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, AS 08.03.010(c)(22) states that the board will terminate on June 30, 2008 and will have one year from that date to conclude its administrative operations. Our report objectives were as follows:

1. To determine whether there is a public need for the board and if its existence should be extended.
2. To review the board's major functions of licensing and investigations for effectiveness in meeting public need and for efficiency of operation.

REPORT CONCLUSIONS

In our opinion, the termination date of the board should be extended. The board has demonstrated a need for its continued existence for regulating and licensing qualified, registered guide-outfitters and transporters which benefits the public's safety and welfare as well as protection of the state's wildlife resources. The board has also successfully developed and adopted regulatory changes to improve the big game commercial services industry in Alaska.

As indicated in the Analysis of Public Need section of this report, the board has met the various statutory sunset criteria, generally, in an effective and efficient manner; exceptions are discussed in the Findings and Recommendations section. In our opinion, the board serves an important public purpose.

Based on the operational deficiencies identified and the limited time the board has functioned since reinstatement, we recommend the board continue in statute and its termination date be extended for four years until June 30, 2012.

FINDINGS AND RECOMMENDATIONS

1. The director of the Division of Corporations, Business, and Professional Licensing (DCBPL) should ensure division staff adheres to statute, regulations, and policy and procedures for efficient and effective support of the board's day-to-day operations.
2. The division's director should ensure case management procedures are adhered to by staff to accurately reflect case status on the case management system in support of the board's operations.
3. The board and the division should review licensing fees and regulatory costs, and increase fees to cover the annual operating costs to eliminate the anticipated deficit. At the end of FY 07, the board had an estimated operating deficit of \$52,000.
4. The board should make appropriate changes to regulations which require proof of current first aid certification for all guide-outfitters, under board purview, for both initial and renewed licenses.
5. The board should cease the electronic accumulation of information gathered from hunt records and transporter reports. Staff resources were ill-spent recording historic licensee reports into an electronic database. The cost versus the benefit of capturing information from reports is questionable.



United States
Department of
Agriculture

Forest
Service

Alaska Region

P.O. Box 21628
Juneau, AK 99802-1628

File Code: 1510-7

Date: January 24, 2008

Ms. Linda Hay
Staff to the LB&A Committee
Alaska State Capitol
Room 204
Juneau, AK 99801-1182

Dear Legislative Budget Authority Committee:

It is my understanding that the Big Game Commercial Services Board (Board) is now being considered for extension in House Bill 315 and Senate Bill 225. I support the authorization for this Board to continue operating in the future.

The Board continues to cooperate with the Alaska Region of the Forest Service to improve the business climate for outfitters and guides, while trying to maintain the integrity of the resources. The Board provides an opportunity for federal, state and private interests who have a stake in the long-term sustainability of the industry to come together for discussion of concerns and issues. Progress has been made on many fronts in working together for the benefit of the State of Alaska.

As there always seem to be new issues to address, the Forest Service looks forward to continuing to work with the Board. Please contact Trish Clabaugh, Program Leader for Recreation Special Uses at (907) 586-8855, with any questions.

Sincerely,

/s/ Dennis E. Bschor
DENNIS E. BSCHOR
Regional Forester

cc: Bill Tremblay
Courtney L James
Susan Rutherford
Jon R Martin



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State of Alaska
Department of Public Safety
Division of

Alaska Wildlife Troopers

Sarah Palin, Governor
Walt Monegan, Commissioner

January 22, 2008

Representative Ralph Samuels
Legislative Budget and Audit Committee
State Capitol Building, Room 204
Juneau, Alaska

Honorable Representative Samuels and Committee Members:

Subject: Senate Bill 225 and House Bill 315

The Department of Public Safety, Division of Alaska Wildlife Troopers supports Senate Bill 225 and House Bill 315, "An act extending the termination date of the Big Game Commercial Services Board; and providing for an effective date."

The Division of Alaska Wildlife Troopers (AWT) has developed a working relationship with the Big Game Commercial Services Board that has improved our efficiency in the investigation of big game commercial service providers. The Board has communicated with the AWT in developing regulations that have both raised the professional standards for the industry and provided for more effective law enforcement. The Board and the AWT continue with ongoing development of fair and effective regulations.

