

HB

41

Dear Rep. Seaton:

I am a current member of the Alaska Board of Fisheries and ask that my personal views on HB 41 be considered by the House Resources committee at the hearing scheduled for Feb. 12, 2010.

The Bill, if enacted, would among other things, permit a Board member who has a conflict of interest to deliberate, but not vote on proposals which would likely benefit the member if passed. I assume that the concept would be to give the Board information from a person who may have experience and judgment regarding the particular proposals being considered. I am opposed to the Bill for a couple of reasons. First, from a practical point of view, Board members, who are conflicted out of deliberations and voting, generally provide their point of view to other members during the course of a meeting, both prior to and during deliberations. Some Board members actively seek out those members who have been conflicted and ask their opinions and information. And in some cases members who cannot deliberate or vote seek other members and advocate for their positions similar to what other stakeholders might do with Board members. So if one of the primary reasons for allowing conflicted members to deliberate is to provide the Board with new or additional information, that goal is for the most part already achieved with the current conflict rules the Board follows.

Second, It is my belief that the integrity of the Board process would suffer a blow by allowing a member who has a clear conflict of interest to publically advocate for a position that all would know would benefit the member in a significantly beneficial manner. It would, in my opinion give a significant appearance of impropriety to the what otherwise has become over time a very dependable and honest process. It would not improve the process and perhaps would just take up time unnecessarily, since all members(and probably stakeholders as well) would more than likely know what a conflicted member's position would be anyway. Why should a Board member who stands to gain from adoption of a proposal be given anymore status than any other stakeholder.

For the foregoing reasons I am opposed to the aspect of HB41 which would permit Board members who are conflicted from voting on any proposal the opportunity to deliberate on those proposals.

I support the aspect of HB41 that narrows the definition of family members.

Thank you, Karl Johnstone

**Background Information on the Alaska Board of Fisheries
Conflict of Interest Disclosures and
Ethics Act Compliance**

In Regard to HB 41

**Prepared for the
House Resources Committee
Alaska State Legislature**

February 12, 2010



Prepared by

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Introduction

Compliance with the Executive Branch Ethics Act (AS 39.52) is taken very seriously by the Board of Fisheries. Board members and their supporting staff follow the legal guidelines in the Ethics Act as they strive to maintain a high level of public credibility in the overall board process. If a member has a significant personal or financial interest in an issue before the board, he or she must refrain from deliberating or acting on that issue.

Procedures on ethics disclosures

There are several procedures that are followed by the board to help insure that these guidelines are met.

At the very beginning of each regulatory meeting, the board chairman calls on each member to present their ethics disclosure statement. The one-page *Ethics Disclosure* guide sheet (attached) is used as the outline for these disclosures. Board members describe their income sources, list any personal or financial interests they or their family members have in fishing related businesses, and identify any personal or financial interest they or their family members may have in regard to the proposals to be considered at the meeting.

The chairman then invites questions from the other board members, and invites comments from the Department of Law. Following any clarification or discussion, the chairman issues a ruling on the member's eligibility to participate on specific proposals.

A determination by the chairman can be overruled by a vote of the board. When there is a vote to overrule the chair's ruling, the member in question does not vote.

If a board member is found to have a conflict with a given proposal, that member does not participate in the committee discussion, deliberation, or in voting on the particular proposal.

Pattern from last nine years

The board addresses different geographic areas of the state on a three-year cycle and acts on 250 to 500 regulatory proposals each year. Overall, 11 percent of the proposals addressed by the board have been subject to a ruling of a conflict of interest.

The frequency of conflicts varies year to year as a function of board composition and geographic focus of the board. Conflicts are typically found when a board member or their family members have a significant economic or personal interest in a fishery, such as when an active charter or commercial fisherman fishes in an area covered in regional board meeting. In some years the conflict rate is as low as 3 percent, in other years as high as 20 percent.

Table 1 is a summary of the nine year period from October 2001 through February 2010. During this period, the board addressed a total of 3,392 proposals, 367 of which had a

board member conflict. On average, 377 proposals were addressed each year, 11 percent of which had a board member conflicted.

Table 2 presents data for the period from October 2001 through February 2010, compiled by board member instead of by meeting. Again, the pattern varied as a function of the member's personal and financial interests relative to the topics before the board.

Tables 3 - 11 provide an accounting of the number of proposals where a conflict was found including the detail by meeting and by board member. Each page is a different meeting cycle year, beginning with the 2001/2002 Cook Inlet and Kodiak cycle and continuing through the most recent meeting.

House Bill 41

House Bill 41 would result in two changes in how the Board of Fisheries approaches conflicts of interests.

First, the definition of "family" would be narrowed (see chart) It would shift away from the definition applied to the Executive Branch, as found in AS 39.52.960(11), and move to the definition applied to the Legislative Branch, as found in AS 24.60.990(6). No longer included would be a member's child, parent, or sibling when not residing with the member, when not financially dependent, or when not sharing a substantial financial interest. Also deleted would be a grandparent, aunt, uncle, spouse's parent, or spouse's sibling.

TABLE 12. Comparison of "family" definitions in state statute (February 2010)

	AS 39.52.960(11) (Executive Branch)	AS 24.60.990(6) (Legislative Branch)
Spouse, Conjugal cohabitant/ Domestic partner	Included	Included
Child (including stepchild and adopted child), Parent, Sibling	Included	Included only if: -resides with person -financially dependent, or -if shares a substantial financial interest
Grandparent, Aunt, Uncle, Spouse's parent, Spouse's sibling	Included	Not included

The second change is that the board member would be allowed to fully participate in the deliberation on a proposal. However, the bill would not change the restriction on a board member voting on a proposal or issue if the board member had a conflict.

Conclusion

Neither the Department of Fish and Game nor the Board of Fisheries has taken a position on HB 41 at this time.

TABLE 1. NINE YEAR SUMMARY OF BOARD OF FISHERY PROPOSALS VOTE ABSTENTIONS

	01/02	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10*	Total	Annual Average
TOTAL NO. OF PROPOSALS FOR CYCLE:	520	496	231	532	420	259	391	375	168	3,392	377
NUMBER OF PROPOSALS WITH CONFLICT:	42	35	7	49	67	53	2	90	22	367	41
PERCENT OF PROPOSALS WITH CONFLICT:	8%	7%	3%	9%	16%	20%	1%	24%	13%	10.8%	
TOTAL NUMBER OF VOTES FOR CYCLE:	3,640	3,472	1,617	3,724	2,940	1,813	2,737	2,625	1,176	23,744	2,638
NUMBER OF VOTES ABSTAINED:	42	35	7	49	67	53	2	90	22	367	41
PERCENT OF VOTES ABSTAINED:	1%	1%	0%	1%	2%	3%	0%	3%	2%	1.5%	

* Through February 2010 only

TABLE 2. BOARD OF FISHERIES VOTE ABSTENTIONS, BY MEMBER (OCT. 2001 - FEB. 2010)

Board member	Time period	Total number of meetings	Number of meetings with conflict	Percent of meetings with conflict	Total number of proposals	Number of proposals with conflict	Percent of proposals with conflict
Grant Miller (Sitka)	Oct. 2001* - Jun. 2002	7	1	14%	520	3	1%
Virgil Umphenour (Fairbanks)	Oct. 2001* - Jun. 2002	7	0	0%	520	0	0%
John White (Bethel)	Oct. 2001* - Oct. 2002	9	0	0%	525	0	0%
Dan Coffey (Anchorage)	Oct. 2001* - Dec. 2002	7	0	0%	520	0	0%
Larry Engel (Palmer)	Oct. 2001* - Jun. 2003	17	0	0%	1,016	0	0%
Russell Nelson (Dillingham)	Oct. 2001* - Apr. 2004	25	0	0%	1,247	0	0%
Ed Dersham (Anchor Point)	Oct. 2001* - Mar. 2005	36	4	11%	1,779	48	3%
Eric Jordan (Sitka)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Andy Szczesny (Soldotna)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Oliver Holm (Kodiak)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Fred Bouse (Fairbanks)	Oct. 2003 - May 2006	28	0	0%	1,182	0	0%
Rupe Andrews (Juneau)	Jan. 2003 - Feb. 2007	41	0	0%	1,888	0	0%
Mel Morris (Kodiak)	Jan. 2003 - Feb. 2010	54	5	9%	2,853	29	1%
John Jensen (Petersburg)	Jan. 2003 - Feb. 2010	54	5	9%	2,853	190	7%
Art Nelson (Anchorage)	Jan. 2003 - Jun. 2007	42	3	7%	1,917	12	1%
Robert Heyano (Dillingham)	Jul. 2004 - Jun. 2007	27	7	26%	1,211	61	5%
Jeremiah Campbell (Seward)	Oct. 2005 - Nov. 2008	24	0	0%	1,070	0	0%
Bonnie Williams (Fairbanks)	Jul., 2006 - Jul. 2009	19	0	0%	1,025	0	0%
Larry Edfelt (Juneau)	Mar. 2007 - Jun. 2008	7	0	0%	420	0	0%
Howard Delo (Big Lake)	Jul. 2007 - Feb. 2010	18	1	6%	934	1	0%
Vince Webster (King Salmon)	Jul. 2007 - Feb. 2010	18	3	17%	934	23	2%
Bill Brown (Juneau)	Jul. 2008 - Feb. 2010	12	0	0%	543	0	0%
Karl Johnstone (Anchorage)	Dec. 2008 - Feb. 2010	10	0	0%	411	0	0%
Janet Woods (Fairbanks)	Jul. 2009 - Feb. 2010	6	0	0%	168	0	0%

* term started prior to Oct. 2001

Summary of Board of Fisheries Vote Abstentions

TABLE 3. 2001/2002 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Engel	Coffey	Miller	White	R. Nelson	Dersham	Umphenour	
Oct. 11-13, 2001	Worksession (17 ACRs)	0	0	0	0	0	0	0	0	
Nov. 8-12, 2001	Lower Cook Inlet	44	0	0	0	0	0	12	0	Dersham conflict on 15-20, 24, 25, 29, 30, 35, 36 salmon
Nov. 13-14, 2001	Groundfish, Crab	7	0	0	0	0	0	0	0	
Jan. 7-14, 2002	Kodiak and Chignik finfish	69	0	0	0	0	0	0	0	
Feb. 6-20, 2002	Upper Cook Inlet finfish	291	0	0	0	0	0	27	0	Dersham conflict on 126, 147-150, 152-162, 201-206, 265, 266, 285-287 (guided fisheries and saltwater sport salmon).
Mar. 14-21, 2002	Statewide king and Tanner crab, supplemental issues	107	0	0	3	0	0	0	0	Miller conflict on 475, 480, and 483 (crab and Area A)
Jun. 16, 2002	VMS, Kenai chinook	2	0	0	0	0	0	0	0	
	all meetings	520	0	0	3	0	0	39	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 520
NUMBER OF PROPOSALS WITH CONFLICT: 42
PERCENT OF PROPOSALS WITH CONFLICT: 8.1%

