

HB

87

<TARGET><BILL>HB 87</BILL><SUBJECT>HB
87</SUBJECT><COMM>HFSH30</COMM></TARGET>

Alaska State Legislature

Leadership
Majority Whip

Chair
Fisheries Committee
Transportation Committee

Member
Rules Committee
Labor and Commerce Committee
Legislative Council



REPRESENTATIVE LOUISE STUTES

District 32

Kodiak-Cordova-Yakutat

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House Bill 87 - "An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."

Sponsor Statement

House Bill 87 changes the manner that the Board of Fisheries and Board of Game function. It allows members to deliberate on subjects for which they have a declared personal or financial interest according to AS 39.52, the Ethics Act.

Title 39 prohibits a member from "taking or withholding official action in order to affect a matter in which the member has a personal or financial interest." (AS 39.52.120(b)(4)). "Official action" is defined under the Act to mean "advice, participation, or assistance, including for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction by a public officer." (AS 39.52.960(14)).

Currently, Board members are required to divulge a conflict of interest if they or their families are involved in the subject being deliberated on. The conflicted member can then no longer offer their input on the process and cannot vote on the matter at hand. This bill allows the conflicted member to offer remarks and input, but the member still cannot vote on the issue. The member is also precluded from voting on whether they have a conflict of interest. Allowing members with expertise in particular fields to deliberate will help the Board make more informed decisions and lead to stronger fisheries management statewide.

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Currently, Board members are required to divulge a conflict of interest if they, or their families, are involved in the subject being deliberated on. The conflicted member can then no longer offer their input on the process and cannot vote on the matter at hand. This bill allows the conflicted member to offer remarks and input, but the member still cannot vote on the issue. The member is also precluded from voting on whether they have a conflict of interest. Allowing members with expertise in particular fields to deliberate will help the Boards make more informed decisions and lead to stronger resource management statewide.

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House Bill 87 - "An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."

Summary of Changes - Version A to Version R

Section 1. (g)

Eliminates reference to AS 16.05 (Fish and Game Code), AS 16.40.261 (Salt water sport fishing operator license), AS 16.40.271 (Salt water sport fishing guide license, combined guide/operator license), AS 16.43 (Regulation of Entry into Alaska Commercial Fisheries) and 08.54 (Big Game Guides and Related Occupations).

Changes the word "conflict" to "personal or financial interest" (as defined in AS 39.52.960).

Defines, for the purposes of this act, what an immediate family member is. This definition differs from the definition in 39.52.960, which also includes grandparents, aunts/uncles, parents or siblings of a person's spouse.

Sec. 2 is deleted

Sec. 3 is deleted

Sec. 4 is deleted

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 87
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB087-DFG-BBS-01-31-2017
Title: CONFLICT OF INTEREST: BD FISHERIES/GAME
Sponsor: STUTES
Requester: (H) FSH

Department: Department of Fish and Game
Appropriation: Statewide Support Services
Allocation: Boards of Fisheries and Game
OMB Component Number: 2048

Expenditures/Revenues

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

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) 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:

Not applicable, initial version.

Prepared By: <u>Glenn Haight, Executive Director</u>	Phone: (907)465-6095
Division: <u>Boards Support Section</u>	Date: 02/03/2017 05:00 PM
Approved By: <u>Carol Petraborg, Director</u>	Date: 02/03/17
Agency: <u>Division of Administrative Services</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB 87

Analysis

This bill would change the method by which the Board of Game and Board of Fisheries members ethics determinations are made. While it may change how much time a board will spend on the "ethics disclosure" portion of a board meeting, it is indeterminable whether that time will increase or decrease. Much will depend on the meeting, the member's background, and subjects before the board. In either case, it is not expected to require more board meeting days to accomodate this change. Therefore, a zero fiscal note is submitted.

AMENDMENT

#1

OFFERED IN THE HOUSE

BY REPRESENTATIVE CHENAULT

TO: CSHB 87(), Draft Version "U"

1 Page 1, line 1, following "Act":

2 Insert "**relating to meetings of the Board of Fisheries; and**"

3

4 Page 1, following line 3:

5 Insert a new bill section to read:

6 **"* Section 1.** AS 16.05.251 is amended by adding a new subsection to read:

7 (j) The board shall meet on a five-year cycle to consider regulatory proposals
8 for management of a specific fishery. The board shall rotate the location of a meeting
9 cycle for a specific fishery under this subsection between at least three different
10 communities with populations of 4,000 or more within the applicable fishery."

11

12 Page 1, line 4:

13 Delete "**Section 1**"

14 Insert "**Sec. 2**"

AMENDMENT

#2

OFFERED IN THE HOUSE

BY REPRESENTATIVE STUTES

TO: CSHB 87(), Draft Version "U"

- 1 Page 2, line 6:
- 2 Delete "substantial"

AMENDMENT

#3

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN

TO: CSHB 87(), Draft Version "U"

1 Page 1, line 12, following "subsection,":

2 Insert "(1)"

3

4 Page 1, line 13:

5 Delete "(1)"

6 Insert "(A)"

7

8 Page 1, line 14:

9 Delete "(2)"

10 Insert "(B)"

11

12 Page 2, line 2:

13 Delete "(3)"

14 Insert "(C)"

15

16 Page 2, line 4:

17 Delete "(A)"

18 Insert "(i)"

19

20 Page 2, line 5:

21 Delete "(B)"

22 Insert "(ii)"

23

1 Page 2, line 6:

2 Delete "(C)"

3 Insert "(iii)"

4 Following "member":

5 Insert ";

6 (2) "personal or financial interest" does not include the involvement of
7 a member, or an immediate family member of a member, in personal use fishing, as
8 defined in AS 16.05.940"

#4

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN

TO: CSHB 87(), Draft Version "U"

- 1 Page 1, line 5:
- 2 Delete "personal or"

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DFG and BOF/BOG - Brief History

In 1949, the Territorial Legislature created the Alaska Territorial Fishery Service in an attempt to influence federal management practices that had decimated salmon populations in Alaska. The Territorial Fishery Service had no authority, but they commented on federal regulations, conducted research, and tried to influence the federal managers.