The passage of Senate Bill 225 and House Bill 315 will enable industry oversight to work in conjunction with law enforcement which results in a more professional service provided to the public and improves Alaska's image to big game resource users and the public.

Thank you for your time, consideration and service to Alaska.

Sincerely,

Gary Folger
Colonel, Alaska Wildlife Troopers

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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August 30, 2007

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT BIG GAME COMMERCIAL SERVICES BOARD SUNSET REVIEW

August 16, 2007

Audit Control Number

08-20052-07

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, AS 08.03.010(c)(22) states that the Big Game Commercial Services Board (board) will terminate on June 30, 2008 and will have one year from that date to conclude its administrative operations.

In our opinion, the termination date for the board should be extended. The licensing of qualified guide-outfitters and transporters benefits the public's safety and welfare. We recommend the legislature extend the termination date of the board to June 30, 2012.

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

Pat Davidson, CPA
Legislative Auditor

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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 (board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. Currently, AS 08.03.010(c)(22) states that the board will terminate on June 30, 2008 and will have one year from that date to conclude its administrative operations.

Objectives

Our specific audit objectives were:

1. To determine if the termination date of the board should be extended,
2. To determine if the board is operating in the public interest; and,
3. To determine if the board has exercised appropriate regulatory oversight of licensed guide-outfitters and transporters.

Scope:

Our audit reviews the operations and activities of the board for the period July 26, 2005 through June 30, 2007. The assessment of the board is based on criteria set out in AS 44.66.050(c).

Methodology:

To accomplish the audit objectives, we:

- Reviewed applicable federal regulations and state guide-outfitter/transporter statutes and regulations;
- Read annual reports and minutes of board meetings related to, or issued by, the board;
- Examined licensing files including hunt records, transporter reports and hunt contracts;
- Examined complaint and investigation files for guide-outfitter and transporters;
- Reviewed various state and federal websites containing hunt and land use information;
- Read departmental correspondence files relating to board and licensee activities;
- Reviewed professional hunter website information;
- Analyzed board revenue and expenditure from FY 06 through FY 07;
- Reviewed legal information from the Department of Law and the courts;

- Reviewed the 2003 Special Audit No. 08-30025-03, *Department of Community and Economic Development, Division of Occupational Licensing, Guides and Transporters (October 16, 2003)*.

We also compared 1995 provisions of the former Big Game Commercial Services Board's statute and regulations with those since the board reinstatement.

We interviewed:

- Members of the Alaska Professional Hunters Association;
- Members of the Board of Big Game Commercial Services;
- Staff of the Division of Corporations, Business, and Professional Licensing within the Department of Commerce, Community, and Economic Development;
- Staff of the Division of Mining, Land, and Water within the Department of Natural Resources
- Staff of the Division of Fish and Wildlife Protection within the Department of Public Safety,
- Staff at the Department of Fish and Game
- Staff at the Natural Resources Civil Division, Department of Law who regularly assist the board with statute and regulatory issues.
- Staff of the U.S. Forest Service, U.S Fish and Wildlife Service, and U.S. Department of the Interior's Bureau of Land Management

Additionally, during the course of the review we were contacted directly by interested members of the public conveying their concerns and issues over board proceedings and matters.

ORGANIZATION AND FUNCTION

The Big Game Commercial Services Board (board) was reestablished by Chapter 84, Section 3, SLA 2005 and became effective July 26, 2005. The board is responsible for licensing and regulating activities of big game guides and transporters. Guiding involves providing, services, equipment or facilities to a big game hunter in the field. Transporting, which can be provided both by a guide or separately licensed transporter means delivery of big game hunters, their equipment or harvested animals to, from or in the field. Alaska Statutes require nonresident U.S. citizens and nonresident foreign nationals to be accompanied by a licensed guide when hunting big game species in Alaska.¹

Previously, the board was terminated effective June 30, 1995 and its regulatory responsibility was transferred to the Division of Corporations, Business, and Professional Licensing (the division or DCBPL) within the Department of Commerce, Community, and Economic Development (DCCED). DCBPL staff performed the oversight, licensing, and investigations of guide-outfitters' and transporters' licensees from July 1995 through July 2005. Upon reinstatement the regulatory responsibilities were transferred back to the board.

Membership on the Board

The board is composed of nine members. Membership consists of two public members, two currently licensed registered guide-outfitters, two licensed transporters, one member of the Board of Game, and two private landholders.