TOTAL NUMBER OF VOTES FOR CYCLE: 3,640
NUMBER OF VOTES ABSTAINED: 42
PERCENT OF VOTES ABSTAINED: 1.2%

Summary of Board of Fisheries Vote Abstentions

TABLE 4. 2002/2003 PRINCE WILLIAM SOUND AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Engel</u>	<u>Jordan</u>	<u>White</u>	<u>Szczesny</u>	<u>R. Nelson</u>	<u>Dersham</u>	<u>Holm</u>	
Oct. 17-19, 2002	Worksession (36 ACRs)	0	0	0	0	0	0	0	0	
Oct. 20-21, 2002	Groundfish, Chinook	5	0	0	0	0	0	0	0	
Dec. 5-6, 2002	Chinook	16	<u>Engel</u> 0	<u>Jordan</u> 0	<u>vacant</u> 0	<u>Szczesny</u> 0	<u>R. Nelson</u> 0	<u>Dersham</u> 0	<u>Holm</u> 0	
Jan. 20-28, 2003	Southeast herring, groundfish, Dungeness crab, shrimp, misc. shellfish	174	<u>Engel</u> 0	<u>Morris</u> 0	<u>Jensen</u> 19	<u>A. Nelson</u> 0	<u>R. Nelson</u> 0	<u>Dersham</u> 0	<u>Andrews</u> 0	Jensen conflict on 198, A, 200-209, 212-216, 218, 220 (Dungeness crab).
Jan. 31-Feb. 5, 2003	Prince William Sound and Copper River finfish	104	0	0	0	0	0	0	0	
Feb. 20-28, 2003	Southeast and Yakutat finfish	122	0	0	16	0	0	0	0	Jensen conflict on 366-370 (Hidden Falls, Deep Inlet, and Anita Bay terminal area), 380 (allocation), 383-385, 388-392 (allocation and seasons), and 210-211 (Dungeness crab).
Mar. 17-25, 2003	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	71	0	0	0	0	0	0	0	
Apr. 30, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0	
May 14, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0	
Jun. 24, 2003	Bristol Bay red king crab	2	0	0	0	0	0	0	0	
	all meetings	496	0	0	35	0	0	0	0	
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		496								
NUMBER OF PROPOSALS WITH CONFLICT:		35								
PERCENT OF PROPOSALS WITH CONFLICT:		7.1%								
TOTAL NUMBER OF VOTES FOR CYCLE:		3,472								
NUMBER OF VOTES ABSTAINED:		35								
PERCENT OF VOTES ABSTAINED:		1.0%								

Summary of Board of Fisheries Vote Abstentions

TABLE 5. 2003/2004 BRISTOL BAY, ARCTIC-YUKON-KUSKOKWIM, ALASKA PENINSULA CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Andrews</u>	<u>R. Nelson</u>	<u>Dersham</u>	<u>Bouse</u>	
Oct. 1-3, 2003	Worksession (24 ACRs)	0	0	0	0	0	0	0	0	
Oct. 4, 2003	Pribilof Islands blue king crab	1	0	0	0	0	0	0	0	
Nov. 12-17, 2003	Statewide finfish	31	0	0	1	0	0	0	0	Jensen conflict on Area A registration
Nov. 18-19, 2003	Chignik purse seine coop fishery	6	0	6	0	0	0	0	0	Nelson conflict on all proposals
Dec. 9-17, 2003	Bristol Bay finfish	75	0	0	0	0	0	0	0	
Jan. 12-19, 2004	Arctic-Yukon-Kuskokwim finfish	32	0	0	0	0	0	0	0	
Feb. 15-26, 2004	Alaska Peninsula/Aleutian Islands finfish	84	0	0	0	0	0	0	0	
Apr. 4-5, 2004	Prince William Sound allocation plan	2	0	0	0	0	0	0	0	
	all meetings	231	0	6	1	0	0	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 231
NUMBER OF PROPOSALS WITH CONFLICT: 7
PERCENT OF PROPOSALS WITH CONFLICT: 3.0%

TOTAL NUMBER OF VOTES FOR CYCLE: 1,617
NUMBER OF VOTES ABSTAINED: 7
PERCENT OF VOTES ABSTAINED: 0.4%

Summary of Board of Fisheries Vote Abstentions

TABLE 6. 2004/2005 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Morris	A. Nelson	Jensen	Andrews	Heyano	Dersham	Bouse	
Jul. 1, 2004	Teleconference re Kasilof sockeye	1	0	0	0	0	0	0	0	
Jul. 5, 2004	Teleconference re Kasilof sockeye	1	0	0	0	0	0	0	0	
Jul. 19, 2004	Teleconference re Kasilof and Kenai late-run sockeye	1	1	0	0	0	0	0	0	Morris conflict on emergency petition re Cook Inlet
Aug. 4, 2004	Teleconference re Cook Inlet eastside commercial and Kenai personal use	1	0	0	0	0	0	0	0	
Sep. 28, 2004	Teleconference re Kenai River coho	1	0	0	0	0	0	0	0	
Oct. 5-7, 2004	Worksession (24 ACRs)	0	0	0	0	0	0	0	0	
Nov. 11-13, 2004	Lower Cook Inlet finfish	34	0	0	0	0	3	6	0	Dersham conflict on 17-21 and 23 (guide registration, Dolly Varden, trout, enforcement, and gaff use). Heyano conflict on 33 (Bristol Bay drift gear).
Nov. 14-17, 2004	Chignik finfish	33	0	0	1	0	0	0	0	Jensen conflict with emergency petition re Dungeness crab in southeast.
Jan. 7-10, 2005	Kodiak finfish	134	0	0	0	0	3	0	0	Heyano conflict on three herring proposals
Jan. 17-29, 2005	Upper Cook Inlet finfish	258	25	0	0	0	0	3	0	Dersham conflict on 149, 250, and 289. Morris conflict on 144, 145, 147, 148, 151, 153-156, 191 (Kenai sockeye), 158 (Russian River sockeye), 178, 188, 192, 194, 196 (Northern District salmon), 189 (Central District periods), 231, 134, 135, 139, 242, and 243 (Upper Cook Inlet plans).
Mar. 7-13, 2005	Statewide king and Tanner crab, supplemental issues	68	0	0	3	0	4	0	0	Heyano conflict on Proposals 456 (OEG for Kvichak), 420 (Bering sea crab CDQ) 424 & 426 (pot gear Bering sea crab). Jensen conflict on 402 & 404 (Southeast Tanner crab) and 457 (Taku and Sukine king salmon)
all meetings		532	26	0	4	0	10	9	0	
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		532								
NUMBER OF PROPOSALS WITH CONFLICT:		49								
PERCENT OF PROPOSALS WITH CONFLICT:		9.2%								
TOTAL NUMBER OF VOTES FOR CYCLE:		3,724								
NUMBER OF VOTES ABSTAINED:		49								
PERCENT OF VOTES ABSTAINED:		1.3%								

Summary of Board of Fisheries Vote Abstentions

TABLE 7. 2005/2006 PRINCE WILLIAM SOUND AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Morris	A. Nelson	Jensen	Andrews	Heyano	Campbell	Bouse	
Oct. 13-14, 2005	Worksession (45 ACRs)	0	0	0	0	0	0	0	0	
Oct. 15-16, 2005	State-waters trawl	3	1	0	0	0	0	0	0	Morris conflict on Central Gulf of Alaska portion of proposal
Nov. 15-16, 2005	Chignik salmon	1	0	0	0	0	0	0	0	
Dec. 1-6, 2005	Prince William Sound and Copper River finfish	84	0	0	0	0	2	0	0	Heyano conflict on Proposals 78 and 79 (sablefish, herring)
Dec. 29, 2005	Teleconference re Adak P-cod	0	0	0	0	0	0	0	0	
Jan. 22-Feb. 1, 2006	Southeast and Yakutat finfish	142	0	0	39	0	0	0	0	Jensen conflict on specific salmon and herring proposals
Feb. 20-26, 2006	Southeast groundfish, dungeness crab, shrimp, misc. shellfish; plus Aleutian Island P-cod	82	0	1	22	0	0	0	0	Nelson conflict on Proposal 399 (Aleutian Islands P-cod); Jensen conflict on 226-234, 269, and 271-282 (crab, groundfish)
Mar. 17-23, 2006	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	107	0	1	0	0	1	0	0	Heyano conflict on Proposal 396 (alter CDQ crab quotas); Nelson conflict on Nunavak coop plan
May 3, 2006	Bering Sea crab	1	0	0	0	0	0	0	0	
	all meetings	420	1	2	61	0	3	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 420
NUMBER OF PROPOSALS WITH CONFLICT: 67
PERCENT OF PROPOSALS WITH CONFLICT: 16.0%

TOTAL NUMBER OF VOTES FOR CYCLE: 2,940
NUMBER OF VOTES ABSTAINED: 67
PERCENT OF VOTES ABSTAINED: 2.3%

Summary of Board of Fisheries Vote Abstentions

TABLE 8. 2006/2007 BRISTOL BAY, ARCTIC-YUKON-KUSKOKWIM, ALASKA PENINSULA CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Andrews</u>	<u>Heyano</u>	<u>Campbell</u>	<u>Williams</u>	
Oct. 12-13, 2006	Worksession (29 ACRs)	0	0	0	0	0	0	0	0	
Oct. 14-15, 2006	State-waters trawl	6	1	0	0	0	0	0	0	
Oct. 31, 2006	Teleconference re Adak pollock	0	0	0	0	0	0	0	0	Morris conflict on Cook Inlet Pollock
Dec. 4-12, 2006	Bristol Bay finfish	120	0	0	0	0	38	0	0	Heyano conflict on Nushagak River salmon, herring
Jan. 31-Feb. 5, 2007	Arctic-Yukon-Kuskokwim finfish	56	0	4	0	0	0	0	0	Nelson conflict on Kuskokwim River proposals
Feb. 6-11, 2007	Alaska Peninsula/Aleutian Islands finfish	48	0	0	0	0	10	0	0	Heyano conflict on Area M June Fishery proposals
Mar. 9-13, 2007	Statewide finfish	29	0	0	0	<u>Edfelt</u> 0	0	0	0	
	all meetings	259	1	4	0	0	48	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 259
 NUMBER OF PROPOSALS WITH CONFLICT: 53
 PERCENT OF PROPOSALS WITH CONFLICT: 20.5%

TOTAL NUMBER OF VOTES FOR CYCLE: 1,813
 NUMBER OF VOTES ABSTAINED: 53
 PERCENT OF VOTES ABSTAINED: 2.9%

Summary of Board of Fisheries Vote Abstentions

TABLE 9. 2007/2008 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Morris	Delo	Jensen	Edfelt	Webster	Campbell	Williams	
Oct. 9-11, 2007	Worksession (25 ACRs)	0	0	0	0	0	0	0	0	
Nov. 13-15, 2007	Lower Cook Inlet	22	0	0	0	0	0	0	0	
Jan. 10-12, 2008	Chignik Finfish	12	0	0	0	0	0	0	0	
Jan. 14-18, 2008	Kodiak Finfish	38	0	0	0	0	0	0	0	
Feb. 1-12, 2008	Upper Cook Inlet	286	1	1	0	0	0	0	0	58 proposals reviewed for Delo, 48 proposals reviewed for Morris. Both found to have conflict with #148, a proposal to reallocate from commercial uses. Edfelt absent.
Mar. 3-9, 2008	King and Tanner Crab	33	0	0	0	0	0	0	0	
	all meetings	391	1	1	0	0	0	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 391
NUMBER OF PROPOSALS WITH CONFLICT: 2
PERCENT OF PROPOSALS WITH CONFLICT: 0.5%