In 1957, in anticipation of statehood, the Territorial legislature expanded and renamed the Alaska Fishery Service to the Alaska Department of Fish and Game.

The first state legislature (January 1959 - March 1960) created the Board of Fish and Game and the fish and game advisory committees system. The Board of Fish and Game consisted of *nine* citizens appointed by the Governor and confirmed by a majority vote of the legislature. In spring 1975, the legislature separated the Board of Fish and Game into separate Boards, which continues today.

(Source: <http://www.adfg.alaska.gov/index.cfm?adfg=about.history>)

About the Boards

The Alaska Board of Fisheries and Board of Game each consist of seven members serving three-year terms. Members are appointed by the governor and confirmed by the legislature. Members are appointed on the basis of interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, with a view to providing diversity of interest and points of view in the membership (see Alaska Statute 16.05.221).

The Board of Fisheries' main role is to conserve and develop the fishery resources of the state. This involves setting seasons, bag limits, methods and means for the state's subsistence, commercial, sport, guided sport, and personal use fisheries, and it also involves setting policy and direction for the management of the state's fishery resources. The board is charged with making allocative decisions, and the department is responsible for management based on those decisions.

The Board of Game's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed seasons, areas for taking game, setting bag limits, and regulating methods and means. The board is also involved with setting policy and direction for the management of the state's wildlife resources. The board is charged with making allocative decisions, and the Department of Fish and Game is responsible for management based on those decisions.

The boards have a three-year meeting cycle, the meetings generally occur from October through March. The boards meet four to six times per year in communities around the state to consider proposed changes to regulations around the state. The boards use the biological and socioeconomic information provided by the Alaska Department of Fish and Game, public comment received from people inside and outside of the state, and guidance from the Alaska Department of Public Safety and Alaska Department of Law when creating regulations that are sound and enforceable.

Source: <http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.main>

Board Process

Board of Fisheries

The Board of Fisheries is the state's regulatory authority that passes regulations to conserve and develop Alaska's fisheries resources. The Board of Fisheries is charged with making allocative and regulatory decisions. The board has seven members, each appointed by the governor for a three year term. Each member must be confirmed by a joint session of the state legislature.

Board of Game

The Board of Game is the state's regulatory authority that passes regulations to conserve and develop Alaska's wildlife resources. The Board of Game is charged with making allocative and regulatory decisions. The board has seven members, each appointed by the governor for a three year term. Each member must be confirmed by a joint session of the state legislature.

Commissioner

The commissioner is the principal executive for the Alaska Department of Fish and Game; responsible for the protection, management, conservation, and restoration of Alaska's fish and game resources.

Joint Board

The Joint Board of Fisheries and Game set the regulations for advisory committee guidelines. These include the establishment of advisory committees, setting the number of seats by community if more than one community is represented on the committee, and setting the guidelines for uniform rules of operation. The composition of advisory committees can be changed by the Joint Board after they receive a proposal and meet to act on the proposal.

Advisory Committees

Advisory committees are the local groups authorized by state law to provide recommendations to the boards on fishing and wildlife issues. There are 84 committees throughout the state each with expertise in a particular local area. Meetings are always open to the public and are generally attended by department staff and members of the public who can offer background information on agenda topics. Advisory Committees are intended to provide a local forum on fish and wildlife issues, and are critical policy bodies to the boards.

(Source: <http://www.adfg.alaska.gov/index.cfm?adfg=process.main>)

Session	Bill #	Sponsor	Proposed Change
'09-10	<u>HB41</u>	Seaton/Wilson	Required determinations be made on conflicts, however, the board member would be allowed to deliberate but not vote. The range of familial conflicts was reduced to those living, financial dependent, or in business with the board member.
'07-08	<u>HB15</u>	Seaton	Essentially the same as HB41. This bill passed the House, but gained no traction in the Senate.
'05-06	<u>HB241</u>	Wilson	See HB542 below.
'03-04	<u>SB69</u>	Wagoner	See HB542 below. Passed the Senate and went through House Fisheries before stopping in Resources.
'01-02	<u>HB284</u>	Scalzi	See HB542 below.
'97-98	<u>HB27</u>	Austerman	See HB542 below.
'95-96	<u>HB542</u>	House Commerce & Regional Affairs (Austerman)	A bill born out of committee. Essentially removed Board of Fisheries members from the Ethics Act conflicts and allowed them to fully participate after disclosing conflict. This is what was used for HB241, SB69, and HB284, and H27. It passed the House.

**Background Information on the
Alaska Boards of Game and Fisheries
Ethics Act Process**

Regarding Consideration of HB 87

**Prepared for the
Alaska Legislature, Representative Stutes**

April 10, 2017



Prepared by

**Glenn Haight
Board of Fisheries Executive Director
Boards Support Section
Alaska Department of Fish and Game
465-4110
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Introduction

Compliance with the Executive Branch Ethics Act (AS 39.52) is taken very seriously by the Boards of Game and Fisheries. Board members follow the legal guidelines in the Ethics Act and 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 a matter before the board, he or she must refrain from voting, deliberating, or otherwise participating in the matter.

Procedures

There are several procedures followed by the boards to help insure these guidelines are met. AS 39.52.120(c) specifically calls on members of the Boards of Game and Fisheries to disclose personal or financial interests in a business or organization relating to fish or game resources in the manner set out in AS 39.52.220. AS 39.52.220 provides the necessary steps board or commission members must take to declare potential violations as provided in AS 39.52.110 - 39.52.190. If found to have a significant personal or financial interest in a matter, the member is not allowed to vote, deliberate, or otherwise participate in the matter.

In practice, board members review regulatory proposals in advance of a meeting to determine if they may have a potential personal or financial interest. If a potential interest in a matter is noted, the board member is highly encouraged, and most often does, consult with the board chair and the Department of Law prior to the meeting concerning the member's participation in the matter.