The public members cannot be engaged in the guiding or transporting profession, or have a direct financial interest in the piloting profession. All members must be residents of Alaska.

Duties of the Board

1. Prepare and grade a qualification examination for registered guide-outfitter licenses that require demonstration that the applicant is generally qualified to provide guided and outfitted hunts and, in particular, possess knowledge of fishing, hunting, and guiding laws and regulations.

¹ AS 16.05.407 and .408

Exhibit I

Big Game Commercial Services Board Members As of June 30, 2007

Licensed Registered Guide-Outfitter Members

Paul Johnson - Chairman
Richard Roher

Transporter Members

Colin Brown
Leif Wilson

Private Landholder Members

Raymond Stoney
Vacant

Public Members

Bob Mumford
Betty Jo Schmitz

Member of the Board of Game
Ted Spraker

2. Prepare and grade a certification examination for each game management unit (GMU) in which the registered guide-outfitter intends to provide big game hunting services. The exam requires demonstration by the guide-outfitter that they possess knowledge of the terrain, transportation problems, game, and other characteristics of the GMU.
3. Provide for administration of examinations for registered guide-outfitters at least twice a year.
4. Authorize the issuance of registered guide-outfitter, master guide-outfitter, class-A assistant guide, assistant guide, and transporter licenses. Prior to issuance or renewal the applicant of any class of guide or transporter license must certify by signed document the right to obtain, or exercise the privileges granted by a hunting, guiding, outfitting, or transportation services license is not revoked or suspended in this state, another state, or Canada.
5. Impose appropriate disciplinary sanctions on a licensee.
6. Regularly disseminate information regarding examinations and other qualifications for all classes of guide licenses to residents of the rural areas of the State.
7. Adopting procedural and substantive regulations.
8. Meet at least twice annually.

Division of Corporations, Business, and Professional Licensing (DCBPL or division)

DCBPL provides administrative assistance to the board. Administrative assistance includes budgetary services/functions such as collecting fees, maintaining files, receiving/issuing application forms; publishing notice of examinations and meetings; and compiling/maintaining a current register of licensees. On its own initiative, the division may conduct an investigation if it appears an individual has engaged, or is about to engage, in a practice over which the division has authority. DCBPL can issue an order that the individual stop the practice, bring an action in Superior Court to enjoin the act, examine the books and records of a license holder and/or association, and issue subpoenas for the attendance of witnesses and records.

Licensing examiners at DCBPL are assigned the function of administering and grading the written portion of the registered guide-outfitter and game management unit examinations, issuing initial and renewal licenses for all types of guide-outfitters and transporters, reviewing and data entry of information contained on hunt records and transporter activity reports from guide-outfitter and transporter licensees, handling requests for information, issuing and receiving correspondence over licensees, and refer complaints received to the investigation section within DCBPL.

An investigator at DCBPL is assigned to conduct investigations of complaints on behalf of the board which are received from clients of a guide-outfitter or transporter, the public, other guide-outfitters and transporters, licensing examiners, and other state or federal agencies. A complaint which is clearly a potential criminal violation is referred by the investigator to an appropriate law enforcement agency.

(Intentionally left blank)

REPORT CONCLUSIONS

Under AS 08.03.010(22), the Big Game Commercial Services Board (board) will terminate on June 30, 2008. If the legislature does not take action of extending the board's termination date, then AS 08.03.020 provides the board one year in which to conclude its administrative operations.

The regulation and licensing of qualified, registered guide-outfitters and transporters benefits the public's safety and welfare as well as protection of the state's wildlife resources. The board provides reasonable assurance that the individuals licensed to guide and or outfit hunts, as well as transportation of hunters to and from hunt locations in Alaska, are qualified to do so. The board has also successfully developed and adopted regulatory changes to improve the big game commercial services industry in Alaska.

As indicated in the Analysis of Public Need section of this report, the board has met the various statutory sunset criteria, generally, in an effective and efficient manner; exceptions are discussed in the Findings and Recommendations section. In our opinion, the board serves an important public purpose. Based on the operational deficiencies identified and the limited time the board has functioned since reinstatement, we recommend the board continue in statute and its termination date be extended for four years until June 30, 2012.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The director of the Division of Corporations, Business, and Professional Licensing should ensure procedures are adhered to by division staff for the efficient and effective support of the Big Game Commercial Services Board's day-to-day operations.

