

HB

116

<TARGET><BILL>HB 116</BILL><SUBJECT>HB
116</SUBJECT><COMM>SFIN29</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 4/15/15

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered HOUSE BILL NO. 116

HB 116 EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD

"An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

and recommends:

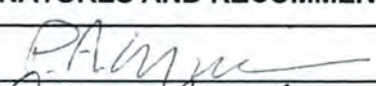
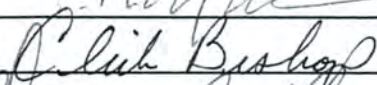

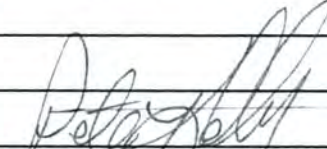
- [] be replaced with SCS _____ (_____) [] Same Title [] Technical Title Change
[] New Title/SCR No. _____
- [] adopt previous SCS _____ (_____) [] Same Title [] Technical Title Change
[] New Title/SCR No. _____
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
CED	✓			2

[] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	MICCHICHE	✓			
	BISHOP	✓			
	ORSON	✓			
CO-CHAIR: 	Kelly	✓			
CO-CHAIR: Anna Mackinnon	Mackinnon	✓			

ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

- Chair: Labor and Commerce
- Vice Chair: Rules
- Member: Resources, Legislative Budget & Audit

Session: January - April
State Capitol, Room 24
Juneau, AK 99801-1182
Phone: 907-465-2693
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Interim: May - December
145 Main Street Loop, Ste. 221
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Official Business

Sponsor Statement

HB 116

"An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

HB 116 extends the sunset date for the Alcoholic Beverage Control (ABC) Board to June 30, 2018.

I encourage everyone to review the Legislative Audit summary and the full audit report. You will see that in the opinion of our auditors, the ABC Board is serving the public's interest by effectively licensing and regulating the manufacture, barter, possession, and sale of alcoholic beverages in Alaska.

The ABC Board serves an important role in guarding the health and safety of Alaskans by protecting the general public through the issuance, renewal, revocation, and suspension of alcoholic beverage licenses. The continuation of this board is very important.

Thank you for your support of this legislation.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	HB 116
Fiscal Note Number:	2
(H) Publish Date:	4/10/2015

Identifier: HB116-DCCED-ABC-03-30-15
 Title: EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD
 Sponsor: LABOR & COMMERCE
 Requester: HOUSE FINANCE

Department: Department of Commerce, Community and Economic Development
 Appropriation: Alcoholic Beverage Control Board
 Allocation: Alcoholic Beverage Control Board
 OMB Component Number: 2690

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services		1,796.0	1,796.0	1,796.0	1,796.0			
Travel		158.9	158.9	158.9	158.9			
Services		1,236.5	1,102.5	1,102.5	1,102.5			
Commodities		159.1	130.7	130.7	130.7			
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	3,350.5	3,188.1	3,188.1	3,188.1	0.0	0.0	

Fund Source (Operating Only)

1004 Gen Fund		1,574.4	1,412.0	1,412.0	1,412.0			
1005 GF/Prgm		1,752.4	1,752.4	1,752.4	1,752.4			
1007 I/A Rcpts		23.7	23.7	23.7	23.7			
Total	0.0	3,350.5	3,188.1	3,188.1	3,188.1	0.0	0.0	

Positions

Full-time		17.0	17.0	17.0	17.0			
Part-time								
Temporary								

Change in Revenues		1,752.4	1,752.4	1,752.4	1,752.4	0.0	0.0	
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Estimated SUPPLEMENTAL (FY2015) cost: 785.7 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No.
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Revised to include costs only through FY2019, assuming extension through FY2018 and one-year wind-down of agency operations and including supplemental.

Prepared By: Cynthia Franklin
 Division: Alcoholic Beverage Control Board
 Approved By: Catherine Reardon, Director
 Agency: Division of Administrative Services

Phone: (907)269-0351
 Date: 03/30/2015 04:45 PM
 Date: 03/30/15

REPORTED OUT OF
HFC 04/09/2015

Control Code: wYyX

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

HB 116 extends statutory authorization for the existing Alcoholic Beverage Control (ABC) Board. Adoption of the bill will continue existing activities of the board, and administration by the ABC agency director and staff. Failure to adopt the bill would cause operations of the ABC board to cease as of June 30, 2015.

The ABC Board's mission is to control the manufacture, possession, sale, barter and trade of alcoholic beverages and, as of February 24, 2015, of marijuana in the State of Alaska. The ABC Board and its agency staff, housed in DCCED, issue liquor licenses and permits and enforce laws and regulations regarding alcohol in Alaska. AS 17.38 makes the ABC Board the default agency for regulating marijuana in Alaska as of February 24, 2015, and anticipates the ABC Board completing regulations relating to marijuana by November, 2015 and issuing marijuana business licenses by May 2016.

Currently there are approximately 1,875 active liquor licenses in the State of Alaska. Each of these licensees relies on the ABC Board and agency for administration of and renewal of the licenses that enable them to continue the operation of their business. The voters have assigned the task of developing regulations for similar licensing of marijuana businesses. Continued authority for the board is necessary for continuation of these important activities on behalf of the people of Alaska.

Alcohol regulation activities are primarily funded by licensing fees. Revenue related to marijuana licensing will be collected as licenses are issued. However, at this time the type and quantity of licenses, as well as associated fees, are unknown. Revenues are anticipated to be received starting in late FY2016, and will increase in subsequent years. As marijuana regulation revenues are received and can be projected, budgeted general funds will be incrementally replaced with program receipts. Program receipts collected but not expended by the agency will contribute to the general fund.

If the board is extended through June 30, 2018, there is an assumed one-year wind-down of agency operations.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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SUMMARY OF: A Sunset Review on the Department of Commerce, Community, and Economic Development, Alcoholic Beverage Control Board, May 30, 2014

PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Department of Commerce, Community, and Economic Development's (DCCED) Alcoholic Beverage Control Board (board). The purpose of this audit was to determine if there is a demonstrated public need for its continued existence and if it has been operating in an 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, under AS 44.66.010(a)(1), the board will terminate on June 30, 2015, and will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

We conclude that the board's termination date should be extended. The board is serving the public's interest by effectively licensing and regulating the manufacture, barter, possession, and sale of alcoholic beverages in Alaska. The board has demonstrated a need for its continued existence by protecting the general public through the issuance, renewal, revocation, and suspension of alcoholic beverage licenses. Protection has also been provided through investigations of suspected licensing violations and enforcement of the State's alcoholic beverage control laws and regulations.

We conditionally recommend that the board's termination date be extended five years to June 30, 2020. If the marijuana voter initiative passes, we recommend a shorter extension of no more than three years as the initiative significantly expands the board's duties.

FINDINGS AND RECOMMENDATIONS

The prior sunset audit included three recommendations. Two prior recommendations have been resolved, and the other has been partially resolved and is reiterated as parts of Recommendation Nos. 1 and 2. This report makes three new recommendations.

1. The board's director should ensure that all board meetings are properly published on the State's Online Public Notice System.

2. The board should notify local governing bodies of applications for new and transfer licenses within 10 days of receipt.
3. The board should issue catering permits in accordance with statutory requirements.
4. The board should issue recreational site licenses in accordance with statutory requirements.
5. The board should implement a process to monitor and track all complaints to ensure they are resolved in a timely manner.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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August 1, 2014

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Alcoholic Beverage Control Board (board) and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
ALCOHOLIC BEVERAGE CONTROL BOARD

May 30, 2014

Audit Control Number
08-20088-14

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Per AS 44.66.010(a)(1), the board is scheduled to terminate on June 30, 2015. We conditionally recommend the termination date be extended to June 30, 2020. If the marijuana voter initiative passes, we recommend a shorter extension of no more than three years as the initiative significantly expands the board's duties.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in black ink, appearing to read "K. Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Alcoholic Beverage Control 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, under AS 44.66.010(a)(1), the board will terminate on June 30, 2015, and will have one year from that date to conclude its administrative operations.

Objectives

The primary objective of this audit was to determine whether there is public need for the board and if its existence should be extended.

The secondary objective was to determine if the board is serving public interest in regards to licensing/permitting functions, administrative activities, board activities, and enforcement activities by reviewing these major functions for effectiveness and efficiency of operations. The audit also determines the status of prior sunset audit recommendations.