At the beginning of each regulatory meeting, the board chair (who is the designated ethics supervisor for the board) calls on each member to present their ethics disclosure statement. The one-page *Ethics Disclosure* guide sheet (attached as Page 5) is used as the outline for these disclosures. Board members describe their income sources, list any personal or financial interests they or their immediate family members have in fishing or game related matters, and identify any personal or financial interest they or their immediate family members may have in the proposals to be considered at the meeting.

The chair 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 chair issues a ruling on the member's eligibility to participate on specific proposals.

Upon an objection by a member, a determination by the chair as to a member's ability to participate in a matter can be overruled by a vote of the board. When there is a vote to overrule the chair's ruling, the involved member does not vote.

If it is determined that a violation of the Ethic Act will occur if board member participates in a matter, that member does not deliberate or vote on the matter, although the involved board member may still testify on the matter orally or in writing as a member of the public. The Board of Fisheries also allows a member who is prohibited from participating in a matter to participate in committee discussion of the matter.

Pattern since 2005

The Boards of Game and Fisheries have different outcomes related to recusals due to potential violations of the Ethics Act. Both boards address different geographic areas of the state on a three-year cycle, acting on between 150-400 proposals annually. The Board of Fisheries on average finds recusals on 11 percent of its proposals, while the Board of Game is much less at 2 percent. Table 1 provides an annual look at proposals and recusals patterns for each board and the Joint Board.¹

Board			
Meeting Cycle Year	Proposals	Board Member Recusals	% of Proposals Recused
Fisheries			
2005/2006	266	63	24%
2006/2007	277	53	19%
2007/2008	430	1	0%
2008/2009	415	90	22%
2009/2010	208	24	12%
2010/2011	395	19	5%
2011/2012	394	40	10%
2012/2013	266	40	15%
2013/2014	412	14	3%
2014/2015	308	55	18%
2015/2016	251	10	4%
2016/2017	295	13	4%
Total	3917	422	11%
Game			
2005/2006	103	1	1%
2006/2007	432	0	0%
2007/2008	272	1	0%
2008/2009	305	2	1%
2009/2010	227	6	3%
2010/2011	315	6	2%
2011/2012	279	22	8%
2012/2013	195	3	2%
2013/2014	186	7	4%
2014/2015	219	6	3%
2015/2016	143	3	2%
2016/2017	203	5	2%
Total	2879	62	2%
Joint			
2007/2008	76	1	1%
2013/2014	41	1	2%
Total	117	2	2%

¹ The Joint Board is a combination of the Boards of Fisheries and Game. It meets infrequently to design the advisory committee system, make determinations on subsistence areas, and define the board's regulatory process.

The frequency of conflicts varies year to year as a function of board composition and geographic focus. Conflicts are typically found when a board member or their immediate family members have a significant economic or personal interest in a fishery, such as when those persons fish commercially or as a sport fish guide in an area covered in a board meeting. For the Board of Fisheries, the recusal rate can vary from lower than 3 percent to in excess of 20 percent.

Impacts from HB 87

House Bill 87 would result in two changes in how the boards approach conflicts of interests.

First, the definition of “immediate family member” would be narrowed for certain purposes (see chart), shifting from the definition applied to the Executive Branch under AS 39.52.960(11), to a definition very similar to the Legislative Branch under 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. The new definition of “immediate family member” would apply to the new subsection (g) of AS 39.52.120. Even under HB 87, there may be situations where the expanded definition of “immediate family member” under AS 39.52.960(11) would still apply. If the intent of the bill is to have the new, narrower definition of “immediate family member” apply to Ethics Act determinations for members of the Boards of Fisheries and Game, the language in the bill could be amended to make that clear.

Comparison of “family” definitions in Current Statute and HB 87

	AS 39.52.960(11) (Executive Branch)	HB 87
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 notwithstanding other provisions of the Ethics Act, each board member would be allowed to deliberate on every proposal. The bill would not change the restriction on a board member voting on a proposal or issue if that would result in a violation of the Ethics Act. The bill only applies to board member personal or financial interests that “arise directly” from involvement of a member in a business or organization relating to fish or game resources; the bill appears not to affect such interests that arise indirectly.

While speculative, it is possible the number of recusals might be half of what it is today. The lion's share of recusals from the Board of Fisheries since 2013 are related to familial relationships that based on available information would not have led to recusals under HB 87.

Clarification is needed to determine if HB87 –

- Is meant to apply to board member personal or financial interests that arise indirectly (as opposed to “directly”) from involvement of a member in a business or organization relating to fish or game resources;
- If the new definition of “immediate family member” is meant to be the operative definition for any ethics determination made by the board members;
- Would still require board members to follow the procedure outlined in AS 39.52.220 when providing their disclosures.

We also note that the language in HB 87 is somewhat in conflict in that the bill refers to a “personal or financial interest in a matter arising directly from involvement of ... an immediate family member of a member of either board,” even though “personal interest” and “financial interest” are defined terms that incorporate the existing and expanded definition of “immediate family member.”

(This instruction is provided to board members.)

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.

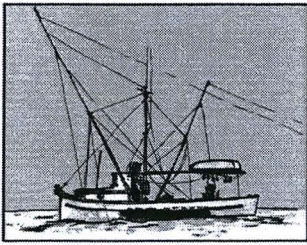
For the following questions, “member of your family” includes spouse, conjugal cohabitant, child (including step-child and adopted child), parent, sibling, grandparent, aunt, uncle, and spouse’s parent and sibling.

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 Trollers Association

130 Seward #205
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(907) 586-9400 ph
ata@gci.net

February 6, 2017

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

Dear Representative Stutes and Committee Members:

The **Alaska Trollers Association supports HB 87**, which seeks to allow Board of Fisheries (BOF) members to act on all matters before the Board, so long as they divulge their personal or financial interests and no significant conflict exists. In the event a majority of the other BOF members determine there is a conflict, the bill would still allow the BOF member to deliberate, but not vote.

Allowing BOF members to share information about the issues they know best is a crucial part of the lay board process and should be permitted. In years past, BOF members fully participated in all discussions and nearly all votes. Board members used a recusal process similar to the North Pacific Fishery Management Council and were rarely found to have a true conflict that would be expected to compromise their vote. Individuals sometimes abstained from voting voluntarily.