Several processes and procedures, required of the Division of Corporations, Business, and Professional Licensing (DCBPL or division) staff to provide adequate support of the Big Game Commercial Services Board (board), were identified as untimely and inaccurate. Issues identified were:

1. Licensee files missing required documentation. One of eight newly-licensed registered guide-outfitter, and one of six assistant guide-outfitter, reviewed license renewals did not have all documentation required for licensure. The registered guide's file was missing both scores showing successful completion of the practical exam and proof of financial responsibility.² The assistant guide's file was missing proof of first aid.³

Without required documentation to prove compliance with eligibility requirements, it is unclear whether requirements were met. The procedure to ensure all required licensing support documentation be retained in the licensee file was not followed.

2. Public notice not issued for exam. Of the four examinations held from October 2005 through March 2007, one examination⁴ was not publicly noticed as required by AS 08.01.050(a)(6). Failure to adequately publish dates of examinations means applicants who would otherwise take the exam, were not aware it was scheduled. The procedure, to ensure public notice is adequately posted by divisional staff, was not followed.
3. Proposed regulations issued by the board were not publicly noticed in a timely manner. By mis-prioritizing work efforts, division staff failed to publicly notice the draft regulations in a timely manner prior to an upcoming board meeting. The result was insufficient time for public comments to be received. In the adoption of new regulations, the board must allow an adequate period for public comments.⁵ Consequently, the board incurred additional and unnecessary costs in order to adopt the regulatory changes at a later meeting.

² AS 08.54.610(a)(3) and (4) and 12 AAC 75.220(b)(2)(A) and (B)

³ 12 AAC 75.130(3)

⁴ The October 28, 2005 exam

⁵ AS 44.62.190(a)

4. Meeting minutes not completed timely, accurately, or consistently posted on the board's website.

The board delegates minutes' preparation to the division. Issues with the division's minutes from board meetings include:

- Three of eight board meetings did not have minutes drafted within the statutory 20 days following the meeting.⁶ Further, one of the three was not completed until six months later.
- Two of eight board meetings, reviewed, found discrepancies between the documented minutes when compared to the taped recordings.
- Four of eight board meeting minutes were not posted on the division's website.

Due to the division staff's mis-prioritizing work efforts and lack of attention to detail, interested parties using board minutes' information may take action or make decisions they, otherwise, would not have.

Although each individual item by itself may not significantly affect board operations, taken as a whole they hinder the board's ability to effectively and efficiently function in the public's interest. Many items identified were due, in part, to a lack of follow-through and adherence to regulatory requirements and division-established policy and procedures by staff. Accordingly, we recommend the DCBPL director ensure adherence to statute, regulations, and policy and procedures by the division staff responsible for providing support functions in the board's day-to-day operations.

Recommendation No. 2

The division's director should ensure staff adheres to investigative case management procedures.

Lack of monitoring the status of investigations has hampered the effectiveness of board operations. The issues identified are:

1. Open status classification on the case management system is not accurate. A review of status reports found four out of eight complaints, and three of ten investigations, were not closed in a timely manner on the division's case management information system (system). The complaints or investigations were either resolved or referred to a law enforcement agency, but remained open on the system.

⁶ AS 08.01.070(7)

Several reasons were identified for complaints and investigations remaining open on the system. In part, it was due to a combination of extended vacancy of the board-assigned investigator and limited available resources to adequately perform monitoring of case statuses for accuracy. Further, the system does not provide adequate case status notification to alert staff that cases remain open for protracted periods of time.

2. Closed status classification on the system is not accurate. Review of complaints found one of 18 in a closed status which should have been reported as an active investigation. The complaint was classified as closed for over seven months. When the investigative staff was notified of this error, they reopened the complaint as an investigation immediately.

The process to change a complaint to an investigation on the system is manual. As such, the followed procedure must be performed thoroughly and completely to prevent premature closure of an investigation. The possibility exists that licensees reported to the investigative section, who might have otherwise been found in violation of either a civil or criminal action, are not adequately and appropriately investigated. This situation could potentially place public safety and wildlife resources at risk.