Scope and Methodology

The assessment of the board's operations and performance was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

The audit reviewed the board's operations and activities from FY 09 through April 2014.

To meet the audit objectives:

- Applicable statutes and regulations were reviewed and compared to board activities to determine whether the board complied with statutes and regulations.
- Board meeting minutes were reviewed, and the February and April 2014 board meetings and the April 2014 stakeholder group meeting were attended to understand board proceedings and activities as well as the nature and the extent of public input.

- Two board members' applications and resumes filed with the Office of the Governor's Office of Boards and Commissions were evaluated to verify that members met statutory requirements.
- A random sample of 40 new, transfer, and/or renewal licenses was selected from 1,861 licenses and assessed for statutory and regulatory compliance. Control risk and risk of noncompliance were considered moderate when determining sample size. Inherent risk was limited.
- Information included in Department of Public Safety (DPS) enforcement systems was analyzed to determine if the board achieved its annual compliance check and premises inspection goals.
- A random sample of 25 of 2,843 violations was traced to licensing files to ensure that the board provided written notification to noncompliant licensees. The board implemented internal controls to address prior audit findings related to record keeping and overall enforcement strategies. As such, control risk and risk of noncompliance were assessed as low when determining sample size. Inherent risk was limited.
- A sample of six of 39 cities that received licensing refunds between FY 11 and FY 13 were reviewed to ensure that the payments were accurate, in agreement with the state accounting system, and in compliance with statutory requirements. Control risk was assessed as low, and a 15 percent sample was determined sufficient to detect errors.
- Surveys were sent to active board licensees, local governing bodies, and law enforcement agencies to obtain opinions on various aspects of board operations and the alcoholic beverage industry. The response rates are shown in Exhibit 1.

Exhibit 1

Survey Response Rates	
Licensees	47%
Law Enforcement	41%
Local Governing Bodies	51%

The survey population for board licensees was obtained from the board director. The survey population for local governing bodies was obtained from the Department of Commerce, Community, and Economic Development's website. The survey population for law enforcement agencies was obtained from DPS' website. Populations were assessed for accuracy and completeness. Survey responses were tallied to help evaluate board operations.

- The current board chair, one public member, the director, and several board staff were interviewed to gain an understanding of the board's activities and issues currently affecting the board and to determine if regulatory or statutory changes have enhanced or impeded the board's operations.

- Assessments were conducted on internal controls related to issuing, transferring, and revoking licenses and permits; enforcement procedures; processes for refunding license fees to local governing bodies; and board meeting proceedings. System controls over the licensing database, enforcement systems, and the local option database were also evaluated for effectiveness.
- Inquiries regarding board-related complaints were made with the following organizations:
 - Alaska State Commission for Human Rights;
 - Department of Administration's Division of Personnel and Labor Relations;
 - United States Equal Employment Opportunity Office;
 - Department of Commerce, Community, and Economic Development, Commissioner's Office;
 - Office of the Ombudsman; and
 - Office of Victims' Rights.

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ORGANIZATION AND FUNCTION

The board was established in 1959 by Title IV of the Alaska Statutes as a regulatory and quasi-judicial agency. In 2013, the board's administration moved from the Department of Public Safety (DPS) to the Department of Commerce, Community, and Economic Development (DCCED) for administrative purposes.

The board controls the manufacture, barter, possession, and sale of alcoholic beverages in the State. The board's duties include overseeing license issuances, transfers, renewals, suspensions, and revocations; and proposing and adopting regulations necessary to carry out the purposes of governing statutes in a manner that will protect the public's health, safety, and welfare. Contingent upon the DPS commissioner's concurrence, the board may grant peace officer authority to those charged with administering Title IV.

The board is composed of five members appointed by the governor and confirmed by the legislature. State law requires that two members be actively involved in the alcoholic beverage industry (excluding wholesale) and at least three members represent the general public.

One public member must reside in a rural area, and no three board members may be engaged in the same business, occupation, or profession. Board members representing the general public and their immediate family members are prohibited from having a financial interest in the alcoholic beverage industry. Board members are appointed for overlapping three-year terms.

The board's primary objective is to regulate 1,861 alcoholic beverage licensees in accordance with Title IV. A director, appointed by the governor, serves as the executive officer and is responsible for enforcing Title IV and regulations adopted by the board. To assist in carrying out its objectives, board staff includes licensing examiners, enforcement investigators, and an administrative assistant. Staff conducts the following activities:

- **Licensing**

Licensing staff is responsible for processing license and permit applications, maintaining licensing records and files, and collecting licensing fees. The types of licenses, licensing fees, and activities allowed under each license and the procedures for issuing new and renewal licenses are specified and established in Title IV.

Exhibit 1

**Alcoholic Beverage Control
Board Members as of
May 30, 2014**

Bob Klein
Chair, Industry Member

Ethan Billings
Industry Member

Marvin Yoder
Public Member

Robert Evans
Rural Public Member

Ellen Ganley
Public Member

Licensing staff also works closely with the director to prepare board meeting packets. Three licensing positions are authorized as part of the FY 15 budget.

- **Enforcement**

Enforcement staff performs various duties including inspecting licensed premises, investigating complaints of suspected licensing violations, conducting compliance checks, and responding to questions from licensees and the public. Investigators monitor server training courses and perform background checks on applicants. Investigators also provide Title IV training to law enforcement agencies on request. The enforcement supervisor maintains the statewide written order database which contains a monthly record of the alcohol purchased by and shipped to a person who resides in a municipality or established village that has restricted the sale of alcoholic beverages. Six enforcement positions are authorized as part of the FY 15 budget.

- **Administration**

The director provides oversight, guidance, and direction to staff; participates in public hearings and meetings; and addresses inquiries and requests from licensees, law enforcement agencies, and the general public. The FY 15 budget also authorizes one administrative assistant position. Administrative duties include preparing budget documents, calculating and issuing revenue sharing payments to local municipalities, issuing public notices, processing vendor invoices, and preparing bank deposits and board meeting minutes.

The board's FY 15 budget is approximately \$1.75 million.

REPORT CONCLUSIONS

In developing our conclusions, the Alcoholic Beverage Control Board's (board) operations were evaluated using the 11 factors set out in AS 44.66.050. Under the State's "sunset" law, these factors are to be used in assessing whether an agency has demonstrated a public policy need for continuing operations.

Overall, we conclude that the board is serving the public's interest by effectively regulating the manufacture, sale, barter, and possession of alcoholic beverages in Alaska. The board has demonstrated a need for its continued existence by protecting the general public through the issuance, renewal, revocation, and suspension of alcoholic beverage licenses. Protection has also been provided through investigations of suspected licensing violations and enforcement of the State's alcoholic beverage control laws and regulations.

With the exceptions noted in the Findings and Recommendations section of this report, the board is operating in the public's interest. However, some operational improvements in licensing and general administration are needed. (See Recommendation Nos. 1 through 5.)

In accordance with AS 44.66.010(a)(1), the board is scheduled to terminate June 30, 2015. We conditionally recommend that the board's termination date be extended five years to June 30, 2020. If the marijuana voter initiative passes, we recommend a shorter extension of no more than three years as the initiative significantly expands the board's duties.

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FINDINGS AND RECOMMENDATIONS

The Alcoholic Beverage Control Board's (board) 2009 sunset audit included three recommendations. The prior year recommendation that the legislature consider amending Title IV of the Alaska Statutes to remove the board director's voting ability was resolved through a statutory change. The prior recommendation that the board establish quantifiable enforcement goals and develop a clear plan for deploying enforcement resources was resolved through procedural improvements. The prior recommendation that the board develop and enforce written policies and procedures to ensure staff comply with state laws and decisions made by the board and director has been partially resolved. The recurring parts of this recommendation are presented as part of Recommendation Nos. 1 and 2. Additionally, three new recommendations are made as a part of this audit.

Recommendation No. 1

The board's director should ensure that all board meetings are properly published on the State's Online Public Notice System.

Prior Finding

From FY 07 through FY 09, 11 of 16 board meetings were not adequately publicly noticed per statute or board policy requirements. Four meetings were not advertised on the State's Online Public Notice System; the venues for seven board meetings were not advertised in the local newspaper; and seven meetings were not advertised timely.

Current Status

From FY 09 through February 2014, three of 25 board meetings were not published on the State's Online Public Notice System. Although the board has procedures for public noticing, Department of Commerce, Community, and Economic Development staff did not adhere to procedures due to general oversight.