When the state's ethics rules were tightened, the BOF modified its process to the point that extremely capable Board members are sometimes restricted from voting - or even speaking - on the very issues they are most knowledgeable about. The BOF chairman is the ultimate arbiter and some have denied voting privileges on a proposal simply because another member's brother or aunt participated in the fishery, whether or not their financial interests were intertwined. ATA believes this is damaging to the decision-making process and acts as a deterrent for well-qualified people to volunteer their time and energy to this regulatory body. Why serve on such a board if you aren't allowed to share knowledge and perspective on that which you are most familiar? And why invest sole responsibility in the BOF chairman to rule on when and how another member can participate?

The BOF considers hundreds of proposals each year and individuals are confronted with only a handful of initiatives that directly impact their own fishery; most of which would have little to no effect on the value of their personal operation. For example, over 1,000 trollers land fish each year, so a BOF member who happens to troll would share the benefit (or penalty) of any action with about 999 other permit holders and their deckhands. Obviously our fleet is quite large, but most Alaska fisheries involve hundreds of participants and the impact of any BOF action is still spread amongst many people. In those rare cases where this isn't true, allowing all of the other BOF members to determine the level of conflict will help ensure an ethical voting process, while still allowing the board and public to benefit from the member's expertise.

The strength of the BOF is directly related to the caliber of its members and the quality of science, law, and policy that underpin its actions. **Providing a recusal process; narrowing conflict of interest criteria to a board member and his/her immediate family and only when there is financial reliance; allowing members to participate in all deliberations; and, permitting them to vote in all but the most extraordinary cases just makes good sense.**

ATA believes the voting mandate that serves the state legislature also serves its regulatory boards. An exceptional group of fishermen have served on the BOF over the years. When they are fully enabled to act, the resource, industry, and communities can benefit from their collective knowledge. **We encourage you to vote in support of HB 87 – let all members of the Board of Fisheries speak to the issues and vote!**

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

Sincerely,

A handwritten signature in cursive script that reads "Dale Kelley".

Dale Kelley
Executive Director



SEAFOOD PRODUCERS COOPERATIVE

PRODUCERS, PROCESSORS & MARKETERS OF PREMIUM QUALITY SEAFOODS

13 February, 2017

SPC support for CS HB87:

Representative Stutes, Chair
House Fisheries
Alaska House of Representatives
State Capitol (mail stop 3100)
Juneau, Alaska 99801-1182

Dear Representative Stutes and Committee Members:

Seafood Producers Cooperative is the longest existing and largest North American fisherman-owned company. Our 500 Alaskan commercial fishermen owners, families, and employees extend our appreciation and gratitude to you for sponsoring House Bill 87. We thank all the House Fisheries Committee members for the effort you have devoted to gathering public testimony and processing this important legislation. Finding knowledgeable, capable, and willing Alaskans with economic connection to our fisheries to serve on the State Board of Fish has been a decades' long challenge. Application of the ethics code and conflict of interest procedures should be consistent and inclusive of all Board members in proposal deliberation.

This bill succinctly clarifies exclusions from Board votes on proposals where members have direct financial conflict. CS HB87, unshackles the participation of the Board of Fish members who have extensive knowledge of the fisheries and their economic, social, cultural and scientific management principles. Currently these members are prohibited from deliberating or writing on proposals because of familial economic fishery connections.

We thank you and encourage your support for this sensible and essential legislation.

Sincerely,

Joseph E. Morelli
CEO & President
Seafood Producers Cooperative

cc: Richard Davis
westbank47@yahoo.com



Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

Juneau, AK 99801

Phone: 907-586-6652

Email: seafa@gci.net

Fax: 907-523-1168

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

February 8, 2017

House Fisheries Committee
Representative Stutes, Chair
Alaska State Legislature
Juneau, AK 99811

RE: SUPPORT HB 87 (version O) Board of Fish Conflict of Interest

Dear Committee Members,

Southeast Alaska Fishermen's Alliance (SEAFA) strongly supports HB 87 which allows Board of Fish (BOF) and Board of Game members to deliberate on regulatory proposals but not vote. Our testimony will focus on the Board of Fish aspect of this legislation. This is the most critical piece of legislation that can be passed to help strengthen the Board of Fish process as a transparent public process. The strength of the Board process is that it is a lay board with members having a variety of knowledge and different backgrounds. **When board members aren't allowed to use their knowledge to inform the process and educate fellow board members it discourages highly qualified individuals from submitting their name for the board.**

Currently at the beginning of the meeting, a Board member declares and discloses any possible conflicts. For those proposals, the Board member does not serve on the committee hearing the proposal, and the Board member must leave the table when the proposal is discussed, deliberated and voted on. Before the board even discussed the proposal, the meeting is actually stopped so the Board member can walk to the public portion of the meeting room, like sending a kindergarten kid to the corner of the room when they get in trouble. Often the Board member in conflict is the only board member with an understanding of the issue being discussed. **A Board of Fish member is vetted by the Governor's office and the Legislature before being confirmed, we should have some trust in that process.**

If the board is reminded when a proposal is first introduced that a member has a conflict, the remaining board members will view any information provided during deliberations with a lens of

understanding that the Board member has a financial conflict and may be affected by the outcome of the proposal similar to the current process at the State Legislature.

When I first started attending Board of Fish meetings in 1988, this was the process used and it worked. With the interpretation of the ethics act, this changed and has not been a healthy change for public transparency of the process. With the current conflict of interest process in place, discussions with the board member with the conflict takes place in the background and not in front of the public as it should be because they know they won't be able to share their expertise on the proposal. **Similar to the State Legislature, board member expertise provides crucial and educational information to ensure that those allowed to vote are informed prior to voting.**

Commercial fishermen tend to have more conflicts from proposals than other members involved in the sport or subsistence fisheries. This is probably a combination of more commercial proposals as well as being able to define a financial conflict of interest easily by the fisheries they participate in and hold limited entry permits for. It is important to have fishermen with a variety of backgrounds, gear types and fisheries because fishing and fishing gear can be complicated with small nuances that even the Department of Fish and Game and Enforcement do not always understand.