TOTAL NUMBER OF VOTES FOR CYCLE: 2,737
NUMBER OF VOTES ABSTAINED: 2
PERCENT OF VOTES ABSTAINED: 0.1%

Summary of Board of Fisheries Vote Abstentions

TABLE 10. 2008/2009 PRINCE WILLIAM SOUND AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Morris</u>	<u>DeLo</u>	<u>Jensen</u>	<u>Brown</u>	<u>Webster</u>	<u>Campbell</u>	<u>Williams</u>	
Oct. 8-10, 2008	Worksession (12 ACRs)	0	0	0	0	0	0	0	0	
Dec. 1-7, 2008	Prince William Sound	132	0	0	0	0	0	0	0	
Jan. 21-27, 2009	Southeast Shellfish	66	0	0	9	0	0	<u>Johnstone</u>	0	
Feb. 17-27, 2009	Southeast Finfish	157	0	0	79	0	0	0	0	Jensen conflicted on crab proposals 149, 150, 158, 177, 180, 181, 182, and 185
Mar. 16-20, 2009	Statewide Shellfish	18	0	0	1	0	1	0	0	Jensen conflicted on 79 herring, salmon, and groundfish proposals
April 28, 2009	Teleconference on pike, blackcod	2	0	0	0	0	0	0	0	Jensen conflicted on crab pot twine #357; Webster conflicted on Naknek gear (#377) Jensen absent at teleconference.
all meetings		375	0	0	89	0	1	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 375
NUMBER OF PROPOSALS WITH CONFLICT: 90
PERCENT OF PROPOSALS WITH CONFLICT: 24.0%

TOTAL NUMBER OF VOTES FOR CYCLE: 2,625
NUMBER OF VOTES ABSTAINED: 90
PERCENT OF VOTES ABSTAINED: 3.4%

Summary of Board of Fisheries Vote Abstentions

TABLE 11. 2009/2010 BRISTOL BAY, ARCTIC-YUKON-KUSKOKWIM, ALASKA PENINSULA CYCLE*

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Morris</u>	<u>Delo</u>	<u>Jensen</u>	<u>Brown</u>	<u>Webster</u>	<u>Johnstone</u>	<u>Woods</u>	
Sept. 8, 2009	Teleconference re Yukon R.	1	0	0	0	0	0	0	0	
Sept. 28, 2009	Teleconf re St Matthew Crab	1	0	0	0	0	0	0	0	
Oct. 13-14, 2009	Worksession (9 ACRs)	0	0	0	0	0	0	0	0	
Dec. 1-8, 2009	Bristol Bay Finfish	48	0	0	0	0	19	0	0	
Jan. 26-31, 2010	AYK Finfish	55	0	0	0	0	0	0	0	
Feb. 2-7, 2010	Ak Pen/Aleutian Is. Finfish	65	0	0	0	0	0	0	0	
Mar. 16-20, 2010	Statewide Finfish, Chitina	35					3	0	0	
all meetings		203	0	0	0	0	22	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 203
 NUMBER OF PROPOSALS WITH CONFLICT: 22
 PERCENT OF PROPOSALS WITH CONFLICT: 10.8%

TOTAL NUMBER OF VOTES FOR CYCLE: 1,421
 NUMBER OF VOTES ABSTAINED: 22
 PERCENT OF VOTES ABSTAINED: 1.5%

* Through February 2010 only

ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:
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REPRESENTATIVE PAUL SEATON DISTRICT 35

Sponsor Statement HB 41

HB 41 expands the ability of Board of Fish members to offer their experienced viewpoint during board debates.

Current law requires board members to declare a conflict and recuse themselves from discussion and voting if they, or a member of their family, have a personal or financial interest in a matter before the board. This requirement prevents commercial fishermen and sport fishing guides from discussing fishery issues that they are intimately familiar with through their participation in the fishery. HB 41 allows commercial and sport fishermen, after full disclosure, to deliberate on fishing issues in which they have a conflict based on their participation in the fishery. These members are not allowed to vote. HB 41 does not allow board members to participate on issues in which they have a paid financial interest as a consultant or a lobbyist.

The Board of Fish is composed of seven members. If one or two members are conflicted out of a discussion because of their in-depth knowledge, the entire process suffers. On average between 2001 and 2006 individual board members were required to recuse themselves on nearly ten percent of the proposals in each board cycle.

Under current law, recusals from board discussion disproportionately affect rural Alaska. Often board members from rural areas have been living in the region for generations and have extensive family involvement in regional fisheries. The applicable definition of immediate family includes parents, siblings, grandparents, aunts and uncles. This expansive definition of immediate family often takes rural representatives out of board discussion on nearly all of the proposals for their entire region, leaving the board without their representation.

A board member would have a conflict of interest on an issue under this bill when a board action might affect a member of their household. This bill applies the same definition found in the new Legislative Ethics Act for defining a board member's participatory conflict of interest.

HB 41 contains a sunset of 2012, giving the Legislature the opportunity to review the effect of the changes imposed by the bill. The Department of Fish and Game is to submit a report to the Legislature at this time, detailing the recusals prevented by this change in statute, and providing a recommendation on whether or not the statutory change should be allowed to expire.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 41
() Publish Date: _____

Identifier (file name): HB041-DFG-BDS-1-30-09 Dept. Affected: Fish and Game
Title Disclosure of Board of Fisheries personal/financial interest. RDU Administration & Support
Component Boards and Advisory Committee
Sponsor Representative Seaton
Requester House Fisheries Component Number 2825

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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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								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Mini Cherian, Administrative Officer I
Division: Boards Support Section
Approved by: Tom Lawson, Director
Fish and Game Administrative Services

Phone 907-465-6096
Date/Time 1/9/2009 15:15:00 PM
Date 1/30/2009

Recusals due to Conflict of Interest in Quarterly Ethics Reports 2003 - 2006

2003

AIDEA - four recusals
 Social Work Examiners - one recusal
 Local Boundary Comm. - one recusal
 Real Estate Appraisers - one recusal
 Pharmacy Board - one recusal
 Board of Marine Pilots - one recusal
Board of Fisheries - three recusals
(on 42 regulatory proposals)

2004

Local Boundary Comm. - one recusal
 AIDEA - one recusal
 Real Estate Comm. - two recusals
Board of Fisheries - four recusals
(on 11 regulatory proposals)

2005

Board of Dental Examiners - one recusal
 Social Work Examiners - four recusals
 Local Boundary Commission - one recusal
 Ag. and Conservation Board - one recusal
 Board of Regents - one recusal
 Railroad Corporation - one recusal
Board of Fisheries - seven recusals
(on 41 regulatory proposals)

2006

Oil and Gas Conservation Comm. - one recusal (on single issue)
 Board of Regents - one recusal (on single issue)
 Board of Game - one recusal (on single issue)
 Board of Marine Pilots - three recusals (on single issue)
 Public Broadcasting Commission - one recusal (on two issues)
 Social Work Examiners - two recusals (on two issues)
 Local Boundary Commission - one recusal (on two issues)
 Board of Professional Counselors - one recusal (on single issue)
Board of Fisheries - three recusals
(on 103 regulatory proposals)

Quarterly Ethics reports (required of boards under AS 39.52.260) may not contain data on all conflicts because they may fail to reflect voluntary recusal where a board member does not appear at the relevant meeting or portion of a meeting because of a conflict. Reports may fail to reflect whether a recusal is for a single matter or a number of matters before a board or commission.

Comparison of “family” definitions in state statute re: HB 41

	AS 39.52.960(11) (Executive Branch)	AS 24.60.990(6) (Legislative)
Spouse Conjugal Cohabitant	Included	Included
Child (including stepchild and adopted child) Parent Sibling	Included	Included if: -resides with person -financially dependent, or -if shares a substantial financial interest
Grandparent Aunt, Uncle Spouse’s parent Spouse’s sibling	Included	Not included

**Background Information on the Alaska Board of Fisheries
Conflict of Interest Disclosures**

Regarding Consideration of HB 41

**Prepared for the
Alaska Legislature, House Fisheries Committee**

February 5, 2009



Prepared by

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Introduction

Compliance with the Executive Branch Ethics Act (AS 39.52) is taken very seriously by the Board of Fisheries. Board members and their supporting staff follow the legal guidelines in the ethics act as they strive to maintain a high level of public credibility in the overall board process. If a member has a significant personal or financial interest in an issue before the board, he or she must refrain from deliberating or acting on that issue.

Procedures

There are several procedures that are followed by the board to help insure that these guidelines are met.

At the very beginning of each regulatory meeting, the board chairman calls on each member to present their ethics disclosure statement. The one-page *Ethics Disclosure* guide sheet (attached) is used as the outline for these disclosures. Board members describe their income sources, list any personal or financial interests they or their family members have in fishing related businesses, and identify any personal or financial interest they or their family members may have in regard to the proposals to be considered at the meeting.

The chairman then invites questions from the other board members, and may also ask for comments from the Department of Law. Following any clarification or discussion, the chairman issues a ruling on the member's eligibility to participate on specific proposals.

A determination by the chairman can be overruled by a vote of the board. When there is a vote to overrule the chair's ruling, the member in question does not vote.

If a board member is found to have a conflict with a given proposal, that member does not participate in the committee discussion, deliberation, or in voting on the particular proposal.

Pattern from last seven years

The board addresses different geographic areas of the state on a three-year cycle and they act on 350 to 450 proposals each year. Overall, 10 percent of the proposals addressed by the board have been subject to a ruling of a conflict of interest.

The frequency of conflicts varies year to year as a function of board composition and geographic focus of the board. Conflicts are typically found when a board member or their family members have a significant economic or personal interest in a fishery, such as when an active charter or commercial fisherman fishes in an area covered in regional board meeting. In some years the conflict rate is as low as 3 percent, in other years as high as 20 percent.

Table 1 is a summary of the six year period from 2001 through 2007. During this period, the board addressed a total of 2,458 proposals, 253 of which had a board member conflict. On average, 410 proposals were addressed each year, 10 percent of which had a board member conflicted.

Table 2 presents data for the period from 2001 through 2008, compiled by board member instead of by meeting. Again, the pattern of conflicts varied as a function of the member's personal and financial interests relative to the topics before the board.

Tables 3 - 10 provide an accounting of the number of proposals where a conflict was found including the detail by meeting and by board member. Each page is a different meeting cycle year, beginning with the 2001/2002 Cook Inlet and Kodiak cycle and continuing through the most recent meeting.

HB 41

House Bill 41 would result in two changes in how the Board of Fisheries approaches conflicts of interests.

First, the definition of "family" would be narrowed (see chart) It would shift away from the definition applied to the *Executive Branch*, as found in AS 39.52.960(11), and move to the definition applied to the *Legislative Branch*, as found in AS 24.60.990(6). No longer included would be a member's child, parent, or sibling when not residing with the member, when not financially dependent, or when not sharing a substantial financial interest. Also deleted would be a grandparent, aunt, uncle, spouse's parent, or spouse's sibling.

Comparison of "family" definitions in state statute (February 2009)

	AS 39.52.960(11) (Executive Branch)	AS 24.60.990(6) (Legislative)
Spouse, Conjugal cohabitant/ Domestic partner	Included	Included
Child (including stepchild and adopted child), Parent, Sibling	Included	Included only if: -resides with person -financially dependent, or -if shares a substantial financial interest
Grandparent, Aunt, Uncle, Spouse's parent, Spouse's sibling	Included	Not included

The second change is that the board member would be allowed to fully participate in the deliberation on a proposal. However, the bill would not change the restriction on a board member voting on a proposal or issue if the board member had a conflict.

Conclusion

Neither the Department of Fish and Game nor the Board of Fisheries has taken a position on HB 41 at this time.

ETHICS DISCLOSURE

To comply with the Alaska Executive Branch Ethics Act (AS 39.52), board members are required to disclose sufficient information on the record of all interests they, or their immediate families, may have that relate to fish (Board of Fisheries members) or wildlife (Board of Game members) to enable the chair of the board to determine whether the involvement may be a personal or financial interest that constitutes a conflict of interest under the Act.