Alaska Statute 44.62.310(e) requires reasonable public notice be given for meetings. Failure to publicly notice board meetings may limit public input in the regulatory process. Lack of public input may reduce the board's effectiveness in addressing public concerns.

We recommend the board's director ensure all board meetings are properly published on the State's Online Public Notice System.

Recommendation No. 2

The board should notify local governing bodies of applications for new and transfer licenses within 10 days of receipt.

Prior Finding

The board did not consistently adhere to the statutory requirement of notifying the local governing body within 10 days of receiving an application as required by AS 04.11.520. This requirement allows time for local governments to review and possibly protest a license being issued, renewed, relocated, or transferred.

Local governing bodies were not consistently notified because board members and the director did not provide appropriate guidance and oversight to staff to ensure compliance with state laws, and with its decisions.

Current Status

For two of 10 new or transfer licenses tested, the board did not inform the local governing body within 10 days of receiving the application. Both notifications were sent between 11 and 20 days after the board received the application. The errors resulted from prior board staff not adhering to the board's policies and procedures which require local governing bodies be notified in a timely manner.

Alaska Statutes specify a timeline for the board to review applications, notify local governing bodies, and receive protests. Alaska Statute 04.11.510 requires the board to review applications within 90 days of receipt. Alaska Statute 04.11.520 requires the board to notify local governing bodies within 10 days of receiving an application. A local governing body may protest within 60 days as provided by AS 04.11.480. Delays in notifying local governing bodies may result in inappropriately limiting the time the local governing body and/or the board has to review applications.

We recommend the board notify local governing bodies of applications for new and transfer licenses within 10 days of receipt.

Recommendation No. 3

The board should issue catering permits in accordance with statutory requirements.

Catering permits may be issued to beverage dispensary licensees (BDL) to sell alcoholic beverages at conventions, picnics, social gatherings, sporting events, or similar affairs. The permits expire after seven days and can only be used for events hosted off licensed premises. Alaska Statutes 04.11.230(a) states:

A caterer's permit authorizes the holder of a beverage dispensary license to sell or dispense alcoholic beverages at conventions, picnics, social gatherings, sporting events, or similar affairs held off the holder's licensed premises. The permit may only be issued for designated premises for a specific occasion and for a limited period of time.

A review of four licensees that received more than six consecutive catering permits during the audit period yielded three instances of noncompliance. Two were related to catering permits issued to serve alcohol in another room of the same premises. The permits were issued for six to 14 consecutive weeks while the board processed the licensee's application for a duplicate BDL. A duplicate BDL allows a licensee to serve alcohol in another room of an establishment.

The third noncompliant permit resulted from the board issuing a catering permit to one licensee to serve alcohol for another business with an expired BDL. In this case, the permits were issued for eight consecutive weeks while the board processed the licensee's renewal application.

Each of the three variances represent a statutory violation because the permits were issued with the intention to serve alcohol on a licensed premises and to maintain daily operation of a business rather than for a short term social gathering or similar event. Circumventing licensing laws weakens the board's role as regulator and may result in inequitable treatment of applicants. Inquiries with board members revealed that the board considered the issuance of the noted catering permits a convenience to both licensees and the public. At the time, the board believed that issuing the license or permit was appropriate to ensure the businesses could continue to operate.

We recommend that the board issue catering permits in accordance with statutory requirements.

Recommendation No. 4

The board should issue recreational site licenses in accordance with statutory requirements.

Recreational site licenses may be issued to businesses that host non-school-related recreational events held during a season.

Of the 32 recreational licensees active during the audit period, the audit found 15 businesses (47 percent) did not meet the criteria for a recreational license. Ineligible businesses include bowling alleys, a sports center and pub, an exercise gym, a gift shop, theatres, and pool halls. These business types did not meet the definition of a recreational site nor were operations limited to a season. The issuance of these licenses expanded the number of establishments licensed to sell alcohol over the number allowed by statute.

According to AS 04.11.210(a), the holder of a recreational site license may sell beer and wine at a recreational event during and one hour before and after recreational events. AS 04.11.210(c) defines *recreational events* as baseball games, car races, hockey games, or curling matches regularly held during a season.

Inquiries with board members revealed that the improper issuance of recreational site licenses was caused by an historic misunderstanding of what qualifies as a recreational event.

We recommend that the board issue recreational site licenses in accordance with statutory requirements.

Recommendation No. 5

The board should implement a process to monitor and track all complaints to ensure they are resolved in a timely manner.

The board has not established a process to monitor and track all complaints to ensure they are resolved in a timely manner. The board does have a process to receive complaints from licensees or law enforcement agencies through their website, telephone, or emails. However, complaints are only tracked if they result in an inspection or investigation. If the complaint is deemed invalid, it is not documented. Furthermore, the basis for a decision not to investigate is not documented and maintained.

The efficiency with which complaints are investigated is one of the sunset evaluation criteria used in the legislative oversight process. Alaska Statute 44.66.050(c)(6) specifies the sunset review must evaluate:

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.

By not tracking complaints, there is an increased risk that board staff may not investigate complaints received and/or not investigate complaints in a timely manner. Such instances could reduce the board's ability to effectively enforce alcoholic beverage laws. Additionally, complaints received directly by board staff via telephone or email may never be resolved in the event of staff turnover. Because there was no statutory mandate, the board director did not consider tracking all complaints as necessary.

We recommend that the board establish a process to monitor and track all complaints to ensure that they are resolved in a timely manner.

A ANALYSIS OF PUBLIC NEED D

The following analysis of the Alcoholic Beverage Control Board's (board) activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive but to address those areas we were able to cover within the scope of our review.

To help assess the board's effectiveness, surveys were sent to licensees, law enforcement, and local governing bodies. The surveys covered a number of issues. Pertinent survey results have been referenced in the applicable areas of this analysis. Survey responses are included as Appendices A through D of this report.

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

The board is operating in the public's interest and protects the public's health, safety, and welfare. Generally, the board licenses applicants in accordance with alcohol-related laws. It conducts background checks to ensure that licenses are not initially granted to individuals with significant criminal records. The board continually receives, reviews, and takes action when notified of reported criminal activity by licensees.

The board also controls the manufacture and sale of alcohol in designated areas by ensuring compliance and enforcing alcoholic beverage laws. Board staff notifies the local governing body of new applications, renewals, transfers, denials, suspensions, and revocations. The board takes into consideration the local government's response or protest in the application review process. It also provides license regulation and enforcement, investigates complaints, and when warranted, revokes or suspends a license.

The board reviewed and approved new transfer and/or renewal licensees for 1,861 qualified applicants during the audit period. Additionally, the board performed routine compliance checks and premises inspections on licensed establishments.

Overall, 77 percent of licensee survey respondents believe that the board's overall effectiveness is *good* or *excellent*. Additionally, 88 percent of licensee respondents believe that the board's effectiveness has increased or remained the same over the past five years. Fifty-seven percent of law enforcement and 56 percent of local governing body survey respondents rated the board's effectiveness as *good* or *excellent*.

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 members and staff report that the board's activities have been impeded by vacancies in enforcement personnel. Since the board moved from Department of Public Safety (DPS) to Department Commerce, Community, and Economic Development (DCCED), enforcement activity has decreased due to vacancies in enforcement positions. Board staff reported that filling investigator positions has been difficult because the positions require a law enforcement background which significantly limits the applicant pool. To manage limited enforcement resources, compliance checks were prioritized as the board's most important enforcement activity. In FY 12 and FY 13, board staff achieved the compliance check goals. However, board staff did not meet the goal of annually inspecting all licensed premises.

During the audit period, board staff implemented procedures to streamline their operations. While the procedures resulted in more efficient operations, they do not fully comply with statutes. Given the efficiencies gained, the board should consider recommending statutory revisions in the following instances.

- Alaska Statute 04.11.520 mandates that board staff notify local governing bodies within 10 days of receiving an application for renewal. The law is intended to provide local governing bodies adequate time to protest or otherwise raise concerns over a license renewal. Licensing staff streamlined the notification procedures for renewal applications by informing local governing bodies of licenses scheduled for renewal at the beginning of each renewal period. Local governing bodies are then notified of all licensees actually applying for license renewal at the end of each renewal period. By grouping applicants into one notification, board staff recognized significant efficiencies while accomplishing the statutory intent of notification. However, the procedures do not technically comply with statutes as they are currently written.
- Alaska Statute 04.11.230(d) requires a permit be returned to the board within 48 hours of its expiration date. Rather than track and monitor the return of permit documents, board staff maintains the original permit and sends a copy to the licensee. The copy is not required to be returned once it expires. With advances in technology, the return of original permits may no longer effectively protect the public from unlicensed activity. Therefore, the statutory requirement to return the expired permit may have outlived its usefulness.