This legislation also appropriately defines "immediate family member" to those that actually live within the household and related to the board member and not every brother, cousin, or distant in-laws that hold a permit.

It is our opinion that the Board of Fisheries has gone too far to the letter of the law of the Executive Branch Ethics Act and have forgotten that the State wants industry members to participate as is true with the State Legislature. If you look at the majority of Boards and Commissions in the state that are tied to types of licenses, they are exempted from the Executive Branch Ethics Act so that the members involved in the industry are able to fully participate (i.e barbers, teachers, medical professions, professional Guide Board, Marine Pilots etc.). **This Legislation by allowing participation but not voting on a proposal, you have reached a compromise that we believe is within the intent of the ethics act. Please pass HB 87 to provide the Board the benefit of the knowledge of the Board member and a clear and transparent public process.**

SEAFSA is a multi-gear/multi-species membership based commercial fishing association representing our 300+ members involved in the salmon, crab, and shrimp fisheries of Southeast Alaska as well as longline fisheries in SE and the Gulf of Alaska.

Sincerely,

A handwritten signature in black ink that reads "Kathy Hansen" followed by a long horizontal line extending to the right.

Kathy Hansen
Executive Director



SEAFOOD PRODUCERS COOPERATIVE

PRODUCERS, PROCESSORS & MARKETERS OF PREMIUM QUALITY SEAFOODS

13 February, 2017

SPC support for CS HB87:

Representative Stutes, Chair
House Fisheries
Alaska House of Representatives
State Capitol (mail stop 3100)
Juneau, Alaska 99801-1182

Dear Representative Stutes and Committee Members:

Seafood Producers Cooperative is the longest existing and largest North American fisherman-owned company. Our 500 Alaskan commercial fishermen owners, families, and employees extend our appreciation and gratitude to you for sponsoring House Bill 87. We thank all the House Fisheries Committee members for the effort you have devoted to gathering public testimony and processing this important legislation. Finding knowledgeable, capable, and willing Alaskans with economic connection to our fisheries to serve on the State Board of Fish has been a decades' long challenge. Application of the ethics code and conflict of interest procedures should be consistent and inclusive of all Board members in proposal deliberation.

This bill succinctly clarifies exclusions from Board votes on proposals where members have direct financial conflict. CS HB87, unshackles the participation of the Board of Fish members who have extensive knowledge of the fisheries and their economic, social, cultural and scientific management principles. Currently these members are prohibited from deliberating or writing on proposals because of familial economic fishery connections.

We thank you and encourage your support for this sensible and essential legislation.

Sincerely,

Joseph E. Morelli
CEO & President
Seafood Producers Cooperative

cc: Richard Davis
westbank47@yahoo.com

Support HB87
PO Box 232 Petersburg, AK 99833

Petersburg Vessel Owner's Association
(907) 772-9323 email: pvoa@gci.net

February 14, 2017

House Fisheries Committee
Representative Stutes, Chair
Alaska State Legislature
Juneau, AK 99811

RE: Support HB 87 Board of Fish Conflict of Interest

Dear Committee Members,

Petersburg Vessel Owner's Association supports HB87 that would allow Board of Fish and Board of Game members to deliberate on regulatory proposals, but not vote. We will limit our comments to the Board of Fisheries only. Allowing Board members with expertise in a fishery to deliberate, but not vote, helps the entire Board make more informed decisions.

Before the ethics rules were changed, Board of Fish members were allowed to fully participate in discussions and were less often conflicted out of voting. This bill would not change the process entirely back to this manor, since Board members would still not be allowed to vote on proposals that they have personal or financial interests in. However, they would be able to contribute to the discussions on matters they have the most experience in and help educate the remaining voting members.

We support the definition of 'immediate family member' in this bill that includes only those that live with the member, are financially dependent on them, or distant family members with which they are business partners.

It is our understanding that an amendment to this bill is being considered that would change the Board process from a three-year cycle to a five-year cycle. This was also considered during the December 2015 joint Board of Fish and Board of Game work session. **PVOA supported the proposed change in cycle length and asked that Board Members' terms be lengthened to match the cycle.** Understanding all the fisheries, gear types, and users is a great burden for Board of Fish members, especially new ones. PVOA believes terms that match the cycle length would help the Board maintain members with history of the fisheries and process. Allowing all members to deliberate proposals would be a further aid to new Board Members.

We urge you to pass this bill and allow Board Members that are appointed by the Governor and confirmed by Legislature for their expertise to better contribute to the decisions of the Board. Thank you for considering our comments; we believe this change of participation and conflicts of interest will strengthen the Board of Fish process. We would be happy to answer any questions.

Support HB87
PO Box 232 Petersburg, AK 99833

Petersburg Vessel Owner's Association
(907) 772-9323 email: pvoa@gci.net

Petersburg Vessel Owner's Association (PVOA) is composed of over 100 members participating in a wide variety of species and gear type fisheries. An additional 35 businesses supportive to our industry are members. Targeted species include salmon, herring, halibut, sablefish, cod, crab, shrimp, pollock, tuna, geoduck, and sea cucumber.

Respectfully,



Megan O'Neil
Executive Director

APHA Letter of Support 3/13/17

Subject: HB 87

Dear House Resource Committee Members,

I'm writing on behalf of my client the Alaska Professional Hunters Association.

Alaska Professional Hunters Association's (APHA) board of directors met this morning and considered their position on HB 87. The following headings and brief explanations address various aspects of their current position RE: HB 87.

Interest/Standing:

APHA is an association of professional hunting guides who has been active since 1972. APHA's members rely on fair allocation of big game hunting opportunities for their livelihoods. Historically hunting guides have been appointed to the Board of Game. Registered guide Nathan Turner (Nenanna) sits on the Board of Game at this time.

APHA is supportive of clear statutory guidelines that address potential financial conflict where a public service could be used to financially benefit an individual board member or their family.

Board of Game vs. Board of Fish

APHA opposes removing the BOG from HB87 thereby treating the BOG differently than the BOF. Removing the BOG from HB87 will eventually have the result of the courts deciding that the legislature has made a statement of policy to be more restrictive on the BOG than the BOF. The original statutes treated both boards the same, we would like that policy to continue.