When making public ethics disclosures on the record at board meetings, members must provide sufficient information in response to the following questions to enable the chair to decide if it is necessary to inquire further to determine whether a conflict exists:

1. Explain in general terms what you do for a living:
 - a. primary employer/employment,
 - b. other employment or sources of income,
 - c. other business interests.

For the following questions, "member of your family" includes spouse, conjugal cohabitant, child (including step-child and adopted child), parent, sibling, grandparent, aunt, uncle, and spouse's parent and sibling.

2. List all personal or financial interests you, or any member of your family, have in any business or organization relating to fish or wildlife resources.
3. Describe generally any interest you, or any member of your immediate family, have in a business or fish or wildlife organization that may be affected by any of the proposals to be discussed.
4. Describe generally any other interests of a personal or financial nature you, or any member of your immediate family, have that may be affected by any of the proposals to be discussed.
5. List all lawsuits that you, a member of your immediate family, or any organization you belong to, are involved in against the state, the board or the Department of Fish and Game, or where the state, the board, or the department is a party to the lawsuit.

If you, or a member of your immediate family, are a member of any organization or corporation that is involved in a such a lawsuit, briefly explain what the organization is, the size of its membership and whether you, or an immediate family member, are on its board or hold some other executive or policy making position.

You must certify that your disclosure statement is "true, correct and complete."

Under the Ethics Act the chair of each board has the duty to determine whether a member's involvement in a matter violates the Act (AS 39.52.220). After each individual disclosure, the chair will rule on whether the board member has a conflict. If the chair determines that a conflict will exist if the member participates, the member must refrain from voting, deliberating, or participating in the matter. If the chair determines no conflict will exist, the member can participate fully.

[Guide sheet used by board members]

Summary of Board of Fisheries Vote Abstentions

TABLE 1. SIX YEAR SUMMARY OF BOARD OF FISHERY PROPOSALS

	01/02	02/03	03/04	04/05	05/06	06/07	Total	Annual Average
TOTAL NO. OF PROPOSALS FOR CYCLE:	520	496	231	532	420	259	2,458	410
NUMBER OF PROPOSALS WITH CONFLICT:	42	35	7	49	67	53	253	42
PERCENT OF PROPOSALS WITH CONFLICT:	8%	7%	3%	9%	16%	20%	10.3%	
TOTAL NUMBER OF VOTES CAST:	3,640	3,472	1,617	3,724	2,940	1,813	17,206	2,868
NUMBER OF VOTES WITH CONFLICT:	42	35	7	49	67	53	253	42
PERCENT OF VOTES WITH CONFLICT:	1%	1%	0%	1%	2%	3%	1.5%	

TABLE 2. BOARD OF FISHERIES VOTE ABSTENTIONS, BY MEMBER (Oct. 2001 - Dec. 2008)

Board member	Time period	Total number of meetings	Number of meetings with conflict	Percent of meetings with conflict	Total number of proposals	Number of proposals with conflict	Percent of proposals with conflict
Grant Miller (Sitka)	Oct. 2001* - Jun. 2002	7	1	14%	520	3	1%
Virgil Umphenour (Fairbanks)	Oct. 2001* - Jun. 2002	7	0	0%	520	0	0%
John White (Bethel)	Oct. 2001* - Oct. 2002	9	0	0%	525	0	0%
Dan Coffey (Anchorage)	Oct. 2001* - Dec. 2002	7	0	0%	520	0	0%
Larry Engel (Palmer)	Oct. 2001* - Jun. 2003	17	0	0%	1,016	0	0%
Russell Nelson (Dillingham)	Oct. 2001* - Apr. 2004	25	0	0%	1,247	0	0%
Ed Dersham (Anchor Point)	Oct. 2001* - Mar. 2005	36	4	11%	1,779	48	3%
Eric Jordan (Sitka)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Andy Szczesny (Soldotna)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Oliver Holm (Kodiak)	Oct. 2002 - Dec. 2002	3	0	0%	21	0	0%
Fred Bouse (Fairbanks)	Oct. 2003 - May 2006	28	0	0%	1,182	0	0%
Rupe Andrews (Juneau)	Jan. 2003 - Feb. 2007	41	0	0%	1,888	0	0%
Mel Morris (Kodiak)	Jan. 2003 - Dec. 2008	51	4	8%	2,506	28	1%
John Jensen (Petersburg)	Jan. 2003 - Dec. 2008	51	5	10%	2,506	101	4%
Art Nelson (Anchorage)	Jan. 2003 - Jun. 2007	42	3	7%	1,917	12	1%
Robert Heyano (Dillingham)	July 2004 - Jun. 2007	27	7	26%	1,211	61	5%
Jeremiah Campbell (Seward)	Oct. 2005 - Nov. 2008	24	0	0%	1,070	0	0%
Bonnie Williams (Fairbanks)	July. 2006 - Dec. 2008	16	0	0%	848	0	0%
Larry Edfelt (Juneau)	Mar. 2007 - Jun. 2008	7	0	0%	420	0	0%
Howard Delo (Big Lake)	Jul. 2007 - Dec. 2008	9	1	11%	589	1	0%
Vince Webster (King Salmon)	Jul. 2007 - Dec. 2008	9	0	0%	589	0	0%
Bill Brown (Juneau)	Jul. 2008 - Dec. 2008	3	0	0%	198	0	0%
Karl Johnstone (Anchorage)	Dec. 2008 - Dec. 2008	0	0	0%	0	0	0%

* term started prior to Oct. 2001

Summary of Board of Fisheries Vote Abstentions

TABLE 3. 2001/2002 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Engel	Coffey	Miller	White	R. Nelson	Dersham	Umphenour	
Oct. 11-13, 2001	Worksession (17 ACRs)	0	0	0	0	0	0	0	0	
Nov. 8-12, 2001	Lower Cook Inlet	44	0	0	0	0	0	12	0	Dersham conflict on 15-20, 24, 25, 29, 30, 35, 36 salmon
Nov. 13-14, 2001	Groundfish, Crab	7	0	0	0	0	0	0	0	
Jan. 7-14, 2002	Kodiak and Chignik finfish	69	0	0	0	0	0	0	0	
Feb. 6-20, 2002	Upper Cook Inlet finfish	291	0	0	0	0	0	27	0	Dersham conflict on 126, 147-150, 152-162, 201-206, 265, 266, 285-287 (guided fisheries and saltwater sport salmon).
Mar. 14-21, 2002	Statewide king and Tanner crab, supplemental issues	107	0	0	3	0	0	0	0	Miller conflict on 475, 480, and 483 (crab and Area A)
Jun. 16, 2002	VMS, Kenai chinook	2	0	0	0	0	0	0	0	
	all meetings	520	0	0	3	0	0	39	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 520
NUMBER OF PROPOSALS WITH CONFLICT: 42
PERCENT OF PROPOSALS WITH CONFLICT: 8.1%

TOTAL NUMBER OF VOTES CAST: 3,640
NUMBER OF VOTES WITH CONFLICT: 42
PERCENT OF VOTES WITH CONFLICT: 1.2%

Summary of Board of Fisheries Vote Abstentions

TABLE 4. 2002/2003 PWS AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Engel</u>	<u>Jordan</u>	<u>White</u>	<u>Szczesny</u>	<u>R. Nelson</u>	<u>Dersham</u>	<u>Holm</u>	
Oct. 17-19, 2002	Worksession (36 ACRs)	0	0	0	0	0	0	0	0	
Oct. 20-21, 2002	Groundfish, Chinook	5	0	0	0	0	0	0	0	
Dec. 5-6, 2002	Chinook	16	<u>Engel</u> 0	<u>Jordan</u> 0	<u>vacant</u> 0	<u>Szczesny</u> 0	<u>R. Nelson</u> 0	<u>Dersham</u> 0	<u>Holm</u> 0	
Jan. 20-28, 2003	Southeast herring, groundfish, Dungeness crab, shrimp, misc. shellfish	174	<u>Engel</u> 0	<u>Morris</u> 0	<u>Jensen</u> 19	<u>A. Nelson</u> 0	<u>R. Nelson</u> 0	<u>Dersham</u> 0	<u>Holm</u> 0	Jensen conflict on 196, A, 200-209, 212-216, 218, 220 (Dungeness crab).
Jan. 31-Feb. 5, 2003	Prince William Sound and Copper River finfish	104	0	0	0	0	0	0	0	
Feb. 20-28, 2003	Southeast and Yakutat finfish	122	0	0	16	0	0	0	0	Jensen conflict on 365-370 (Hidden Falls, Deep Inlet, and Anita Bay terminal area), 380 (allocation), 383- 385, 388-392 (allocation and seasons), and 210-211 (Dungeness crab).
Mar. 17-25, 2003	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	71	0	0	0	0	0	0	0	
Apr. 30, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0	
May 14, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0	
Jun. 24, 2003	Bristol Bay red king crab	2	0	0	0	0	0	0	0	
	all meetings	496	0	0	35	0	0	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 496
NUMBER OF PROPOSALS WITH CONFLICT: 35
PERCENT OF PROPOSALS WITH CONFLICT: 7.1%

TOTAL NUMBER OF VOTES CAST: 3,472
NUMBER OF VOTES WITH CONFLICT: 35
PERCENT OF VOTES WITH CONFLICT: 1.0%

Summary of Board of Fisheries Vote Abstentions

TABLE 5. 2003/2004 BRISTOL BAY, A-Y-K, ALASKA PENINSULA CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Morris	A. Nelson	Jensen	Andrews	R. Nelson	Dersham	Bouse	
Oct.1-3, 2003	Worksession (24 ACRs)	0	0	0	0	0	0	0	0	
Oct. 4, 2003	Pribilof Islands blue king crab	1	0	0	0	0	0	0	0	
Nov. 12-17, 2003	Statewide finfish	31	0	0	1	0	0	0	0	Jensen conflict on Area A registration
Nov. 18-19, 2003	Chignik purse seine coop fishery	6	0	6	0	0	0	0	0	Nelson conflict on all proposals
Dec. 9-17, 2003	Bristol Bay finfish	75	0	0	0	0	0	0	0	
Jan. 12-19, 2004	Arctic-Yukon-Kuskokwim finfish	32	0	0	0	0	0	0	0	
Feb. 15-26, 2004	Alaska Peninsula/Aleutian Islands finfish	84	0	0	0	0	0	0	0	
Apr. 4-5, 2004	Prince William Sound allocation plan	2	0	0	0	0	0	0	0	
	all meetings	231	0	6	1	0	0	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 231
 NUMBER OF PROPOSALS WITH CONFLICT: 7
 PERCENT OF PROPOSALS WITH CONFLICT: 3.0%