The board has enlisted the assistance of industry stakeholders to recommend statutory revisions. These individuals include, but are not limited to, licensees, law enforcement, municipalities, and public health officials. The proposed statutory changes will be reviewed and evaluated by the board.

Twenty-one percent of law enforcement and 13 percent of local governing survey respondents believe there is a need for new alcohol-related laws or regulations to better serve the public's interest.

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 audit period, the board recommended one statutory change related to repealing the board director's ability to cast tie-breaker votes. The statutory change addressed a prior audit finding and ensures that only board members are allowed to make determinations on issues impacting the industry and ensures an appropriate balance of executive and quasi-judicial government functions.

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 is required by statute to hold an annual meeting in each of the State's four judicial districts to consider issues from both statewide and local perspectives. The board is also required to provide adequate public notice of these meetings. From FY 09 through FY 14, the board held five meetings annually, and meetings were held in each judicial district of the State. A quorum was maintained at all meetings. All board meeting minutes were available on the board's website.

An analysis of 25 board meetings held during the audit period showed that all but three meetings were published on the State's Online Public Notice System. For the three meetings not publicly noticed, the public was not given a chance to comment on board activities (See Recommendation No. 1.) For those meetings that were public noticed, the notice was published at least 10 days in advance, and interested individuals were encouraged to attend meetings either in person or via telephone. The board allotted time for public comment at each published meeting.

The board has also encouraged interested persons to participate in its stakeholders' group which is composed of a diverse group of individuals that often attend board meeting proceedings. The board publishes notice of the stakeholder group meetings on both the State's Online Public Notice System and its website.

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

From FY 09 through FY 14, the board made several regulatory changes. Changes clarified language to ensure that regulations can be easily understood by alcoholic beverage industry stakeholders, added a fee for changing a business name, allowed package-goods stores to

repackage beer from kegs, approved alcohol server training courses to be provided by internet for people in rural areas, and authorized the director to recommend that DCCED deny refunds to local governing bodies if peace officers do not provide quarterly enforcement reports. All regulatory changes were properly published on the State's Online Public Notice System.

Eighty-four percent of law enforcement and 69 percent of licensees and local governing body survey respondents believe that existing alcoholic beverage control laws and regulations are not obsolete, vague, unduly restrictive, or inadequate.

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.

From July 1, 2009, through January 31, 2014, four complaints were filed with DPS or DCCED commissioners, and five complaints were filed with the Office of the Ombudsman. In some situations, duplicate complaints were filed with the commissioners' offices and the Office of the Ombudsman. The complaints were processed and resolved in a timely manner. No complaints were filed with the Office of Victims' Rights during the audit period.

The board has not established a system to track and monitor all complaints received through its website or complaints received directly by board staff via email or telephone. Because there is no tracking system, we were unable to evaluate the efficiency with which the board handles these types of complaints or public inquiries. (See Recommendation No. 5.)

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.

With the exception of recreational licenses, the board adequately regulated entry into the alcoholic beverage industry by licensing qualified applicants. The board determined if applicants met all required statutory qualifications including: demonstrating applicants posted license applications on the proposed license premises; providing titles to or proving rights or interest in the premises; and obtaining approval from the local governing bodies. The board also allowed local governing bodies 60 days to protest any new, transfer, or renewal application.

As of February 28, 2014, the board had 1,861 active alcoholic beverage licenses. The board has 18 different active license types (shown in Exhibit 2 on the following page) and two different types of permits including catering and special event permits.

Review of 40 license files indicated that appropriate action was taken for all applications. However, consistent with prior audit findings, the board provided untimely application

notices to local governing bodies for 20 percent of licenses tested. (See Recommendation No. 2.)

Recreational site licenses and catering permits were reviewed to determine if the board adhered to statutory requirements when issuing licenses and permits. Forty-seven percent of current recreational site license holders reviewed did not meet the criteria for this license type. (See Recommendation No. 4.)

From FY 09 through February 28, 2014, the board issued more than 7,100 catering permits. Of these permits, the board issued more than six consecutive catering permits to four licensees. Audit procedures revealed that three of these four permits did not meet statutory requirements for catering permits. (See Recommendation No. 3.)

Overall, 82 percent of licensee survey respondents rated their most recent renewal experience as *good* or *excellent*. Eighty-one percent of licensee respondents that applied for a new license rated the new licensing experience as *good* or *excellent*. Sixty-four percent of local governing body respondents rated the board's procedures for notifying local governing bodies of proposed issuance, transfers, relocations, and renewals of existing licenses as *good* or *excellent*.

Exhibit 2

Licenses Count by Type as of February 28, 2014	
Beverage Dispensary	670
Bottling Works	1
Brewery	15
Brewpub	13
Club	78
Conditional Contractors	1
Common Carrier	167
Destination Resort	1
Distillery	6
Golf Course	8
Lodge	32
Package-Store	397
Pub	1
Recreational Licenses	32
Restaurant/Eating Place	398
Theatre	1
Wholesale	30
Winery	10
Total Licenses	1,861

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.

We found no evidence that hiring practices or board appointments were contrary to state personnel practices. From July 1, 2009, through January 31, 2014, six complaints were filed with both the Alaska State Commission for Human Rights and the Department of Administration's Division of Personnel and Labor Relations. All complaints were addressed in a timely manner.

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.

Updating statutes may allow the board to more efficiently carry out its duties. A review of the board's internal control procedures related to renewal applications and catering permits

revealed that the board's current processes are efficient, but the processes result in noncompliance with AS 04.11.520, AS 04.11.230, and AS 04.11.240. For example, the board provides local governing bodies with a comprehensive listing of all potential renewal applicants at the beginning of each renewal period and a listing of actual renewal applicants at the end of each renewal period. The process does not fully comply with statutes that require that local governing bodies be notified within 10 days of receiving the application. The board also updated processes related to returning permits. The original version of the permit is no longer issued to licensees, which precludes the licensee from returning the license within 48 hours as statutorily required.

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.

With the exception of premises inspections, the board actively worked towards attaining its performance objectives. Objectives identified in the FY 14 budget and objectives identified in internal policies and procedures are presented below.

Objective 1: *Issue new licenses and renew licenses for qualified applicants to sell alcoholic beverages.*

Exhibit 3

Compliance Check Goals vs. Actual			
Regions	Target	FY 12 Actual	FY 13 Actual
Anchorage	75%	76%	74%
Fairbanks	50%	52%	52%
Juneau	50%	62%	49%
Southeast	35%	35%	34%
Mat-Su Borough	50%	55%	54%
Kenai Peninsula Borough	50%	52%	53%
On Road	35%	47%	49%
Off Road	25%	29%	26%

Status: Generally, the board has been effective in licensing and renewing license applications for only qualified applicants. Audit recommendations related to licensing are limited to ensuring that local governing bodies are notified in a timely manner and that

recreational licenses and catering permits be issued in accordance with statutory requirements.

Objective 2: *Conduct compliance checks on a percentage of beverage dispensary, restaurant, club, and package-store licensees for all state regions.*

Status: The board's compliance check goals for FY 12 and FY 13 are outlined in the "Target" column of Exhibit 3. A comparison of target objectives to actual compliance checks shows that the board materially met its compliance check goals for each region during FY 12 and FY 13.

Objective 3: Attain a 95 percent statewide compliance rate with underage drinking laws.

Status: To help achieve this goal, board enforcement staff conducts onsite trainings with licensees after a compliance check is completed. The board also works closely with the Alaska Cabaret, Hotel, Restaurant and Retailers Association to administer the Training for Alcohol Professionals program which is required for any alcoholic beverage server. Overall, the board did not achieve this objective. However, as shown in Exhibit 4, from FY 12 through FY 13 there was an increase in the pass rate for all regions, except two.

Objective 4: One premises inspection should be performed on every licensed premises annually.