Conservation:

APHA is first and foremost interested in the effects of any change to the BOG that would undercut its effectiveness at addressing conservation concerns.

APHA can see a benefit to conservation discussion and record building by allowing a board member to deliberate on a proposal where they have a financial interest. A financial interest often translates into knowledge of the resource in question. Members of the public are asked to be knowledgeable about wildlife as a pre-requisite to appointment to the BOG and the BOF.

APHA is concerned that allowing a board member to vote on a proposal could elevate financial gain as motive or disincentives conservation based restrictions. APHA's concerns are not leveled at hunting guides in particular but generally where financial interests are concerned (transporters, photographers, etc.).

Public Trust:

Clearly public trust in the BOG will be undercut if members with financial conflicts are allowed to vote on proposals. APHA is opposed to measures that undercut the public's trust in vital institutions such as the BOG or BOF.

APHA would suggest that requiring conflicted BOG members to sit through deliberations could enhance the public's trust in the board process. This is suggested based on the public having a chance for a board member to go on the record where their interests are concerned. This will minimize frivolous accusations of improper influence "behind the scenes" by requiring participation in the deliberative process. APHA sees this as the core policy call to be made on HB87 and is supportive of thorough vetting of this matter.

APHA would be opposed to HB87 if it becomes clear that the public's trust will somehow be compromised by allowing conflicted members to deliberate or participate in board discussions.

Interests With Financial Interest- Board of Game

What follows is a short list of some interests that have financial conflicts while sitting on the Board of Game. Hunting guides are merely one user group with specific conflicts.

- Transporters
- Hunting Guides
- Wildlife Photographers
- Outdoor Gear Manufactures
- Trappers
- Sporting Good Store Owners
- Tour Operators
- Private Landowners
- Hunt Planners

Summary:

APHA appreciates the discussion that surrounds HB87. If the committee feels HB87 offers a long-term benefit to resource conservation, while maintaining the public's trust in the board process, we ask that you move it forward in the legislative process.

Thor Stacey

(907) 723 1494

UNITED SOUTHEAST ALASKA GILLNETTERS

Box 2196, Petersburg AK 99833 * (253) 237-3099 * usag.alaska@gmail.com * akgillnet.org

March 16, 2017

Representative Josephson, Co-Chair
Representative Tarr, Co-Chair
House Resources Committee
Alaska State Legislature
Juneau, AK 99801-1182

RE: SUPPORT for HB87: *"An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."*

Dear Representatives Josephson, Tarr and other Committee Members:

United Southeast Alaska Gillnetters represents the interests of 473 permit holders and their families and WE SUPPORT the Fisheries side of this bill (we have no comment regarding the Board of Game).

Specific Board of Fisheries members are appointed by the Governor and confirmed by the Legislature. This is done in part for the diverse knowledge each Member brings to the table. Our state's fisheries are extremely complex. There is no way each Member could know all the intricacies surrounding sport, commercial and subsistence fisheries in each Alaskan region. If put into effect, HB 87 would lift the veil so those with knowledge around the table can speak and share their expertise.

This is long overdue. If you've ever been to a Board of Fisheries meeting you'll understand how difficult it is to watch a knowledgeable Board Member leave the table and be quiet when he could offer a great deal to assist the group in their decision-making process. We support this bill and respectfully ask you to pass it today.

Thank you,



Cynthia Wallesz

Cc: Representative Stutes

March 15, 2017

I have been to many Southeast Board of Fish meetings in the past 20 years, as an Advisory Committee chair and member, a gear group representative, and an interested permit holder.

It is common for a BOF member(s) to be conflicted out because of a strict adherence to conflict of interest, sometimes losing valuable knowledge and expertise and most times an important vote in the process. A prime example of this was at the Southeast BOF fin fish meeting held in Sitka two years ago. Two Board members were conflicted out and one was excused. That left four members. A majority is needed to pass a proposal which would could not happen especially on controversial proposals where a change needs to be made.

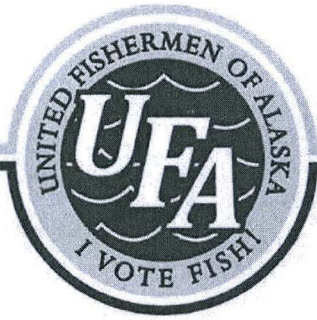
I support HB 87 as a common sense way to help the BOF process work better by narrowing the definition of families in the conflict of interest language.

Sincerely,

John L. Murray, F/V Sea Bear

224 Observatory St Sitka AK 99835

Jmfish3@gmail.com



UNITED FISHERMEN OF ALASKA

Mailing Address: PO Box 20229, Juneau AK 99802-0229

Physical Address: 410 Calhoun Ave Ste 101, Juneau AK 99801

Phone: (907) 586-2820 **Fax:** (907) 463-2545

Email: ufa@ufafish.org **Website:** www.ufafish.org

March 2, 2017

Representative Andy Josephson, Co-Chair
Representative Geran Tarr, Co-Chair
House Resources Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

RE: Support for CSHB 87 regarding Board of Fisheries Conflict of Interest

Dear Co-Chairman Josephson and Tarr, and Committee Members,

United Fishermen of Alaska (UFA) is the statewide commercial fishing trade association, representing 34 commercial fishing organizations participating in fisheries throughout the state, and the federal fisheries off Alaska's coast.

UFA supports CSHB 87 to address Board of Fisheries conflict of interest.

We support the bill's changes to the definition of family members to be considered in potential conflicts of interest. In current practice, a conflict of interest is considered as an economic or financial conflict on the basis of commercial fishing permit ownership in the extended family including brothers, parents, children, aunts, uncles, grandparent, and spouse's parent and siblings, regardless of any financial linkage, or dependency on the board member¹.

The far reaching extension to family members outside of any real financial conflict of interest is unreasonable and unnecessary, and has been unfairly used to effectively reduce the Board from the intended seven members to six or less. The resulting imbalance of board actions affects the commercial sector most often since other sectors are rarely found to have a conflict of interest.