TOTAL NUMBER OF VOTES CAST: 1,617
 NUMBER OF VOTES WITH CONFLICT: 7
 PERCENT OF VOTES WITH CONFLICT: 0.4%

Summary of Board of Fisheries Vote Abstentions

TABLE 6. 2004/2005 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Morris	A. Nelson	Jensen	Andrews	Heyano	Dersham	Bouse	
Jul. 1, 2004	Teleconference re Kasilof sockeye	1	0	0	0	0	0	0	0	
Jul. 5, 2004	Teleconference re Kasilof sockeye	1	0	0	0	0	0	0	0	
Jul. 19, 2004	Teleconference re Kasilof and Kenai late-run sockeye	1	1	0	0	0	0	0	0	Morris conflict on emergency petition re Cook Inlet
Aug. 4, 2004	Teleconference re Cook Inlet eastside commercial and Kenai personal use	1	0	0	0	0	0	0	0	
Sep. 28, 2004	Teleconference re Kenai River coho	1	0	0	0	0	0	0	0	
Oct. 5-7, 2004	Worksession (24 ACRs)	0	0	0	0	0	0	0	0	
Nov. 11-13, 2004	Lower Cook Inlet finfish	34	0	0	0	0	3	6	0	Dersham conflict on 17-21 and 23 (guide registration, Dolly Varden, trout, enforcement, and gaff use). Heyano conflict on 33 (Bristol Bay drift gear).
Nov. 14-17, 2004	Chignik finfish	33	0	0	1	0	0	0	0	Jensen conflict with emergency petition re Dungeness crab in southeast.
Jan. 7-10, 2005	Kodiak finfish	134	0	0	0	0	3	0	0	Heyano conflict on three herring proposals
Jan. 17-29, 2005	Upper Cook Inlet finfish	258	25	0	0	0	0	3	0	Dersham conflict on 149, 250, and 289. Morris conflict on 144, 145, 147, 148, 151, 153-156, 191 (Kenai sockeye), 158 (Russian River sockeye), 178, 188, 192, 194, 196 (Northern District salmon), 189 (Central District periods), 231, 134, 135, 139, 242, and 243 (Upper Cook Inlet plans).
Mar. 7-13, 2005	Statewide king and Tanner crab, supplemental issues	68	0	0	3	0	4	0	0	Heyano conflict on Proposals 458 (OEG for Kvichak), 420 (Bering sea crab CDQ) 424 & 426 (pot gear Bering sea crab). Jensen conflict on 402 & 404 (Southeast Tanner crab) and 457 (Taku and Stikine king salmon)
all meetings		532	26	0	4	0	10	9	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE:	532
NUMBER OF PROPOSALS WITH CONFLICT:	49
PERCENT OF PROPOSALS WITH CONFLICT:	9.2%
TOTAL NUMBER OF VOTES CAST:	3,724
NUMBER OF VOTES WITH CONFLICT:	49
PERCENT OF VOTES WITH CONFLICT:	1.3%

Summary of Board of Fisheries Vote Abstentions

TABLE 7. 2005/2006 PWS AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Morris	A. Nelson	Jensen	Andrews	Heyano	Campbell	Bouse	
Oct. 13-14, 2005	Worksession (45 ACRs)	0	0	0	0	0	0	0	0	
Oct. 15-16, 2005	State-waters trawl	3	1	0	0	0	0	0	0	Morris conflict on Central Gulf of Alaska portion of proposal
Nov. 15-16, 2005	Chignik salmon	1	0	0	0	0	0	0	0	
Dec. 1-6, 2005	Prince William Sound and Copper River finfish	84	0	0	0	0	2	0	0	Heyano conflict on Proposals 78 and 79 (sablefish, herring)
Dec. 29, 2005	Teleconference re Adak P-cod	0	0	0	0	0	0	0	0	
Jan. 22-Feb. 1, 2006	Southeast and Yakutat finfish	142	0	0	39	0	0	0	0	Jensen conflict on specific salmon and herring proposals
Feb. 20-26, 2006	Southeast groundfish, dungeness crab, shrimp, misc. shellfish; plus Aleutian Island P-cod	82	0	1	22	0	0	0	0	Nelson conflict on Proposal 339 (Aleutian Islands P-cod); Jensen conflict on 226-234, 269, and 271-282 (crab, groundfish)
Mar. 17-23, 2006	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	107	0	1	0	0	1	0	0	Heyano conflict on Proposal 396 (alter CDQ crab quotas); Nelson conflict on Nunavak coop plan
May 3, 2006	Bering Sea crab	1	0	0	0	0	0	0	0	
	all meetings	420	1	2	61	0	3	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 420
NUMBER OF PROPOSALS WITH CONFLICT: 67
PERCENT OF PROPOSALS WITH CONFLICT: 16.0%

TOTAL NUMBER OF VOTES: 2,940
NUMBER OF VOTES WITH CONFLICT: 67
PERCENT OF VOTES WITH CONFLICT: 2.3%

Summary of Board of Fisheries Vote Abstentions

TABLE 8. 2006/2007 BRISTOL BAY, AYK, ALASKA PENINSULA CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Andrews</u>	<u>Heyano</u>	<u>Campbell</u>	<u>Williams</u>	
Oct. 12-13, 2006	Worksession (29 ACRs)	0	0	0	0	0	0	0	0	
Oct. 14-15, 2006	State-waters trawl	6	1	0	0	0	0	0	0	Morris conflict on Cook Inlet Pollock
Oct. 31, 2006	Teleconference re Adak pollock	0	0	0	0	0	0	0	0	
Dec. 4-12, 2006	Bristol Bay finfish	120	0	0	0	0	38	0	0	Heyano conflict on Nushagak River salmon, herring
Jan. 31-Feb. 5, 2007	Arctic-Yukon-Kuskokwim finfish	56	0	4	0	0	0	0	0	Nelson conflict on Kuskokwim River proposals
Feb. 6-11, 2007	Alaska Peninsula/Aleutian Islands finfish	48	0	0	0	0	10	0	0	Heyano conflict on Area M June Fishery proposals
Mar. 9-13, 2007	Statewide finfish	29	<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Edfelt</u>	<u>Heyano</u>	<u>Campbell</u>	<u>Williams</u>	
			0	0	0	0	0	0	0	
	all meetings	259	1	4	0	0	48	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 259
 NUMBER OF PROPOSALS WITH CONFLICT: 53
 PERCENT OF PROPOSALS WITH CONFLICT: 20.5%

TOTAL NUMBER OF VOTES CAST: 1,813
 NUMBER OF VOTES WITH CONFLICT: 53
 PERCENT OF VOTES WITH CONFLICT: 2.9%

Summary of Board of Fisheries Vote Abstentions

TABLE 9. 2007/2008 COOK INLET/KODIAK CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			Morris	DeLo	Jensen	Edfelt	Webster	Campbell	Williams	
Oct. 9-11, 2007	Worksession (25 ACRs)	0	0	0	0	0	0	0	0	
Nov. 13-15, 2007	Lower Cook Inlet	22	0	0	0	0	0	0	0	
Jan. 10-12, 2008	Chignik Finfish	12	0	0	0	0	0	0	0	
Jan. 14-18, 2008	Kodiak Finfish	38	0	0	0	0	0	0	0	
Feb. 1-12, 2008	Upper Cook Inlet	286	1	1	0	0	0	0	0	58 proposals reviewed for DeLo, 48 proposals reviewed for Morris. Both found to have conflict with #148, a proposal to reallocate from commercial uses.
Mar. 3-9, 2008	King and Tanner Crab	33	0	0	0	0	0	0	0	
	all meetings	391	1	1	0	0	0	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 391
NUMBER OF PROPOSALS WITH CONFLICT: 2
PERCENT OF PROPOSALS WITH CONFLICT: 0.5%

TOTAL NUMBER OF VOTES CAST: 2,737
NUMBER OF VOTES WITH CONFLICT: 2
PERCENT OF VOTES WITH CONFLICT: 0.1%

Summary of Board of Fisheries Vote Abstentions

TABLE 10. 2008/2009 PWS AND SOUTHEAST CYCLE

Meeting dates	Topics	Total number of proposals	Number of proposals with conflict							Comments
			<u>Morris</u>	<u>DeLo</u>	<u>Jensen</u>	<u>Brown</u>	<u>Webster</u>	<u>Campbell</u>	<u>Williams</u>	
Oct. 8-10, 2008	Worksession (12 ACRs)	0	0	0	0	0	0	0	0	
Dec. 1-7, 2008	Prince William Sound	132	0	0	0	0	0	0	0	
Jan. 21-27, 2009	Southeast Shellfish	66	0	0	9	0	0	0	0	Jensen conflicted on crab proposals 149, 150, 158, 177, 180, 181, 182, and 185
Feb. 17-27, 2009	Southeast Finfish									
Mar. 16-20, 2009	Statewide Shellfish									
all meetings		198	0	0	9	0	0	0	0	

TOTAL NUMBER OF PROPOSALS FOR CYCLE: 198
NUMBER OF PROPOSALS WITH CONFLICT: 9
PERCENT OF PROPOSALS WITH CONFLICT: 4.5%

TOTAL NUMBER OF VOTES CAST: 1,386
NUMBER OF VOTES WITH CONFLICT: 9
PERCENT OF VOTES WITH CONFLICT: 0.6%

Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

Juneau, AK 99801

Phone 907-586-6652

Fax 907-523-1168

Website: <http://www.seafa.org>



E-mail: seafa@gci.net

February 3, 2009

Representative Bryce Edgmon, Chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau AK 99801-1182

Dear Chairman Edgmon, and Committee Members,

Southeast Alaska Fishermen's Alliance is a multi-gear membership based organization representing our members mainly involved in the salmon, crab shrimp and longline fisheries of Southeast Alaska and the Alaska halibut & blackcod IFQ fisheries.

We support HB 41 dealing with Board of Fish member's conflict of interest. We have steadfastly supported this legislation for at least the last 8 years. We believe that it is very important to clarify the regulations regarding conflict of interest as being only the immediate family that lives in the household. In addition, even if the members don't vote, they should participate in the deliberations.

A good balanced board of fish has members with a wide variety of knowledge and experience. These members are picked for that reason and then are conflicted out from participating when that knowledge is beneficial to the board because of their personal involvement in the fishery. Relaxing the conflict of interest standard for Board of Fish members while still preventing the ability to provide for their own personal financial gain is a balance to strive for and HB 41 reaches that balance.

One of the strengths of the Board of Fish is that it is still a lay board but people are reluctant to submit their name if they are unable to speak on the fisheries they are knowledgeable about.

Please support and pass HB 41. We really need to get this legislation passed through the legislature this session.

Sincerely,

Kathy Hansen



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
 Juneau, Alaska 99801-1172
 (907) 586-2820
 (907) 463-2545 Fax
 E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

February 4, 2009

Representative Bryce Edgmon, Chair
 House Special Committee on Fisheries
 Alaska State Legislature
 State Capitol (Mail Stop 3100)
 Juneau AK 99801-1182

Dear Chairman Edgmon, and Committee Members,

United Fishermen of Alaska supports passage of HB 41 to provide for Board of Fisheries members to participate in matters before the Board, if they declare their personal or financial interest in a fishery.

Members are on the Board for their expertise in some aspect of fishing. It is vital that all seven Board members, especially those most informed of the issues concerning a fishery, be able to participate in the discussions on matters before the Board. We also support the definition of immediate family as suggested in HB 41.

UFA is the largest statewide commercial fishing trade association, representing 37 organizations participating in fisheries throughout Alaska and its offshore waters. We appreciate your consideration on this legislation.

Sincerely,

Mark Vinsel
 Executive Director

Reminder:

**All support found in this section of the bill packet
for HB 41 was submitted for a previous version of
this bill.**



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
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www.ufa-fish.org

March 12, 2007

Representative Paul Seaton
Chairman, House Special Committee on Fisheries
Alaska House of Representatives
State Capitol (Mail Stop 3100)
Juneau AK 99801-1182

Dear Representative Seaton,

United Fishermen of Alaska supports passage of HB 15 to provide for Board of Fisheries members to participate in matters before the Board, if they declare their personal or financial interest in a fishery.

Members are on the Board for their expertise in some aspect of fishing. It is vital that all seven Board members, especially those most informed of the issues concerning a fishery, be able to participate in the discussions and decision making process on matters before the Board..

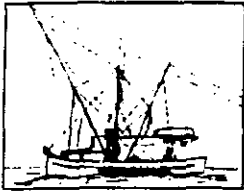
UFA is the largest statewide commercial fishing trade association, representing 36 organizations participating in fisheries throughout Alaska and its offshore waters. We appreciate your consideration on this legislation.