Exhibit 4

Compliance Check Pass Rate for Underage Drinking Laws			
Regions	Target	FY 12 Actual	FY 13 Actual
Anchorage	95%	89%	93%
Fairbanks	95%	86%	87%
Juneau	95%	76%	89%
Southeast	95%	89%	87%
Mat-Su Borough	95%	88%	89%
Kenai Peninsula Borough	95%	88%	92%
On Road	95%	90%	95%
Off Road	95%	88%	82%

Status: From FY 12 through FY 13, the board had 1,861 licensees, but premises inspections were performed for fewer than 500 establishments each year. During FY 10 and FY 11, board staff performed more than 1,000 premises inspections annually. The sharp

decrease in premises inspections was the result of enforcement staff turnover and vacancies. The board lost two long term investigators in Anchorage and Juneau in 2012. Since that time, board staff reported difficulty filling those positions. In the past three years, the board hired three investigators, but only one remained on staff at the time of audit fieldwork. According to board staff, the skills required for investigator positions significantly limit the eligible applicant pool.

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

The board is the only entity in the State that issues licenses for selling alcohol. In this regard, there is no duplication of this activity by another governmental agency or the private sector.

The board's enforcement efforts include investigating gambling and prostitution activity, which duplicates state trooper and local law enforcement efforts throughout Alaska. However, the board's participation in these efforts was minimal. All law enforcement agencies in the State also contribute to the enforcement of alcohol laws which causes an overlap in jurisdiction.

When asked if the board complements, duplicates, or conflicts with efforts by local law enforcement, 56 percent of licensee survey respondents believe that the board complements the efforts of local law enforcement, and 13 percent believe that the board's efforts duplicate law enforcement. In contrast, 27 percent of law enforcement survey respondents believe the board complements their efforts, and zero percent believe the board duplicates their efforts.

APPENDICES

Appendices A through D summarize the results of surveys sent to Alcoholic Beverage Control Board (board) licensees, local governing bodies, and law enforcement agencies. Surveys included questions on various aspects of board activities and the alcoholic beverage industry. Appendix A includes survey results for questions that were sent to more than one survey group which allows a comparison between groups. Appendices B through D include survey results for questions that were unique to the respective groups. Response rates for each group are as follows:

Appendix B – Law enforcement officials, including village public safety officers (VPSO) and other law enforcement officials.

	Total Surveyed	Total Respondents	Response Rate
Village Public Safety Officers	71	29	41%
Law Enforcement Officials	45	19	42%
Total Law Enforcement	116	48	41%

Appendix C – Licensees, including licensees that have access to the local option database.

	Total Surveyed	Total Respondents	Response Rate
Licensees with Local Option Database Access	9	5	56%
Licensees without Local Option Database Access	400	186	47%
Total Licensees	409	191	47%

Appendix D – Local governing bodies.

	Total Surveyed	Total Respondents	Response Rate
Local Governing Bodies	107	55	51%

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Appendix A

Alcoholic Beverage Control Board Combined Survey Results

1. Do you feel the board enforcement staff complements, duplicates, or conflicts with the efforts of your law enforcement personnel?

<u>Opinions</u>	<u>Licensees</u>		<u>Law Enforcement</u>	
Complements	106	56%	13	27%
Duplicates	24	13%	0	0%
Conflicts	6	3%	2	4%
Inactive in Jurisdiction	37	19%	32	67%
No Opinion	18	9%	1	2%
Total Respondents	191	100%	48	100%

2. Are there any existing alcoholic beverage control laws or regulations that you feel are obsolete, vague, unduly restrictive, or otherwise inadequate?

<u>Opinions</u>	<u>Licensees</u>		<u>Law Enforcement</u>		<u>Local Governing</u>	
Yes	40	21%	5	10%	5	9%
No	131	69%	40	84%	38	69%
No Opinion	20	10%	3	6%	12	22%
Total Respondents	191	100%	48	100%	55	100%

3. Do you believe there is a need for new laws or regulations to better serve the public's interest when considering alcohol related issues?

<u>Opinions</u>	<u>Law Enforcement</u>		<u>Local Governing</u>	
Yes	10	21%	7	13%
No	36	75%	33	60%
No Opinion	2	4%	15	27%
Total Respondents	48	100%	55	100%

Appendix A

Alcoholic Beverage Control Board Combined Survey Results (Continued)

4. Overall, in your opinion, how effective is the board in serving the public's interest?

<u>Rating</u>	<u>Licensees</u>		<u>Law Enforcement</u>		<u>Local Governing</u>	
Excellent	49	26%	7	15%	6	11%
Good	99	51%	20	42%	25	45%
Average	26	14%	16	33%	7	13%
Poor	4	2%	5	10%	4	7%
No Response	13	7%	0	0%	13	24%
Total Respondents	191	100%	48	100%	55	100%

5. Do you believe the board's composition is a reasonable representation of stakeholders (licensees, law enforcement, local governments, the public)?

<u>Opinions</u>	<u>Licensees</u>		<u>Law Enforcement</u>		<u>Local Governing</u>	
Yes	120	63%	39	81%	33	60%
No	16	8%	9	19%	4	7%
No Response	55	29%	0	0%	18	33%
Total Respondents	191	100%	48	100%	55	100%

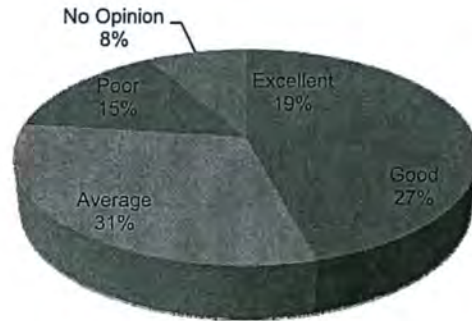
Appendix B

Alcoholic Beverage Control Board Law Enforcement Survey Results

1. How would you rate the board's effectiveness regarding enforcement of the following activities in your jurisdiction?

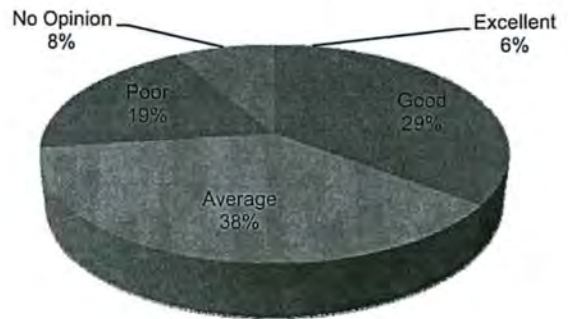
Sale of Alcohol to Minors

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	9	19%
Good	13	27%
Average	15	31%
Poor	7	15%
No Opinion	4	8%
Total Respondents	48	100%



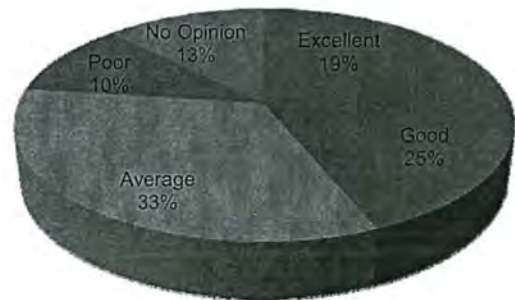
Sale of Alcohol to Inebriated Persons

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	3	6%
Good	14	29%
Average	18	38%
Poor	9	19%
No Opinion	4	8%
Total Respondents	48	100%



Sale of Alcohol Before or After Regulated Hours of Operation

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	9	19%
Good	12	25%
Average	16	33%
Poor	5	10%
No Opinion	6	13%
Total Respondents	48	100%



Appendix B

Alcoholic Beverage Control Board Law Enforcement Survey Results (Continued)

1. How would you rate the board's effectiveness regarding enforcement of the following activities in your jurisdiction?
(continued)

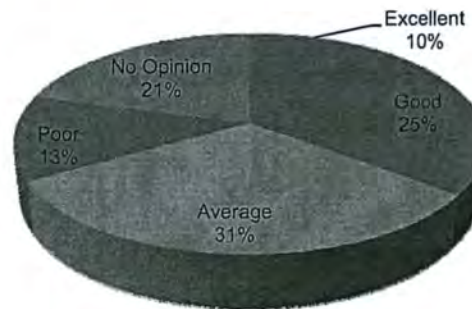
Sale of Alcohol Without a Valid Permit or License

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	9	19%
Good	13	26%
Average	11	23%
Poor	7	15%
No Opinion	8	17%
Total Respondents	48	100%