According to sec. 16.05.221, Board of Fisheries members are appointed by the Governor **"on the basis of interest in public affairs, good judgement, knowledge, and 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."** The current practice is preventing valuable input from board members in many cases of extended family with commercial fishing involvement where no real conflict of interest exists. In addition, members deemed to have a conflict are even required to remove themselves

¹ Background Information on the Alaska Board of Fisheries Conflict of Interest Disclosures, February 5, 2009, Document submitted for HB 41 in 2009 Legislature:
http://www.legis.state.ak.us/basis/get_documents.asp?session=26&docid=5022)

from the seat at the board table; in fact the board process is stopped until the board member is in the public section of the room. This eliminates the input from board members that often have the most experience and knowledge of the topic, which is counterproductive and contrary to the basis for the member's service to the board.

UFA supports refining the conflict to family members for whom there is real conflict of interest, and urges passage of CSHB 87.

Sincerely,



Jerry McCune
President



Mark Vinsel
Executive Administrator

Dear Representatives Stutes and Ortiz;

I want to express my support for HB 87, CONFLICT OF INTEREST: BD FISHERIES/GAME. I believe this action is long overdue.

As a retired biologist with the Alaska Department of Fish and Game with over 30-years' experience, I participated in many meetings of the Alaska BOF. As such, I was witness to a few times (actually not that many during my tenure with the Dept.) when BOF members, who were particularly knowledgeable about proposals that were before the BOF were not allowed to even sit at the dais during deliberations, let alone discuss or vote on the issues. In a few of those cases, the BOF members who were allowed to vote were not as fully informed as they should have been and made decisions that, in my opinion, were wrong. If the conflicted BOF member(s) had been allowed to discuss the issues the votes may have been different. I also find it very frustrating when BOF members are conflicted out of the majority of proposals due to conflicts of interests. Specifically, in the case of John Jensen of Petersburg, he has often been conflicted out of the majority of commercial fishing proposals because he has family members who commercial fish and may (or maybe not) be affected by the decisions of the BOF. Mr. Jensen is from a large family of commercial fishermen that extends back many decades and he is extremely knowledgeable on virtually all Southeast Alaska commercial (and sport) fisheries. While, maybe he shouldn't be allowed to vote, by not allowing him to participate in the discussions, the BOF is often relegated to making decisions with less information than they should have. This is not good for either the resource or commercial fisheries and fishermen.

Thank you for introducing HB 87. If I can be of assistance as this bill moves through the Legislator, please don't hesitate to contact me.

Sincerely,

Brian Lynch

Petersburg, AK 99833



Cordova District Fishermen United
PO Box 939 | 509 First Street | Cordova, AK 99574
phone. (907) 424 3447 | fax. (907) 424 3430
web. www.cdfu.org

February 13, 2017

Chair Louise Stutes
House Fisheries Committee
Alaska State Legislature
State Capitol Room 406
Juneau, AK 99801

Dear Chair Stutes and Members of the House Fisheries Committee,

Cordova District Fishermen United (CDFU) appreciates this opportunity to express our organizations support for House Bill 87 – an Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date.

CDFU is a non-profit membership organization representing over 900 commercial fishing families who participate in commercial fisheries in Alaska's Area E, which includes Prince William Sound, the Copper River region and the northern-central Gulf. It is our mission to preserve, promote and perpetuate the commercial fishing industry in Area E and to further promote safety at sea, legislation, conservation, management and general welfare for the mutual benefit of all our members.

The commercial fishermen of Area E have a strong and historic relationship with the Alaska State Legislature and State of Alaska Departments that we foster with great care, proactive communications and representation. CDFU would like to formally state our strong support for HB 87 and the added measure of flexibility that this policy change would provide to members of the Board of Fisheries and the important processes that this Board engages in and the critical decisions that are made through this forum.

In years past, it has been difficult to gain the full knowledge or experience that Board of Fisheries members espouse due to the ethical limitations placed upon the Board. Although ethical limitations are important, it is imperative that the Board be able to share their input and expertise freely with the public and with other decision makers. Here amongst the fleet members of Area E, there are many leaders who are lifelong Alaskans with decades of invaluable experience, and yet, they would be conflicted out of serving on the Board of Fisheries. This dilemma does a disservice to the important work of the Board of Fisheries which is why we stand behind HB 87.



Cordova District Fishermen United
PO Box 939 | 509 First Street | Cordova, AK 99574
phone. (907) 424 3447 | fax. (907) 424 3430
web. www.cdfu.org

Additionally, we appreciate the clarification of deliberation proceedings. We believe that this added flexibility will only incentivize knowledgeable and credible leaders to serve in this capacity in the years to come, and will promote a culture of bipartisanship and full consideration at the Board level and beyond.

Thank you, Chair Stutes and Committee, for lending full consideration to the positions of CDFU. We are hopeful that HB 87 will receive your full support and will advance to positive discussions on the floor. Please do not hesitate to reach out to CDFU for comment, support, or with any questions.

Sincerely,

Jerry McCune
President of the Board, CDFU

Rachel Kallander
Executive Director, CDFU

CC:

Representative Fansler
Representative Kreiss-Tomkins
Representative Tarr
Representative Chenault
Representative Eastman
Representative Neuman



unapologetically **FOR ALASKAN RESIDENTS**

PO Box 60095, Fairbanks, Alaska 99706 (907) 371-7436
email info@residenthuntersofalaska.org web www.residenthuntersofalaska.org

February 13, 2017

To: House Special Committee on Fisheries

Re: HB 87 – Conflict of Interest: Boards of Fisheries & Game

Dear Chair Stutes and members of the House Fisheries Committee,

Resident Hunters of Alaska (RHAK) has concerns about HB 87, particularly in the realm of unintended consequences that could allow for Board of Fisheries and Board of Game members to not disclose personal or financial interests in matters before the boards, and/or to hold leadership and/or voting positions on organizations trying to influence the boards, while at the same time holding a seat on the Board of Fisheries or Game.