Sincerely,

Mark Vinsel
Executive Director

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Dragger's Association • Alaska Independent Tendemmen's Association • Alaska Longline Fishermen's Association
Alaska Shellfish Association • Alaska Trollers Association • Armstrong Keta • At-sea Processors Association • Bristol Bay Reserve
Concerned Area 'M' Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United • Crab Group of Independent Harvesters
Douglas Island Pink and Chum • Fishing Vessel Owners Association • Groundfish Forum • Kenai Peninsula Fishermen's Association
Kodiak Regional Aquaculture Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association
Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation
Purse Seine Vessel Owner Association • Seafood Producers Cooperative • Sitka Herring Association • Southeast Alaska Fisherman's Alliance
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Catcher Boats • United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters
Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen



Alaska Trollers Association

130 Seward St., No. 211
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

March 9, 2007

Representative Paul Seaton, Chair
House Fisheries
Alaska House of Representatives
State Capitol (Mail Stop 3100)
Juneau AK 99801-1182

Dear Representative Seaton and Committee Members:

The Alaska Trollers Association strongly supports HB 15, which seeks to allow Board of Fisheries (BOF) members to act on all matters before the Board, so long as they have declared their personal or financial interests.

In years past, BOF members were able to fully participate in all discussions and votes. Board members used a recusal process similar to the North Pacific Fishery Management Council and were rarely found to have a true conflict of interest. Due to grey areas in the state law, this has not been the case in recent years, and extremely capable Board members have been restricted from addressing and voting on the very issues they are most knowledgeable about. ATA believes that, at times, this has been damaging to the decision-making process and has been a deterrent to some well-qualified people who might have applied to serve the state on this lay regulatory board.

The strength of the BOF process is directly related to the caliber of its membership and the science, law, and policy that underpin its actions. An exceptional group of fishermen have served on the BOF over the years. When they were fully enabled to act, the resource, industry, and communities have benefited.

ATA believes that the voting mandate that serves the state legislature also serves its regulatory boards. We encourage you to pass HB 15 – let all members of the Board of Fisheries vote!

If I can be of assistance on this or other matters, feel free to contact me.

Sincerely,

Dale Kelley
Executive Director

**QINUYANG -
South Naknek Village
Council**

P.O. Box 70029
South Naknek AK 99670
(907) 246-8614
(907) 246-8613 Fax
southnaknek@starband.net

February 1, 2007

Honorable Bryce Edgmon
Alaska State Legislature
House of Representatives
State Capitol, Room 424
Juneau, AK 99811

Re: House Bill 15

Dear Representative Edgmon:

The South Naknek Village Council objects to House Bill No. 15. The House Bill proposes to play a game of gamesmanship with Alaska Ethics Rules at the same time that there is a magnifying glass regarding the banality of our public servants. We object. I will describe some of the ways that House Bill 15 proposes to make a mockery of the principles of accountability and duties owed to the public by individuals accepting positions as public officials.

Section 1 of the legislation proposes to relax ethical rules so that members of the Board of Fisheries may participate in issues that come before the Board "even though the members have a personal or financial interest in the matter by virtue of their participation in a fishery." This "purpose" appears to be completely at odds with the requirements applicable to all public officials under A.S. 39.52.220. That statute requires a process leading to determine a member's right to vote if he/she has a personal or financial interest in the outcome. Thus, the laudable goal of citizen participation is significantly diminished by personal interests. The greater the financial interest, clearly, the more a position such as a member of the Board of Fisheries may be abused. Yet, Section 1 proposes to alter the existing balance in favor of those with greater power and access to power within our state. And that is wrong.

If this were not enough, Section 2, which is also to take effect immediately, would expressly permit (by deletion) a public officer who is a member of the Board of Fisheries from acting on matters before the Board without disclosing his/her financial interest or personal interest in a business or organization relating to the resource under consideration. Section 2 also further strips any oversight with respect to ethical conduct that A.S. 39.52.220 is intended to foster. Indeed, because A.S. 39.52.220 specifically requires full disclosure and a neutral, unbiased determination of the right to vote, while the proposed Section 2 eliminates that requirement, the amendment encourages self-interest in order to advance individual financial and personal agendas when dealing with public resources, and that is wrong.

*Took care
with the
K.C. C.S.*

● Page 2

February 1, 2007

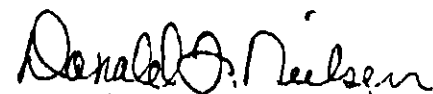
Section 3, by virtue of Section 7 to the proposed House Bill 15, would allow any appointees to the Board of Fisheries a free pass for a period of four years, that is, coincidentally, the length of time of the first term of the present administration with respect to the Board of Fishery matters. Section 3, pursuant to the clear language of Section 7, would not take effect until June 30, 2011. That is special interest legislation in order to protect one of two members of the Board of Fisheries, and it is wrong. It is an abuse of the public process.

Similarly, Section 4 is also intended to shield a public official sitting on the Board of Fisheries from public scrutiny with respect to his/her personal and financial interests brought to the Board of Fisheries for a period of four years. Indeed, Section 4, in referencing the 'Public Officials Ethical Rules' (Ch. 52, Title 39, Alaska Statutes), expressly permits any member with a personal or financial interest in a matter coming before him/her to participate in the matter, limited only to not selling his or her vote to a third person paying for the representation. The member, under such circumstances, is only required to disclose his/her interest on the record, but that disclosure is expressly not subject to the Conflict of Interest Rules under A.S. 39.52.220, which would otherwise expressly prohibit votes based upon self-interest.

Proposed Section 4 simply confirms the cynical and self-interested reasons for HB 15: The people of the State of Alaska will be regulated with respect to fisheries resources by individuals whose sole ethical constraint is not to sell his/her vote to the highest bidder. Section 4 expressly permits such self-interested "public" service, including the use of public funds and public facilities in order to benefit that public official's personal or financial interest.

HB 15 is a bad bill. Alaska has had enough of the scandals involving public officials making decisions to benefit their own personal or financial interests involving public resources. HB 15 is an embarrassment; is a travesty; it should be soundly defeated if it is ever brought for a vote in or out of any committee.

Very truly yours,



Donald Nielsen, President
South Naknek Village Council

cc: Governor Sarah Palin
Senator Lyman Hoffman
Members House of Representatives



Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

Juneau, AK 99801

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E-mail: seafa@gci.net

February 19, 2007


Representative Paul Seaton

Alaska State Legislature

State Capitol, Room 102

Juneau, AK 99801

RE: Support HB 15



Southeast Alaska Fishermen's Alliance (SEAFa) supports HB 15 (conflict of interest) which deals with the issue of allowing a Board of Fish member that is confirmed by the legislature to participate in the process. One of the main strengths of the Alaska process for the management of the fisheries is the Board of Fish and the layman board and full public process but it doesn't make sense to have a layman board and then prohibit them from participating.

We believe that passage of this legislation will make more applicants more interested in participating in the process.

Sincerely,

Kathy Hansen

Kathy Hansen

Executive Director



United Southeast Alaska Gillnetters

P.O. Box 23378, Ketchikan, AK 99901 Phone & Fax (907) 247-2471 Email: usag@kpunet.net

March 16, 2007

Representative Paul Seaton, Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, AK 99801

Send Via Fax to: 907-465-3472

Dear Chairman Seaton,

The United Southeast Alaska Gillnetters (USAG) supports HB 15 which would give the members of the Alaska Board of Fisheries the same privileges with respect to conflict of interest regulations as other members of Alaska's boards and commissions. Under the current restrictions, an Alaska Board of Fisheries (BoF) member must excuse themselves from the table when issues in which they have a financial interest, no matter how slight, are addressed. This makes the knowledge of the board member who is most familiar with the issues involved in an area or situation unavailable to the other board members. USAG believes one result of this is less informed decisions and in some cases inaction on particular problems that would have been addressed if the conflicted member had been able to participate. We believe the passage of this legislation will result in the BoF making better decisions in all areas of the State. Implicit in this support is the provision that the conflicted member will fully disclose any such conflicts in advance of board action.

Thank you for introducing this important Bill and considering our support for it.

Yours Truly,

Kenneth Duckett
Executive Director

HB 15 Testimony

My name is Christine Koski, I have held a Cook Inlet salmon set net permit for 15 years and have actively fished in Cook Inlet for over 25 years. I am a single mom with 4 children. The majority of my income comes from commercial fishing. I currently live in the Kenai/Soldotna area. My children are also actively involved in commercial set net fishing, and have been since they were born.

Approximately 35% of women are permit holders involved in Cook Inlet salmon set net commercial fishing as well as being involved in other commercial fisheries in the entire State.

I have attended BOF regulatory meetings for decades and in the last 5 years I have been active in the process. My involvement is to ensure that there is an opportunity for my children to continue commercial fishing as their parents and grandparents have.

It is impossible to express my concerns or to suggest changes to improve my capability to harvest salmon when I feel that there is no way to communicate with representation from the current members of the BOF.

Since I have been involved in the process there has been no set net commercial fishing person. To make matters worse it is difficult to converse with the gender bias on the Board. I can appreciate that there is a 14% representation for my gender currently, it still leaves me with a significant impediment with communicating and making changes relative to my situation. I want active participants from my area so that not only will I be able to communicate but so will other similarly situated stakeholders.

HB 15 moves to open up more representation for individuals like myself. Please consider the changes that will give more fair and equitable representation to the commercial fisher women in the State. Committee members please realize that Cook Inlet set net fisher women are hard working individuals who do not wish entitlements but want to make our own way and to instill in our children the lessons of hard work and just rewards. The majority of my livelihood is derived and supplemented with part time employment. We are not wealthy, we do not make 10's of thousands of dollars. Please support HB 15 as presented.

John E. Jensen
P.O. Box 681
Petersburg Alaska
907-772-4635
omasou@gei.net

March 22, 2007

House Fisheries Special Committee

Dear Chair Seaton and Committee Members,

This is a note in support of HB 15.

My name is John Jensen and I'm a commercial fisherman and also a member of the Alaska Board of Fisheries. Two other members of my immediate family are commercial fishermen and are permit holders.

It is frustrating at times not being able to participate in the discussions on proposals that come before the Board of Fish that we are involved in. These three permits kept me from participating in 61 proposals (a third of the SE proposals) last year during the Southeast Alaska portion of the yearly cycle.

I am one of the two commercial seats on the board. I am a life-long fisherman from Southeast Alaska and I couldn't provide my expertise and perspective on the subjects before us in order to provide a better understanding for the rest of the Board members on the issues.

I believe a person should be able to disclose his or her interests on record and then be able to fully participate in the matters before them. Many issues require clarification that I can provide.

There is a set of criteria that we have to follow on allocative issues; these are found in AS 16.05 .251 (e). These 7 criteria are our guide lines for allocating fish between user groups and are read into the record for each allocative issue using one or all seven criteria. These criteria, in my opinion, if followed would keep personal interests on the straight and narrow.

As stated in AS 16.02. 221 (a),

The governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and the ability in the field of action of the board and with a view to providing diversity of interest and points of view in the membership.

Currently I am not able to fully utilize *my ability in the field of action*, and my job on the Board is compromised.

I urge you to please consider and pass HB15 so that I may fully participate in the process and be a totally effective member of the Board of Fisheries.