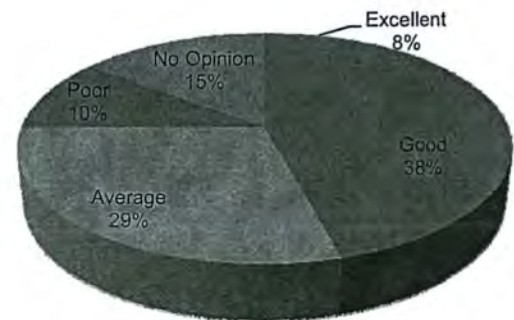
Alcohol Purchase Limits in Local Option Communities

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	5	10%
Good	12	25%
Average	15	31%
Poor	6	13%
No Opinion	10	21%
Total Respondents	48	100%



Employees Without an Alcohol Servers' Training Card

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	4	8%
Good	18	38%
Average	14	29%
Poor	5	10%
No Opinion	7	15%
Total Respondents	48	100%



Appendix B

Alcoholic Beverage Control Board Law Enforcement Survey Results (Continued)

1. How would you rate the board's effectiveness regarding enforcement of the following activities in your jurisdiction?
(continued)

Gambling or Prostitution on Licensed Premises

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	11	23%
Good	6	13%
Average	16	33%
Poor	5	10%
No Opinion	10	21%
Total Respondents	48	100%



2. Please rank from highest (1) to lowest (5) how the following issues are affecting your region. Use each ranking only once.

Public Intoxication

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
1 - Highest	5	10%
2	7	15%
3	15	31%
4	14	29%
5 - Lowest	7	15%
No Opinion	0	0%
Total Respondents	48	100%

Violent Crimes Involving Alcohol

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
1 - Highest	15	31%
2	8	16%
3	9	19%
4	8	17%
5 - Lowest	8	17%
No Opinion	0	0%
Total Respondents	48	100%

Drunk Driving

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
1 - Highest	3	6%
2	14	29%
3	18	38%
4	11	23%
5 - Lowest	2	4%
No Opinion	0	0%
Total Respondents	48	100%

Underage Drinking

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
1 - Highest	7	15%
2	12	25%
3	10	21%
4	14	29%
5 - Lowest	5	10%
No Opinion	0	0%
Total Respondents	48	100%

Appendix B

Alcoholic Beverage Control Board Law Enforcement Survey Results (Continued)

2. Please rank from highest (1) to lowest (5) how the following issues are affecting your region. Use each ranking only once. (continued)

Bootlegging

Responses	Number of Responses	Percentage of Responses
1 - Highest	13	27%
2	6	13%
3	3	6%
4	3	6%
5 - Lowest	20	42%
No Opinion	3	6%
Total Respondents	48	100%

3. If you have had contact with board enforcement staff, how would you rank their effectiveness in addressing your issues?

Responses	Number of Responses	Percentage of Responses
Excellent	6	12%
Good	6	13%
Average	9	19%
Poor	3	6%
Not Applicable	24	50%
Total Respondents	48	100%

Effectiveness in Addressing Issues

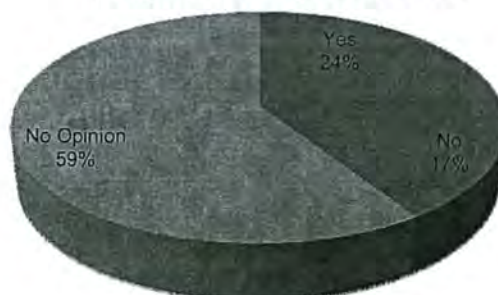


Questions numbers 4a through 4d were only provided to VPSO Law Enforcement

- 4a. Has your jurisdiction provided a local option status?

Responses	Number of Responses	Percentage of Responses
Yes	17	24%
No	12	17%
No Opinion	42	59%
Total Respondents	71	100%

Adopted Local Option Statutes

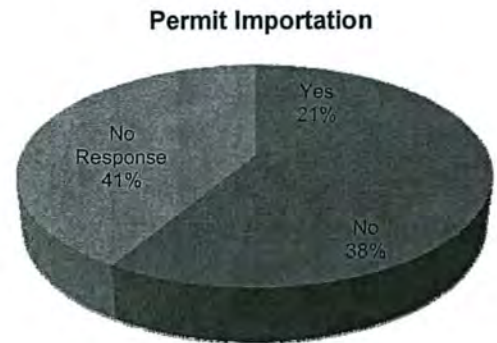


Appendix B

Alcoholic Beverage Control Board Law Enforcement Survey Results (Continued)

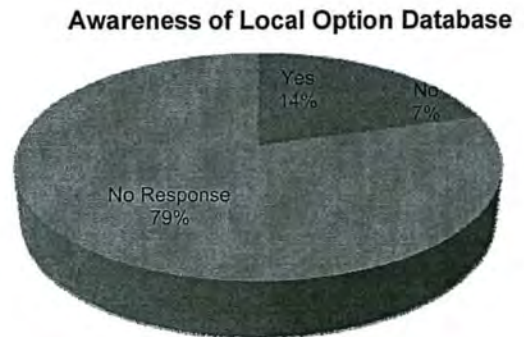
4b. Does your community permit the importation of alcohol?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	6	21%
No	11	38%
No Response	12	41%
Total Respondents	29	100%



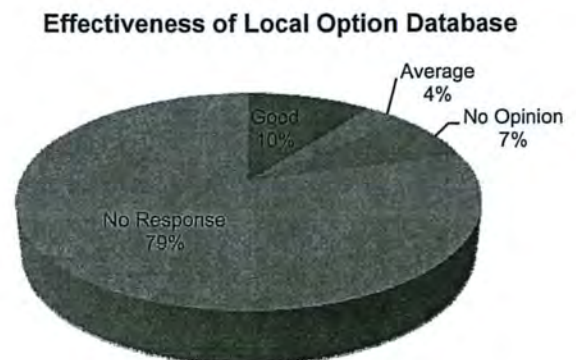
4c. Are you aware of the local option written order database maintained by the board and its purpose?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	4	14%
No	2	7%
No Response	23	79%
Total Respondents	29	100%



4d. How effective do you believe the local option database is in maintaining purchasing limits in your jurisdiction?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	0	0%
Good	3	10%
Average	1	4%
Poor	0	0%
No Opinion	2	7%
No Response	23	79%
Total Respondents	29	100%



Appendix B

Alcoholic Beverage Control Board Law Enforcement Survey Results (Continued)

5. Do you notify the board when you make an arrest involving an issue under the board's jurisdiction at a licensed location?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes, Always Share Information	14	29%
Only When Board Requests the Information	3	6%
Occasionally the Board Is Sent Copies of Liquor-Related Arrests and Reports	3	6%
No, Never Share Information	7	15%
NA - No Licensed Premises in Jurisdiction	20	42%
No Opinion	1	2%
Total Respondents	48	100%

6. If you share information, which of the following types of information do you share (can choose more than one)?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Underage Drinking	15	12%
Violent Crimes Involving Alcohol	12	9%
After-Hours Sales on a Licensed Premises	16	12%
Sales of Alcohol on Non-Licensed Premises	15	11%
Suspected Gambling on Licensed Premises	12	9%
Suspected Prostitution on Licensed Premises	9	7%
Crimes on Licensed Premises	9	7%
Sales to Intoxicated Persons	16	12%
Other	5	4%
Not Applicable	22	17%
Total Responses	131	100%

Appendix B

Alcoholic Beverage Control Board Law Enforcement Survey Results (Continued)

7. Which of the following statements best describes the level of enforcement of alcohol laws by board investigators in your jurisdiction?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
There Is Too Much Enforcement of Alcohol Laws	0	0%
There Is the Right Amount of Enforcement of Alcohol Laws	17	36%
There Needs to Be more Enforcement of Alcohol Laws	17	35%
There Is No Enforcement of Alcohol Laws	13	27%
No Opinion	1	2%
Total Respondents	48	100%

(Intentionally left blank)

Appendix C

Alcoholic Beverage Control Board Licensee Survey Results

1. If you obtained your first alcoholic beverage license within the past five years, how would you rate the overall licensing experience?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	31	37%
Good	37	44%
Average	14	17%
Poor	2	2%
Total Applicable	84	100%
Not applicable	107	
Total Respondents	191	



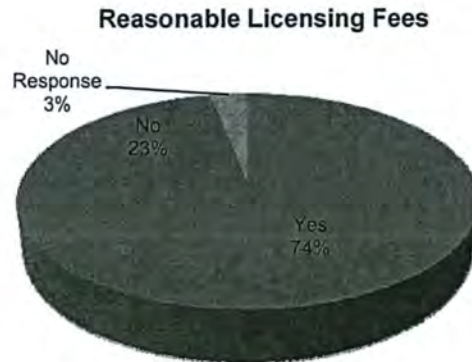
2. For your most recent renewal period, how would you rate your overall renewal experience?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	82	43%
Good	75	39%
Average	15	8%
Poor	7	4%
No Response	12	6%
Total Respondents	191	100%



3. Are the board's licensing fees reasonable?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	141	74%
No	44	23%
No Response	6	3%
Total Respondents	191	100%



Appendix C

**Alcoholic Beverage Control Board
Licensee Survey Results
(Continued)**

4. Are there any licensing requirements that create an unnecessary barrier to establishing a business involving the sale of alcohol?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	29	15%
No	151	79%
No Response	11	6%
Total Respondents	191	100%

Unnecessary Barriers to Entry



Question 5 was only asked for the nine package stores that have access to the local option database.