The responsibility to investigate and monitor occupational licensing complaints is statutorily the duty of the Department of Commerce, Community, and Economic Development, as set out in AS 08.01.050(a)(19). Without available accurate case management system status reports, investigative staff and the board do not have reliable information to effectively or efficiently manage limited available investigative resources.

Accordingly, we recommend the division's director ensure adherence over procedures to accurately reflect case status on the case management system to support board operations.

Recommendation No. 3

The division, in conjunction with the board, should increase licensing fees to mitigate the board's current and projected operating deficits.

At the end of FY 07, the board had an estimated operating deficit of \$52,000. Based on expenditures and revenues to-date, we project that it is likely the board will be in a deficit again at the end of FY 08. Alaska Statute 08.01.065(c) requires fees for an occupation be set to approximate the regulatory costs related to that occupation.

Contributing factors to the deficit include increased expenditures for administrative, investigative, and contracted support staff, as well as increased board travel costs. Without increases to licensing fees, a deficit will remain and it is unlikely the board will cover annual operating costs in FY 08 or FY 09.

We recommend that the division and the board review licensing fees and regulatory costs, increasing fees to cover the annual operating costs to eliminate the deficit.

Recommendation No. 4

The board should consider modifying regulatory first aid requirements to provide consistency between guide-outfitter licensee types.

Registered guide-outfitters are not required to maintain a valid first aid card. Yet assistant guide-outfitter licensee types are required to possess a current first aid card issued by the Red Cross or similar organization for licensure. Public safety is placed at risk by not requiring all guide-outfitter licensee types to provide proof of current first aid training at the time of initial and renewal of licenses.

It is unclear why the first aid requirements are inconsistent among guide licensee types. However, registered guide-outfitters must have practical field experience in first aid.⁷ Due to the nature of the big game commercial services industry and remoteness of activity, it is imperative that all the board's guide licensees are skilled and trained in current first aid procedures to ensure public safety.

We recommend the board make appropriate changes to regulations which require proof of current first aid certification for all guide-outfitters, under board purview, for both initial and renewed licenses.

Recommendation No. 5

The board should cease the electronic accumulation of information gathered from hunt records and transporter reports.

Staff resources were ill-spent recording historic licensee reports into an electronic database. The board did not identify specific use of the data or the amount of time and resources to allot for the task prior to assigning it to the division. The consensus, of anticipated users (state and federal agencies, plus the board, itself), of this information was only current activity⁸ would be useful, with some preferring imaged copies over data reports.

It is the responsibility of the department to collect and maintain⁹ the required records and reports from licensees, but statute is silent on what format the information should be maintained. In addition, compilation of data from the reports *may* be included in

⁷ AS 08.54.610(a)(2)

⁸ Current activity was identified as the previous 12 months.

⁹ AS 08.54.760(a)

departmental reports, but is not required.¹⁰ Avoiding waste of resources is a fundamental, good business practice. Lacking a clear understanding of both the use of information and resources required has interfered with the division accomplishing critical board functions and contributed to the financial deficit which will have to be paid by all licensees.

We recommend the board cease electronic data accumulation of licensee reports until the following are identified: (1) concise and clear use of the information, (2) specific stakeholders, (3) timeframe to reasonably complete the work, and (4) costs associated with the data collection prior to directing division staff to proceed.

¹⁰ AS 08.54.760(b)

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of Big Game Commercial Services Board (board) activities relate to the public-need factors defined in the sunset law, AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas covered within the scope of our review.

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

The regulation and licensing of qualified registered guide-outfitters and transporters benefits the public's safety and welfare as well as protects the state's wildlife resources. The board provides reasonable assurance that the individuals licensed to guide and/or outfit hunts, as well as the transporting of hunters, are qualified to do so.

The board has issued licenses in a uniform manner, held required meetings, and administered examinations in accordance with statutory requirements. During our review period, the board expanded professional ethics regulations for both guides and transporters, as well as enhanced the registered guide-outfitter exam. In addition, the board implemented regulations detailing client contract requirements for registered guide-outfitter. As of May 31, 2007, the board had 2,464 licensed guide-outfitters and transporters.

Determine 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.

Board Finances

State law requires *that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.*¹¹ Division of Corporations, Business, and Professional Licensing (DCBPL or division), with input from the board, sets fees based on a two-year cycle, with the majority of the revenue collected in even-numbered fiscal years. With the reestablishment of the board, the division understands the licensing rate fees will need to be reassessed to cover any increase in operational costs. The exhibit, below, summarizes the board's operating costs and revenues for the period FY 04 through FY 07.