Respectfully submitted,

John E. Jensen



Fish & Game Transition Team

Issues Report to

Governor Sarah Palin

Members

Dick Bishop, co-chair
Ben Mulligan
Craig Compeau
Eric Olsen
John Winther
Mark Vinsel
Roland Maw
Trefon Angason

Ken Johns, co-chair
Bruce Knowles
Dave Donald
Joe Klutsch
Larry Cotter
Phil Cutler
Tom Gemmel

Clem Tillion
Dave Otness
Dr "Jack" Frost
Linda Kozak
Rod Arno
Tony Gregorio



Board of Fisheries and Board of Game Conflict of Interest

Issue Statement: Currently Board of Fisheries (and perhaps Board of Game) conflict of interest rules bar commercial representatives with knowledge in a fishery from discussing the topics, losing a valuable source of information in discussions.

Discussion:

The conflict of interest interpretation has been expanded too far in the case of commercial fishermen or not far enough for other individuals. A commercial fisherman who tries to sit on the Board of Fish will be conflicted out of any discussion of any fishery he holds a permit for and additionally for any fishery that his parents, wife, brothers or sisters or children own. But in comparison a charter operator is almost never conflicted from action on any proposal even if they benefit the industry in allocation issues in an area they operate in or if they have a business partner that holds permits. At the time a proposal comes up for discussion that a board member has a conflict with the meeting is stopped until the board member has left the table and entered the audience. This policy makes it extremely difficult to get good individual to submit their name for the board of fish, and keeps the informed from participating on many matters pertaining to commercial fishing. When Board members are prevented from voting the balance of votes may be swayed.

In essence, the more you know on commercial fishing, the less likely you will be able to provide input if you are on the Board of Fisheries.

The issue does not seem to affect the Board of Game, as there are no professional market hunters that would be deemed to be at the same level of conflict of interest. A change in Board of Fisheries regulations may affect Board of Game conflicts in the future.

The Transition Team subgroups agree on the concept of allowing those with expertise to deliberate, but there are differing views as to whether those with conflicts should be allowed or required to vote, or excluded.

Recommendations:

-Legislative bills have been introduced in the last two sessions, and are expected to be introduced in the coming session, so this may not be an action item for the Governor, but the Transition Team feels compelled to advise her of the problem.

-Only the household members or immediate family should be considered for conflict so as not to unfairly bias the process against longstanding families with extensive affected relatives.

Consequences Of Inaction:

Lack of valid information in Board of Fisheries deliberations
Reluctance of well qualified members to serve on Board. Lack of public confidence in the Board of Fisheries Process, and state management.

9:52:29 AM

ART NELSON, Chair, Board of Fisheries, testified in support of HB 241. He said he'd like to comment on two general areas where the conflict of interest regulations have been problematic for the board. He said:

*Pop Wilson Bill in
24 legislature*

The first one is the difficulties that it presents oftentimes with the operation of the board and our functioning and our deliberations. As the chairman of the board, I'm kind of responsible to be the ethics supervisor for all the members, and so of course before each meeting I go around to the various members, particularly those that may have conflicts arising with the different meetings we have ahead of us and ... those conflicts can be either financial or personal in nature, and can be interpreted very broadly. ... Oftentimes even if there's going to be a perceived conflict that we are advised to be conservative in that and ... it's no offense meant to the [DOL]; it's their job to be conservative and make our decisions be not only legally valid but defensible in court. ... The board spends upwards of 40 or sometimes more days per year in our regulatory meeting, and the last thing I want to have happen is ... having an extensive regulation that took a lot of time to put together be struck down because we failed to follow the letter of the ethics rules.

MR. NELSON continued:

What's also problematic ... is the potential for losing a board member due to a conflict of interest. We're a seven-member board, and regardless of how many board members are present and participating. So whether there's absences and/or conflicts, we always still have to have four votes to carry any motion. And so especially if it's compounded with an absence by another board member, a lot of times it becomes very difficult for us to take regulatory action.

MR. NELSON noted that some well-qualified people are not even interested in being on the board because they know they wouldn't be allowed to vote on important matters.

REPRESENTATIVE PAUL SEATON

SESSION ADDRESS

State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-2689
Fax: (907) 465-3472
1-800-665-2689



INTERIM ADDRESS

345 W. Sterling Highway
Homer, Alaska 99603
(907) 235-2921
Fax: (907) 235-4008
1-800-665-2689

ALASKA STATE LEGISLATURE House District 35

MEMORANDUM

From: Representative Paul Seaton
To: House Resources Co-Chair Craig Johnson
House Resources Co-Chair Mark Neuman
Date: February 6, 2009
Re: HB 41 Hearing Request

I respectfully request a hearing for HB 41 at your earliest possible convenience. HB 41 allows members of the Board of Fish to offer their expertise on fisheries in which they participate. HB 41 contains a sunset of 2012, and a requirement that ADF&G report on the effect of the statutory change to the Legislature.

Please find the following materials in this HB 41 packet:

- HB 41
- Sponsor Statement
- Support letters for current and previous Board of Fisheries Conflict of Interest bill
- ADF&G materials on Board of Fisheries recusals 2001 – 2008
- Spreadsheet on total state board recusals 2003 - 2006
- Matrix on definition of Executive Branch and Legislative Branch “immediate family”

ETHICS DISCLOSURE

To comply with the Alaska Executive Branch Ethics Act (AS 39.52), board members are required to disclose sufficient information on the record of all interests they, or their immediate families, may have that relate to fish (Board of Fisheries members) or wildlife (Board of Game members) to enable the chair of the board to determine whether the involvement may be a personal or financial interest that constitutes a conflict of interest under the Act.

When making public ethics disclosures on the record at board meetings, members must provide sufficient information in response to the following questions to enable the chair to decide if it is necessary to inquire further to determine whether a conflict exists:

1. Explain in general terms what you do for a living:
 - a. primary employer/employment,
 - b. other employment or sources of income,
 - c. other business interests.

For the following questions, "member of your family" includes spouse, conjugal cohabitant, child (including step-child and adopted child), parent, sibling, grandparent, aunt, uncle, and spouse's parent and sibling.

2. List all personal or financial interests you, or any member of your family, have in any business or organization relating to fish or wildlife resources.
3. Describe generally any interest you, or any member of your immediate family, have in a business or fish or wildlife organization that may be affected by any of the proposals to be discussed.
4. Describe generally any other interests of a personal or financial nature you, or any member of your immediate family, have that may be affected by any of the proposals to be discussed.
5. List all lawsuits that you, a member of your immediate family, or any organization you belong to, are involved in against the state, the board or the Department of Fish and Game, or where the state, the board, or the department is a party to the lawsuit.

If you, or a member of your immediate family, are a member of any organization or corporation that is involved in a such a lawsuit, briefly explain what the organization is, the size of its membership and whether you, or an immediate family member, are on its board or hold some other executive or policy making position.

You must certify that your disclosure statement is "true, correct and complete."

Under the Ethics Act the chair of each board has the duty to determine whether a member's involvement in a matter violates the Act (AS 39.52.220). After each individual disclosure, the chair will rule on whether the board member has a conflict. If the chair determines that a conflict will exist if the member participates, the member must refrain from voting, deliberating, or participating in the matter. If the chair determines no conflict will exist, the member can participate fully.

ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:
345 W. Sterling Hwy
Suite 102B
Homer, Alaska 99603
Phone: (907) 235-2921
Fax: (907) 235-4008



Session Address:
State Capitol, Room 102
Juneau, Alaska 99801
Phone: (907) 465-2689
Fax: (907) 465-3472

REPRESENTATIVE PAUL SEATON DISTRICT 35

Sponsor Statement HB 41

HB 41 expands the ability of Board of Fish members to offer their experienced viewpoint during board debates.

Current law requires board members to declare a conflict and recuse themselves from discussion and voting if they, or a member of their family, have a personal or financial interest in a matter before the board. This requirement prevents commercial fishermen and sport fishing guides from discussing fishery issues that they are intimately familiar with through their participation in the fishery. HB 41 allows commercial and sport fishermen, after full disclosure, to deliberate on fishing issues in which they have a conflict based on their participation in the fishery. These members are not allowed to vote. HB 41 does not allow board members to participate on issues in which they have a paid financial interest as a consultant or a lobbyist.

The Board of Fish is composed of seven members. If one or two members are conflicted out of a discussion because of their in-depth knowledge, the entire process suffers. On average between 2001 and 2006 individual board members were required to recuse themselves on nearly ten percent of the proposals in each board cycle.

Under current law, recusals from board discussion disproportionately affect rural Alaska. Often board members from rural areas have been living in the region for generations and have extensive family involvement in regional fisheries. The applicable definition of immediate family includes parents, siblings, grandparents, aunts and uncles. This expansive definition of immediate family often takes rural representatives out of board discussion on nearly all of the proposals for their entire region, leaving the board without their representation.

A board member would have a conflict of interest on an issue under this bill when a board action might affect a member of their household. This bill applies the same definition found in the new Legislative Ethics Act for defining a board member's participatory conflict of interest.

HB 41 contains a sunset of 2012, giving the Legislature the opportunity to review the effect of the changes imposed by the bill. The Department of Fish and Game is to submit a report to the Legislature at this time, detailing the recusals prevented by this change in statute, and providing a recommendation on whether or not the statutory change should be allowed to expire.

Summary of Board of Fisheries Vote Abstentions (2001-2006)



**Board Support Section
Alaska Department of Fish and Game
January 29, 2007**

Summary of Board of Fisheries Vote Abstentions (2001-2006)

2001/2002 COOK INLET/KODIAK CYCLE

<u>Meeting dates</u>	<u>Topics</u>	<u>Proposals</u>	<u>Engel</u>	<u>Coffey</u>	<u>Miller</u>	<u>White</u>	<u>R. Nelson</u>	<u>Dersham</u>	<u>Umphenour</u>	<u>Comments</u>
Oct. 11-13, 2001	Worksession (17 ACRs)	0	0	0	0	0	0	0	0	
Nov. 8-12, 2001	Lower Cook Inlet	44	0	0	0	0	0	12	0	Dersham conflict on 15-20, 24, 25, 29, 30, 35, 36 salmon
Nov. 13-14, 2001	Groundfish, Crab	7	0	0	0	0	0	0	0	
Jan. 7-14, 2002	Kodiak and Chignik finfish	69	0	0	0	0	0	0	0	
Feb. 6-20, 2002	Upper Cook Inlet finfish	291	0	0	0	0	0	27	0	Dersham conflict on 126, 147-150, 152-162, 201-206, 265, 266, 285-287 (guided fisheries and saltwater sport salmon). Miller conflict on 475, 480, and 483 (crab and Area A)
Mar. 14-21, 2002	Statewide king and Tanner crab, supplemental issues	107	0	0	3	0	0	0	0	
Jun. 16, 2002	VMS, Kenai chinook	2	0	0	0	0	0	0	0	
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		520	0	0	3	0	0	39	0	
NUMBER OF PROPOSALS WITH CONFLICT:		42								
PERCENT OF PROPOSALS WITH CONFLICT:		8.1%								
TOTAL NUMBER OF VOTES		3,640								
NUMBER OF VOTES WITH CONFLICT:		42								
PERCENT OF VOTES WITH CONFLICT:		1.2%								
MAXIMUM PERCENTAGE OF MEMBER CONFLICTS PER MEETING:		9.3%								

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Summary of Board of Fisheries Vote Abstentions (2001-2006)