5. How effective do you believe the local option database is in maintaining purchasing limits?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	0	0%
Good	4	80%
Average	0	0%
Poor	0	0%
No Response	1	20%
Total Respondents	5	100%

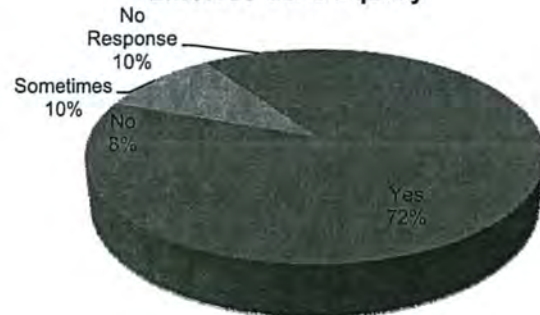
Local Option Database Effective in Maintaining Purchase Limits



6. Do you feel the board enforces the laws and regulations on all licensees equally?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	138	72%
No	16	8%
Sometimes	19	10%
No Response	18	10%
Total Respondents	191	100%

Enforces Laws Equally



Appendix C

Alcoholic Beverage Control Board Licensee Survey Results (Continued)

7. In your opinion, has the board's effectiveness increased, decreased, or remained the same over the last five years?

Responses	Number of Responses	Percentage of Responses
Increased	33	17%
Decreased	7	4%
Remained the Same	135	71%
No Response	16	8%
Total Respondents	191	100%



8. Are you aware of the board stakeholders' group?

Responses	Number of Responses	Percentage of Responses
Yes	19	10%
No	153	82%
No Response	14	8%
Total Respondents	186	100%



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Appendix D

Alcoholic Beverage Control Board Local Governing Bodies Survey Results

1. In the past five years, has your local governing body received a notice of a business in your area applying for an alcoholic beverage license?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	31	56%
No	24	44%
Total Respondents	55	100%

Notice of Business Applying for License



2. If yes, were you given at least 60 days to protest the application?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	28	88%
No	4	12%
Total Applicable	32	100%
Not Applicable	23	
Total Respondents	55	

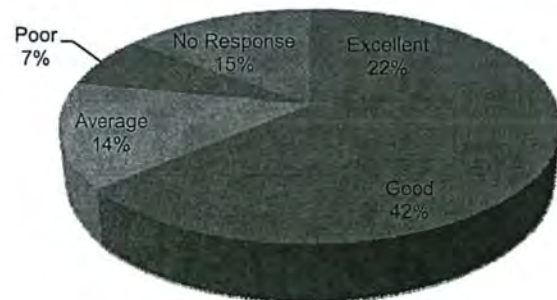
Given 60 Days to Protest



3. How would you rate the board's overall procedures to notify the local government of proposed issuance of new licenses, transfers, relocations, and/or renewals of existing licenses?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	12	22%
Good	23	42%
Average	8	14%
Poor	4	7%
No Response	8	15%
Total Respondents	55	100%

Procedures to Notify the Local Governing Body



Appendix D

Alcoholic Beverage Control Board Local Governing Bodies Survey Results (Continued)

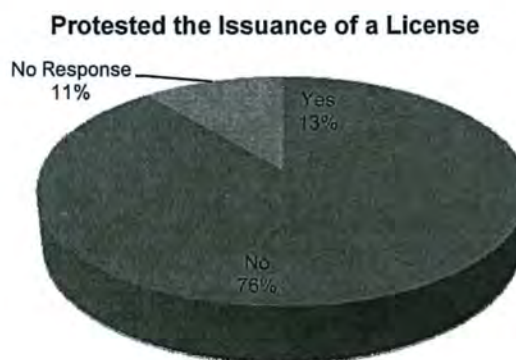
4. To your knowledge, has a business owner in your region received an alcoholic beverage license, before the local governing body was notified?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	2	4%
No	48	87%
No Response	5	9%
Total Respondents	55	100%



5. Since July 1, 2009, has your local government protested the issuance of a new license or the renewal, relocation, or transfer of an existing license?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	7	13%
No	42	76%
No Response	6	11%
Total Respondents	55	100%



Appendix D

Alcoholic Beverage Control Board Local Governing Bodies Survey Results (Continued)

6. If yes, what was the reason for the protest (can choose more than one)?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Delinquent Property Taxes	3	23%
Delinquent Sales Taxes	4	31%
Public Complaints	0	0%
History of Criminal Activity	0	0%
Number of Police Reports	0	0%
Health and/or Safety Concerns	2	15%
Violation(s) of Local Ordinance	1	8%
Zoning Violations	1	8%
Other (please specify):	2	15%
Total Responses	13	100%

7. In the event of a protest, were you notified of the date, time and location of the meeting at which your protest would be considered in a timely manner?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	4	57%
No	3	43%
Total Respondents	7	100%

8. Aside from protests, have you or your organization submitted a complaint to the board in the last 5 years?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	1	2%
No	49	89%
No Response	5	9%
Total Respondents	55	100%

Appendix D

Alcoholic Beverage Control Board Local Governing Bodies Survey Results (Continued)

9. If yes, was your complaint addressed?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	0	0%
No	0	0%
Not Applicable	55	100%
Total Respondents	55	100%

10. Was your complaint addressed in a timely manner?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	0	0%
No	0	0%
Not Applicable	55	100%
Total Respondents	55	100%

11. Alaska Statute 04.11.480(c) allows local governments to recommend that conditions be placed on a specific alcoholic beverage license. Are you aware of this option?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	18	33%
No	25	45%
No Response	12	22%
Total Respondents	55	100%



Appendix D

Alcoholic Beverage Control Board Local Governing Bodies Survey Results (Continued)

12. Has your local government recommended conditions to be placed on a specific alcoholic beverage license?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	2	4%
No	41	74%
No Response	12	22%
Total Respondents	55	100%



13. If yes, were you notified of the date, time, and location of the meeting where your proposed condition(s) would be considered by the board?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	1	50%
No	0	0%
Sometimes	1	50%
Total Applicable	2	100%
Not Applicable	53	
Total Respondents	55	

14. If your community has adopted a local option status, does it permit the importation of alcohol?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	5	38%
No	8	62%
Total Applicable	13	100%
Not Applicable	42	
Total Respondents	55	



Appendix D

Alcoholic Beverage Control Board Local Governing Bodies Survey Results (Continued)

15. Are you aware of the written order database maintained by the board and its purpose?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	6	11%
No	39	71%
No Response	10	18%
Total Respondents	55	100%

Aware of Written Order Database



16. If yes, how would you rate the level of effectiveness of the written order database in maintaining purchasing limits in your community?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	1	16%
Good	4	67%
Average	1	17%
Poor	0	0%
Total Applicable	6	100%
Not Applicable	49	
Total Respondents	55	

Effectiveness of Written Order Database



17. Has a representative of your local government attended a board meeting in the past three years, either in person or by teleconference?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	6	11%
No	37	67%
No Response	12	22%
Total Respondents	55	100%

Attend Board Meetings



Appendix D

**Alcoholic Beverage Control Board
Local Governing Bodies Survey Results
(Continued)**

18. If yes, was there an opportunity for the representative to provide public comment?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	4	100%
No	0	0%
Total Applicable	4	100%
Not Applicable	51	
Total Respondents	55	