Exhibit 2, on the following page, identifies a cumulative deficit at the end of FY 07. Increases for administrative and investigative services from DCBPL staff, contract services for new regulatory development, and increased travel costs contributed to the deficit. Given

¹¹ AS 08.01.065(c)

the increased costs for general board operations, it is likely the board will continue to incur a revenue deficit during the next licensing period. DCBPL and the board should increase licensing fees. (See Recommendation No 3.)

Exhibit 2

Big Game Commercial Services Board				
Schedule of License Revenue and Expenditures				
As of June 30, 2007				
(Unaudited)				
	(Prior to Board Reinstatement)		(After Board Reinstatement)	
	FY 04	FY 05	FY 06	FY 07
Total Revenues	<u>\$ 325,600</u>	<u>\$ 88,000</u>	<u>\$ 333,738</u>	<u>\$ 68,879</u>
Direct Expenditures				
Personal Services	65,200	54,000	113,541	170,896
Travel	900	500	16,310	33,159
Contractual	11,400	24,600	35,724	64,713
Supplies	<u>100</u>	<u>500</u>	<u>553</u>	<u>2,455</u>
Total Direct Expenditures	<u>77,600</u>	<u>79,600</u>	<u>166,128</u>	<u>271,223</u>
Administrative Indirect Costs	<u>128,400</u>	<u>112,700</u>	<u>114,907</u>	<u>127,976</u>
Total Expenditures	<u>206,000</u>	<u>192,300</u>	<u>281,035</u>	<u>399,199</u>
Annual Revenues over (under) Expenditures	<u>119,600</u>	<u>(104,300)</u>	<u>52,703</u>	<u>(330,320)</u>
Beginning Cumulative Surplus (Deficit)	210,300	329,900	225,600	278,303
Ending Cumulative Surplus (Deficit)	<u>\$ 329,900</u>	<u>\$ 225,600</u>	<u>\$ 278,303</u>	<u>\$ (52,017)</u>

Division Support Activities

The divisional support activities of the board, as set out in statute,¹² have not been effective or efficient for the board's needs since reinstatement. Several activities are identified as needing improvement and resulted in hampering the general operations of the board. (See Recommendation Nos. 1 and 2.)

Board Directive Over Hunt Records and Transporter Reports

The board issued a directive for the division to begin data entry of all information contained on required hunt records and transporter reports which had not been previously entered into the division's database. The benefit, over cost, is questionable and results in an inefficient use of available resources. (See Recommendation No 5.)

¹² AS 08.01.050 and AS 08.01.087

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

During the past two years, the board has supported proposed statutory changes and has recommended and adopted regulations of general benefit to the public interest in areas such as professional ethics, client-guide contract, and licensing requirements to ensure guide and transporter standards are clearly defined. In addition, examination requirements of candidates for registered guide-outfitter were improved to address the current needs of the industry by ensuring new licensees have demonstrated practical knowledge covering several specific abilities.

Other regulations were added requiring documented proof of various items for licensure such as authorization from landowners, in advance, of guiding in an area and criminal background reports. However, regulations over first aid requirements are inconsistent. (See Recommendation No 4.)

Determine 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 board has published notices of examinations, meetings, and prospective regulation changes. Public notice of meetings and exams are made in newspapers of general circulation and also in the State of Alaska's *Online Public Notice* website. Additionally, a period of time for public comment was available at each board meeting.

DCBPL maintains a list of individuals or organizations who are interested in the regulations of that occupation. The division sends a *Notice of Proposed Regulations* automatically to the parties on the occupation listing, each time there is a proposed change in the occupation's regulations.

However, during the period under review, one exam was not publicly noticed by the division. (See Recommendation No 1.)

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

Each board meeting's agenda allows time for public comment. The public has been encouraged to use these public comment periods to express concerns, obtain information from the board, and participate in the regulatory process. Interested parties may attend the meetings in person or by teleconference. In addition, the board has established multiple subcommittees in which the public has had substantial input over various proposed regulatory developments.

Determine 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 victims' rights or the office of the ombudsman have been processed and resolved.