2002/2003 PWS AND SOUTHEAST CYCLE

<u>Meeting dates</u>	<u>Topics</u>	<u>Proposals</u>	<u>Engel</u>	<u>Jordan</u>	<u>White</u>	<u>Szczesny</u>	<u>R. Nelson</u>	<u>Dersham</u>	<u>Holm</u>	<u>Comments</u>
Oct. 17-19, 2002	Worksession (36 ACRs)	0	0	0	0	0	0	0	0	
Oct. 20-21, 2002	Groundfish, Chinook	5	0	0	0	0	0	0	0	
Dec. 5-6, 2002	Chinook	16	<u>Engel</u> 0	<u>Jordan</u> 0	<u>vacant</u> 0	<u>Szczesny</u> 0	<u>R. Nelson</u> 0	<u>Dersham</u> 0	<u>Holm</u> 0	
Jan. 20-28, 2003	Southeast herring, groundfish, Dungeness crab, shrimp, misc. shellfish	174	<u>Engel</u> 0	<u>Morris</u> 0	<u>Jensen</u> 19	<u>A. Nelson</u> 0	<u>R. Nelson</u> 0	<u>Dersham</u> 0	<u>Andrews</u> 0	Jensen conflict on 198, A, 200-209, 212-216, 218, 220 (Dungeness crab).
Jan. 31-Feb. 5, 2003	Prince William Sound and Copper River finfish	104	0	0	0	0	0	0	0	
Feb. 20-28, 2003	Southeast and Yakutat finfish	122	0	0	16	0	0	0	0	Jensen conflict on 366-370 (Hidden Falls, Deep Inlet, and Anita Bay terminal area), 380 (allocation), 383-385, 388-392 (allocation and seasons), and 210-211 (Dungeness crab).
Mar. 17-25, 2003	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	71	0	0	0	0	0	0	0	
Apr. 30, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0	
May 14, 2003	Dutch Harbor food and bait herring	1	0	0	0	0	0	0	0	
Jun. 24, 2003	Bristol Bay red king crab	2	0	0	0	0	0	0	0	
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		496	0	0	35	0	0	0	0	
NUMBER OF PROPOSALS WITH CONFLICT:		35								
PERCENT OF PROPOSALS WITH CONFLICT:		7.1%								
TOTAL NUMBER OF VOTES		3,472								
NUMBER OF VOTES WITH CONFLICT:		35								
PERCENT OF VOTES WITH CONFLICT:		1.0%								
MAXIMUM PERCENTAGE OF MEMBER CONFLICTS PER MEETING:		13.1%								

Summary of Board of Fisheries Vote Abstentions (2001-2006)

2003/2004 BRISTOL BAY, A-Y-K, ALASKA PENINSULA CYCLE

<u>Meeting dates</u>	<u>Topics</u>	<u>Proposals</u>	<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Andrews</u>	<u>R. Nelson</u>	<u>Dersham</u>	<u>Bouse</u>	<u>Comments</u>
Oct.1-3, 2003	Worksession (24 ACRs)	0	0	0	0	0	0	0	0	
Oct. 4, 2003	Pribilof Islands blue king crab	1	0	0	0	0	0	0	0	
Nov. 12-17, 2003	Statewide finfish	31	0	0	1	0	0	0	0	Jensen conflict on Area A registration
Nov. 18-19, 2003	Chignik purse seine coop fishery	6	0	6	0	0	0	0	0	Nelson conflict on all proposals
Dec. 9-17, 2003	Bristol Bay finfish	75	0	0	0	0	0	0	0	
Jan. 12-19, 2004	Arctic-Yukon-Kuskokwim finfish	32	0	0	0	0	0	0	0	
Feb. 15-26, 2004	Alaska Peninsula/Aleutian Islands finfish	84	0	0	0	0	0	0	0	
Apr. 4-5, 2004	Prince William Sound allocation plan	2	0	0	0	0	0	0	0	
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		231	0	6	1	0	0	0	0	
NUMBER OF PROPOSALS WITH CONFLICT:		7								
PERCENT OF PROPOSALS WITH CONFLICT:		3.0%								
TOTAL NUMBER OF VOTES		1,617								
NUMBER OF VOTES WITH CONFLICT:		7								
PERCENT OF VOTES WITH CONFLICT:		0.4%								
MAXIMUM PERCENTAGE OF MEMBER CONFLICTS PER MEETING:		3.2%								

Summary of Board of Fisheries Vote Abstentions (2001-2006)

2004/2005 COOK INLET/KODIAK CYCLE

<u>Meeting dates</u>	<u>Topics</u>	<u>Proposals</u>	<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Andrews</u>	<u>Heyano</u>	<u>Dersham</u>	<u>Bouse</u>	<u>Comments</u>
Jul. 1, 2004	Teleconference re Kasilof sockeye	1	0	0	0	0	0	0	0	
Jul. 5, 2004	Teleconference re Kasilof sockeye	1	0	0	0	0	0	0	0	
Jul. 19, 2004	Teleconference re Kasilof and Kenai late-run sockeye	1	1	0	0	0	0	0	0	Morris conflict on emergency petition re Cook Inlet
Aug. 4, 2004	Teleconference re Cook Inlet eastside commercial and Kenai personal use	1	0	0	0	0	0	0	0	
Sep. 28, 2004	Teleconference re Kenai River coho	1	0	0	0	0	0	0	0	
Oct. 5-7, 2004	Worksession (24 ACRs)	0	0	0	0	0	0	0	0	
Nov. 11-13, 2004	Lower Cook Inlet finfish	34	0	0	0	0	3	6	0	Dersham conflict on 17-21 and 23 (guide registration, Dolly Varden, trout, enforcement, and gaff use). Heyano conflict on 33 (Bristol Bay drift gear).
Nov. 14-17, 2004	Chignik finfish	33	0	0	1	0	0	0	0	Jensen conflict with emergency petition re Dungeness crab in southeast.
Jan. 7-10, 2005	Kodiak finfish	134	0	0	0	0	3	0	0	Heyano conflict on three herring proposals
Jan. 17-29, 2005	Upper Cook Inlet finfish	258	25	0	0	0	0	3	0	Dersham conflict on 149, 250, and 289. Morris conflict on 144, 145, 147, 148, 151, 153-156, 191 (Kenai sockeye), 158 (Russian River sockeye), 170, 188, 192, 194, 196 (Northern District salmon), 189 (Central District periods), 231, 134, 135, 139, 242, and 243 (Upper Cook Inlet plans).
Mar. 7-13, 2005	Statewide king and Tanner crab, supplemental issues	68	0	0	3	0	4	0	0	Heyano conflict on Proposals 458 (OEG for Kvichak), 420 (Bering sea crab CDC) 424 & 426 (pot gear Bering sea crab). Jensen conflict on 402 & 404 (Southeast Tanner crab) and 457 (Taku and Stikine king salmon)
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		532	26	0	4	0	10	9	0	
NUMBER OF PROPOSALS WITH CONFLICT:		49								
PERCENT OF PROPOSALS WITH CONFLICT:		9.2%								
TOTAL NUMBER OF VOTES		3,724								
NUMBER OF VOTES WITH CONFLICT:		49								
PERCENT OF VOTES WITH CONFLICT:		1.3%								
MAXIMUM PERCENTAGE OF MEMBER CONFLICTS PER MEETING:		9.7%								

Summary of Board of Fisheries Vote Abstentions (2001-2006)

2005/2006 PWS AND SOUTHEAST CYCLE

		<u>Proposals</u>	<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Andrews</u>	<u>Heyano</u>	<u>Campbell</u>	<u>Bouse</u>	<u>Comments</u>
Oct. 13-14, 2005	Worksession (45 ACRs)	0	0	0	0	0	0	0	0	
Oct. 15-16, 2005	State-waters trawl	3	1	0	0	0	0	0	0	Morris conflict on Central Gulf of Alaska portion of proposal
Nov. 15-16, 2005	Chignik salmon	1	0	0	0	0	0	0	0	
Dec. 1-6, 2005	Prince William Sound and Copper River finfish	84	0	0	0	0	2	0	0	Heyano conflict on Proposals 78 and 79 (sablefish, herring)
Dec. 29, 2005	Teleconference re Adak P-cod	0	0	0	0	0	0	0	0	
Jan. 22-Feb. 1, 2006	Southeast and Yakutat finfish	142	0	0	39	0	0	0	0	Jensen conflict on specific salmon and herring proposals
Feb. 20-26, 2006	Southeast groundfish, dungeness crab, shrimp, misc. shellfish; plus Aleutian Island P-cod	82	0	1	22	0	0	0	0	Nelson conflict on Proposal 399 (Aleutian Islands P-cod); Jensen conflict on 226-234, 269, and 271-282 (crab, groundfish)
Mar. 17-23, 2006	Statewide dungeness crab, shrimp, misc. shellfish, supplemental issues	107	0	1	0	0	1	0	0	Heyano conflict on Proposal 396 (alter CDQ crab quotas); Nelson conflict on Nunavak coop plan
May 3, 2006	Bering Sea crab	1	0	0	0	0	0	0	0	
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		420	1	2	61	0	3	0	0	
NUMBER OF PROPOSALS WITH CONFLICT:		67								
PERCENT OF PROPOSALS WITH CONFLICT:		16.0%								
TOTAL NUMBER OF VOTES		2,940								
NUMBER OF VOTES WITH CONFLICT:		67								
PERCENT OF VOTES WITH CONFLICT:		2.3%								
MAXIMUM PERCENTAGE OF MEMBER CONFLICTS PER MEETING:		27.5%								

Summary of Board of Fisheries Vote Abstentions (2001-2006)

2006/2007 BRISTOL BAY, AYK, ALASKA PENINSULA CYCLE

<u>Meeting dates</u>	<u>Topics</u>	<u>Proposals</u>	<u>Morris</u>	<u>A. Nelson</u>	<u>Jensen</u>	<u>Andrews</u>	<u>Heyano</u>	<u>Campbell</u>	<u>Williams</u>	<u>Comments</u>
Oct. 12-13, 2006	Worksession (29 ACRs)	0	0	0	0	0	0	0	0	
Oct. 14-15, 2006	State-waters trawl	6	1	0	0	0	0	0	0	
Oct. 31, 2006	Teleconference re Adak pollock	0	0	0	0	0	0	0	0	Morris conflict on Cook Inlet Pollock
Dec. 4-12, 2006	Bristol Bay finfish	120	0	0	0	0	38	0	0	
Jan. 31-Feb. 5, 2007	Arctic-Yukon-Kuskokwim finfish	56								Heyano conflict on Nushagak River salmon, herring
Feb. 6-11, 2007	Alaska Peninsula/Aleutian Islands finfish	48								
Mar. 9-13, 2007	Statewide finfish	26								
TOTAL NUMBER OF PROPOSALS FOR CYCLE:		256	1	0	0	0	38	0	0	
NUMBER OF PROPOSALS WITH CONFLICT:		39								
PERCENT OF PROPOSALS WITH CONFLICT:		15.2%								
TOTAL NUMBER OF VOTES		1,792								
NUMBER OF VOTES WITH CONFLICT:		39								
PERCENT OF VOTES WITH CONFLICT:		2.2%								
MAXIMUM PERCENTAGE OF MEMBER CONFLICTS PER MEETING:		31.7%								

Six-year summary for 2001/2002 through 2006/2007 cycles

MEAN NUMBER OF PROPOSALS PER CYCLE:	409	(Range: 231 - 532)
MEAN NO. OF PROPOSALS WITH CONFLICT:	40	(Range: 7 - 67)
PERCENT OF PROPOSALS WITH CONFLICT:	9.7%	(Range: 3.0 - 15.7%)
MEAN NUMBER OF VOTES PER CYCLE:	2,864	(Range: 1,717 - 3,724)
MEAN NUMBER OF VOTES WITH CONFLICT:	40	(Range: 7 - 67)
PERCENT OF VOTES WITH CONFLICT:	1.4%	(Range: 0.4 - 2.2%)
AVERAGE MAXIMUM PERCENTAGE OF MEMBER CONFLICTS PER MEETING:	15.7%	(Range: 3.2 - 31.7%)