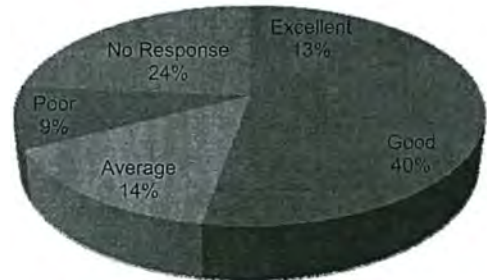
Opportunity for Public Comment



19. How would you rate the board's effectiveness in enforcing alcohol laws in your area?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Excellent	7	13%
Good	22	40%
Average	8	14%
Poor	5	9%
No Response	13	24%
Total Respondents	55	100%

Board Effectiveness in Enforcing Laws



20. In your opinion, does the board duplicate any efforts of the local governing body?

<u>Responses</u>	<u>Number of Responses</u>	<u>Percentage of Responses</u>
Yes	2	3%
No	40	73%
No Response	13	24%
Total Respondents	55	100%

Duplication of Efforts



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THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Commerce, Community,
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800
Juneau, Alaska 99811-0800
Main: 907.465.2500
TDD: 907.465.5437
Fax: 907.465.5442

November 19, 2014

RECEIVED

NOV 20 2014

LEGISLATIVE AUDIT

Kris Curtis, CPA, CISA
Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Re: Committee request for a more detailed corrective action plan, dated October 31, 2014 to Department of Commerce, Community, and Economic Development (DCCED), Alcoholic Beverage Control Board (ABC),

Dear Ms. Curtis:

Thank you for the opportunity to respond and to provide further information on our corrective action plan, our comments are provided below.

Recommendation No. 1

The board's director should ensure that all board meetings are properly published on the State's Online Public Notice System.

The Department concurs with this recommendation. Beginning in 2012, the agency began to immediately publish the date of the next board meeting on the ABC website with a notation indicating "Location to be Determined" the next business day after the announcement of the date. The date for the following meeting having been discussed and scheduled during the prior board meeting, with the Administrative Assistant tasked with establishing the location of the next board meeting within two weeks of the previous meeting. The ABC website is then updated to include the location of the meeting. The Department has taken additional steps to assure that the board meetings are published online in the State's Online Public Notice System at least 30 days in advance of the meeting and in at least one local newspaper at least 14 days in advance of the meeting. In order to monitor and be able to accurately provide maximum notification time the Administrative Assistant is tasked with monitoring Outlook Calendar items which were implemented by the New Director to ensure compliance with Public Notice requirements.

Recommendation No. 2

The board should notify local governing bodies of applications for issuing new and transfer licenses within 10 days of receipt.

The Department concurs with this recommendation. In June, 2014, Sarah Oates was appointed Licensing Supervisor. Ms. Oates began a process of weekly notifications to local governing bodies regarding new applications, assuring that the 10 day deadline is met in every application.

Recommendation No. 3

The board should issue catering permits in accordance with statutory requirements.

The Department concurs with this recommendation. The Department recognizes that the delegation by the board to issue catering permits requires each statutory requirement is checked and met, to assure that catering permits are issued in strict accordance with statute. The agency refined its process of approving catering permits after the February 11, 2014 board meeting when the board addressed the Director regarding the issuance of catering permits. The current process since that meeting requires a business registration examiner to review the permit application for statutory requirements and a second review of the application by the Chief of Enforcement to assure that the named event qualifies for the permit. The permit will not be issued without both reviews.

Recommendation No. 4

The board should issue recreational site licenses in accordance with statutory requirements.

The Department concurs with this recommendation. The ABC Board took public testimony at its July 23, 2013 board meeting regarding recreational site licenses and considered drafting regulations to clarify which types of businesses would qualify for recreational site licenses. The Board then determined that no regulations would be passed and the board directed the agency to return to a strict stator interpretation of AS 4.11.210 for issuing recreational site licenses. Since July of 2013, all recreational site licenses applications have received strict scrutiny from the Director and the board, and the Board Chair has stated his intent that the recreational site license statute be applied as written.

Recommendation No. 5

The board should implement a process to monitor and track all complaints to ensure they are resolved in a timely manner.

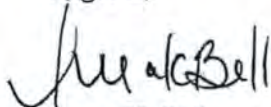
The Department concurs with this recommendation. A spreadsheet was implemented in May, 2014 and is available for all enforcement staff to document complaints, complaint status, and to ensure there has been follow up. The Enforcement Supervisor requires that all enforcement staff track complaints about licensees in this spreadsheet. In October, 2014, the new Director instructed the Licensing Supervisor to create a similar spreadsheet to track complaints about licensing procedures

and decisions. The Licensing Supervisor then instructed licensing staff to keep the spreadsheet updated. The Director created a third spreadsheet to track general complaints and inquiries regarding non-licensing and non-enforcement specific matters in October, 2014. On November 5, 2014, a fourth spreadsheet was created to track complaints and inquiries regarding the marijuana initiative passed during the general election (Proposition 2).

The Department concurs with this recommendation and has taken measures to ensure all complaints are monitored and resolved in a timely manner.

Again, thank you for the opportunity to respond to the five recommendations. If you should have any additional questions, please feel free to contact me at 465-2500.

Regards,



Susan K. Bell
Commissioner

cc: Jeanne Mungle, Administrative Services Director
Cynthia Franklin, ABC Board Executive Director

(Intentionally left blank)

Robert Klein, Chair
Alcoholic Beverage Control Board
6560 Lakeway Drive,
Anchorage, AK 99502

November 18, 2014

Kris Curtis, CPA, CISA
Legislative Auditor
Legislative Budget and Audit Committee
Alaska State Legislature
PO Box 113300
Juneau, AK 99811-3300

RECEIVED
NOV 21 2014
LEGISLATIVE AUDIT

Dear Kris,

Thank you for the opportunity to respond to the recommendations contained in the 2014 Audit Report of the Alcoholic Beverage Control Board. The responses below are the result of conferring with members of the Board and with Staff.

Recommendation 1

The board's director should ensure that all board meetings are properly published on the State's Online Public Notice System.

The Board agrees with this recommendation and has reviewed the changes made by the Director and Staff to the timing and manner in which meeting notices are published. The Board establishes the date and city of the next meeting at the close of each Board Meeting. Within 2 weeks Staff has selected a site and that information is on our website. We have added the additional steps to insure that, at least 30 days prior to our Meeting, notice appears in the State's Online Public Notice System.

Recommendation 2

The board should notify local governing bodies of applications for new and transfer licenses within 10 days of receipt.

The Board agrees with this recommendation and has reviewed the changes made by the Director and Staff. We discovered that prior staff had been holding notices and sending them out in batches. Procedures have been changed and as of May 2014 notices are sent within the 10 day deadline.

Recommendation 3

The board should issue catering permits in accordance with statutory requirements.

The Board agrees with this recommendation. At our February 11, 2014 Board Meeting, the Board reviewed the process by which catering permits were being issued. This is a delegated function, where the Director and staff act in behalf of the Board. The Board gave the Director clear instructions and definitions to guide the issuance of the permits. The current process has both the Director and the Chief of Enforcement reviewing each permit request to assure compliance.

Recommendation 4

The board should issue recreational site licenses in accordance with statutory requirements.

The Board agrees with this recommendation. The Board had been relying on advice from Attorneys' General as to the latitude that could be used in granting recreational site licenses. On July 23, 2013, the Board devoted a portion of the meeting to the use and issuance of these licenses. After taking public testimony and a healthy debate, the Board decided to return to strict adherence to the Title IV definition of the rec site license. The Board now carefully reviews each application and issues only those licenses which adhere to the statute.

Recommendation 5

The board should implement a process to monitor and track all complaints to ensure that they are resolved in a timely manner.

The Board agrees with this recommendation. Staff has implemented a series of spreadsheets to record and track complaints. Each section of the department is recording complaints and responses in it's area, so we now have spreadsheets for Enforcement complaints, licensing procedures and decisions, general complaints and inquiries, and, most recently, inquiries and complaints regarding marijuana. The

Director will periodically review these with the Chair, and trends or items requiring Board review will be added to the Board Meeting Agenda.

We'd like to take this opportunity to thank you and your staff for the efforts in performing our audit. Their thoroughness and professionalism, as well as their constructive suggestions are all greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Klein', with a long horizontal flourish extending to the right.

Robert Klein

Board Chair