No complaints were filed with the Office of the Ombudsman or the Office of Victims Rights in recent years regarding the operations of the board, specifically, or guide-outfitters and transporters in general. The board revoked one registered guide-outfitter license in FY 07. The revocation was the result of the guide's actions.

Complaints and concerns regarding decisions and activities of the board, as well as complaints about the performance of licensed guide-outfitters and transporters, were generally handled and resolved in an appropriate manner consistent with its priority and limited staff resources of the division. However, during the sunset period, one investigation was not followed through and remained uninvestigated for approximately seven months. (See Recommendation No. 2.)

For the period July 26, 2005 to May 31, 2007, the division opened 53 investigations. Another 63 complaints were filed during the same period, of which 45 were not investigated further due to lack of jurisdiction or were not determined significant enough for an investigation.

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

Exhibit 3, below, illustrates the number of active licensees of the board as of May 31, 2007.

Exhibit 3

Schedule of Guide-Outfitters and Transporters as of May 31, 2007			
New Licenses Issued (exclusive of renewals)			Current Licenses (as of May 31, 2007)
	FY 06	FY 07	
Master Guide	7	4	113
Registered Guide-Outfitter	22	10	548
Class-A Assistant Guide-Outfitter	10	11	193
Assistant Guide-Outfitter	192	142	1,338
Transporter	35	32	272
Totals	266	199	2,464

The application process and required documentary support for licensing is reasonable and appropriate. Each applicant is required to satisfy the requirements for licensing. The licensing process has been enhanced due to new regulations instituted by the board and is neither unduly restrictive nor too lenient. One inconsistency in the licensing requirement was identified relating to required first aid proficiency by the guide-outfitter licensee group. (See Recommendation No 4.)

While our review of licensee files did not identify significant issues with the division's board-delegated responsibility of issuing new and renewed licenses, two files lacked required supporting documentation as proof of meeting board requirements. (See Recommendation No 1.)

Determine 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.

No evidence indicated that hiring practices or the board's appointments were contrary to state personnel practices. No complaints have been filed with the Human Rights Commission, the Governor's Office, the Office of the Attorney General, the Office of the Ombudsman, and the Office of Victim's Rights.

In addition, each time the board has denied an applicant a license, the reason has been based on experience requirements and not personal attributes of the applicant.

Determine 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.

Specific recommendations for operational changes, enabling the board to better serve the public interest, are described in Recommendations Nos. 1 through 5 of this report.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

Generally, the board has effectively attained its objectives since reestablishment on July 26, 2005. The board has protected the public through the implementation of regulations over ethics, improvements over the licensing and examination process, and administrative actions. It has proposed and implemented regulatory and supported, proposed statutory changes of benefit to the public.

However, several operational related deficiencies have hampered the efficiency of the board. Specific issues are described in Recommendation Nos. 1, 2, and 5.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

No duplication of efforts or activities of the board was identified with the private sector, other governmental agencies, including both state and federal agencies. Further, the statutorily required hunt records and transporters reports were not found to be generally duplicative of other state agencies' required post hunt and transport reports.



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Office of the Commissioner

Sarah Palin, Governor
Emil Notti, Commissioner

September 17, 2007

Ms. Pat Davidson
Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, Alaska 99811-3300

Dear Ms. Davidson:

RE: Preliminary Audit Report, Big Game Commercial Services Board

Thank you for the opportunity to comment on the findings addressed in your Preliminary Audit Report concerning the Big Game Commercial Services Board. The Department of Commerce Community and Economic Development ("DCCED") appreciates and agrees with your Office's recommendation that regulation and licensing of qualified guide-outfitters and transporters by the Big Game Commercial Services Board benefits the public's safety and welfare as well as protects the State's wildlife resources.

The comments shared with your Division in earlier communications concerning the Big Game Commercial Services Board audit remain unchanged.

DCCED is aware of the administrative deficiencies identified in your findings and recommendations and has undertaken steps to correct this situation. The Director of the Division of Corporations, Business and Professional Licensing has taken and will continue to take steps to ensure that any deficiencies identified in your report are resolved. To that end, I would like to address the Recommendations in your preliminary audit report.

Recommendation No. 1: The director of the Division of Corporations, Business and Professional Licensing (DCBPL or division) should ensure procedures are adhered to by division staff for the efficient and effective support of BGCSB's day-to-day operations.

We concur with this recommendation. The issues identified in item #1 regarding missing and incomplete documentation in license files have been corrected by the use of new staff, and new check sheets which staff use to insure that each file is complete. With respect to item #2 which dealt with a lack of public noticing an examination, this matter has been discussed internally and procedures has been put in place so that the public receives a timely notice of such examinations.

With respect to Item #3 DCCED shares your concerns about proposed regulations being issued without adequate public notice. New staff arrangements and training are in place and are designed to prevent a re-occurrence.

Since reestablishment of the BGCSB, there have been three major regulation projects, and all three were all posted in a timely manner once the information reached the regulations staff. The regulations project referred to in your findings was public noticed on March 10, 2007; it was to announce "oral comments – public hearing" that was being held in conjunction with the Board meeting on March 19-20, 2007. The "written" comments deadline ended on April 10, 2007. Once the comment period ended, the Board adopted the regulations via a teleconferenced meeting on May 18, 2007. Due to a one time miscommunication, the Board's wishes were not conveyed to the regulations staff in sufficient time for the notice to be sent out. As a result, the Board itself misunderstood what the status was of their regulation project. The public notice on March 10, 2007 and timeline for the series of events that followed were appropriate and acceptable to the regulations attorney's office in the Department of Law. The Division of Corporations, Business and Professional Licensing has adopted procedures to create better communication between the Big Game board and the staff.

Item #4 concerned with Board minutes which were not drafted within 20 days. This issue again was a matter of staffing and the division has taken steps to resolve these staffing matters. However, the audit also mention that minutes were not posted to the division's website in conformity with 2 AAC 96.210(a). Please note, this regulation does not necessarily mandate that minutes be posted to the division's website. It requires that the minutes be made available to requestors of the information. The division posts meeting minutes to websites for convenience of website users and will continue this practice.

Recommendation No. 2: The director of DCBPL should ensure staff adheres to investigative case management procedures.

We appreciate your recognizing the extended board-assigned investigator vacancy and the lack of appropriate case management tracking systems as the causes for the investigative deficiencies. The division has tried for some time to procure an adequate case management tracking system that would benefit investigations for all regulatory programs. DCCED is currently implementing internal reforms aimed at creating a system for monitoring investigations and ensuring that they are completed in a reasonable time frame. The department embraces the use of new technology and the department will continue to provide its investigators with tools they need to address the investigative deficiencies. In that regard the department is in the process of the procurement of an automated case management tracking system.

Recommendation No. 3: The division, in conjunction with BGCSB, should increase licensing fees to mitigate the board's current and projected operating deficits.

The department concurs with this recommendation. A review of each program's financial status is conducted by the division prior to a license renewal. Licenses for guide-outfitters and transporters expire on December 31, 2007; and therefore, the fees are currently under review.

Recommendation No. 4: The board should consider modifying regulatory first aid requirements to provide consistency between guide-outfitter licensee types.

The department concurs with this recommendation. The division will review statutes and regulations with the Board to standardize first aid requirements among all categories of licensure within the BGCSB program.

Recommendation No. 5: The board should cease the electronic accumulation of information gathered from hunt records and transporter reports.

The department has already invested significant time and resources in electronic accumulation of information from hunt records and transporter reports. We agree the data requested on the reports should be streamlined and its purpose should relate specifically to the licensing of guide-outfitters and transporters. We concur with your recommendation to the division work with the Board to identify (1) concise and clear use of the information; (2) specific stakeholders; (3) timeframe to reasonably complete the work; and (4) costs associated with the data collection.

Given the amount of resources already invested in electronically capturing the data from these reports, we think it behooves the department to continue collecting information from hunt and transporter records. Additionally, capturing the information electronically will ultimately save valuable staff time from having to manually copy paper reports for enforcement purposes.

The department will commit to working with the Board to identify the points you raised, and will focus its attention on data capture of current information for now.

I assure you the administrative issues identified in your preliminary audit report will be addressed and corrected. We believe that the Board has made a significant contribution to improve commercial guide services in Alaska; and the department will provide the support needed to make this regulatory program operate for the benefit of the industry and the citizens of this State.

Thanks again for allowing us to comment on your findings.

Sincerely,

Emil Notti
Commissioner

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