HB 87 ver. U as written adds a new subsection to AS 39.52.120 of the Alaska Executive Branch Ethics Act that begins with the wording:

"Notwithstanding any other provision of this chapter...."

That means it would supersede the requirement in 39.52.120 (c) that states: *"In addition to other provisions of this section, a public officer who is a member of the Board of Fisheries or the Board of Game may not act on a matter before the board if the public officer has not disclosed in the manner set out in AS 39.52.220 all personal or financial interests in a business or organization relating to fish or game resources."*

And it would also supersede the disclosure requirement in AS 39.52.220 that states: *"(a) A member of a board or commission who is involved in a matter that may result in a violation of AS 39.52.110 - 39.52.190 shall disclose the matter on the public record and in writing to the designated supervisor and to the attorney general. The supervisor shall determine whether the member's involvement violates AS 39.52.110 - 39.52.190 and shall provide a copy of the written determination to the board or commission member and to the attorney general. If a member of the board or commission objects to the ruling of the supervisor, or if the supervisor discloses an involvement requiring a determination, the members present at a meeting, excluding the involved member, shall vote on the matter. If the supervisor or a majority of the members voting determine that a violation will exist if the member continues to participate, the member shall refrain from voting, deliberating, or participating in the matter."*

We believe the basic rationale of HB 87 centers on the Board of Fisheries where we have many instances of a Board of Fisheries member who may be a commercial fisherman or have ties to the commercial fishing industry, having to recuse himself or herself from deliberating and voting on matters where that person fishes because of personal and/or financial interests in that fishery.

Part of this legislation re-defines what an "immediate family member" is and we have no issues with that re-definition.

The other part of this legislation begs the question: What better board member to at least deliberate and discuss a proposal that directly addresses the fishery he or she is involved with and knowledgeable about, yet they still can't vote because of those personal and/or financial ties?

However, as we mentioned previously, the way this bill is worded does far more than just allowing a Board of Fisheries or Board of Game member to deliberate on a proposal he or she may have a personal and/or financial interest in. This bill would allow a Board member to not fully disclose any personal or financial interests or ties. This bill would allow a Board member to sit in a leadership and voting position on an organization that seeks to influence the Boards – which should never be allowed – and also allow that member to not disclose that conflict.

RHAK **opposes** this bill as written. There will always be conflicts of interest for certain members of the Boards of Fisheries and Game. However, those conflicts are much more prevalent on the Board of Fisheries and we believe this legislation should be amended to only cover the Board of Fisheries.

Our recommendation is to redefine what is "immediate family," and reword the bill so that certain members of the Board of Fisheries who have a personal and/or financial interest in a proposal before the Board still must announce that conflict, yet they are still allowed to deliberate but not vote.

That seems to be the intent of this bill. Do not override the other aspects of the Executive Branch Ethics Act that require Board members to notify of a conflict of interest, or allow Board members to be in leadership positions of other organizations trying to influence the Board while serving on the Board of Fisheries.

Sincerely,
Mark Richards
Executive Director Resident Hunters of Alaska (RHAK)
info@residenthuntersofalaska.org



Wednesday, March 22, 2017

Senator Kevin Meyer, Chair
Senate State Affairs
State Capitol
Juneau, AK 99801-1182

RE: Oppose CSHB 87 regarding Board of Fisheries Conflict of Interest

Dear Chair Meyer and Committee Members,

Kenai River Sportfishing Association (KRSA) is a membership-based, charitable non-profit, fishery conservation organization dedicated to preserving the greatest fishing river in the world – the Kenai – through program work in habitat protection, fisheries management, research, and angler education.

The association supports sustainable and balanced management of Upper Cook Inlet (UCI) sport, personal use, subsistence, and commercial salmon fisheries based on sound science and verifiable studies. Toward this end, KRSA funds scientific research, seeks independent peer review of fishery management practices and proposals by scientific experts, and participates in public involvement processes for fish conservation and fishery regulation conducted by the Alaska Department of Fish and Game (ADF&G) and the Alaska Board of Fisheries (BOF).

CSHB 87 deals with both the Alaska Board of Game and the Alaska Board of Fisheries – the comments following are focused on the Alaska BOF.

The Alaska BOF is one of the most open, transparent and public processes for the conservation, management and allocation of public fisheries resources anywhere in the world. Proposals can be submitted by anyone in the world, regarding any fishery resource conservation, management, or allocation issue, for any species, in any region of the state. The opportunity to provide public comment is considerable – proposals are due each spring for the next regulatory cycle, advisory committees across the state review every and all proposals and provide comment where appropriate, ADF&G and the public review and provide comment on every proposal, ADF&G reports on the existing data for just about every proposal, and at the BOF meetings the public is provided three minutes to comment on any proposal, and encourage to participate in the board committee process that seeks out any and all new information not provided for in the prior public process. Once this exhaustive public process is complete, then the BOF members begin deliberation and voting on all proposals under consideration, typically accomplished committee by committee. Even then, members of the public are afforded the opportunity to provide RCs (record copy) during the meeting and deliberation process.

CSHB 87 seeks to allow BOF members with a verified conflict of interest to participate in the board deliberation but not vote, where a conflict exists. Adoption of this public policy would be bad for numerous reasons.

First, weakening the conflict of interest provision for the BOF dilutes trust in the public process. BOF members are chosen to represent all user groups and the best interest of the state on every proposal under consideration. Making an exception to this basic tenet when there is a clear conflict of interest undermines trust in the regulatory process. If conflicts of interest are allowed in the BOF deliberation process, it's logical to question whether a decision was made in the best interests of the state or in the best interest of an individual. It calls into question the very rationale of having a conflict of interest policy.

Second, nothing in current policy prevents a current BOF member from participating in the public process as an individual at any level prior to board deliberation and voting. A BOF member who is recused on a proposal may participate as a member of the public, either by submitting a proposal, providing written or oral comment, or providing new information through the committee process. I have seen BOF members who were conflicted out on a specific proposal take advantage of this opportunity and testify to the BOF as a member of the public.

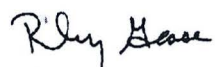
Third, board deliberations are an important stage of public policy – it is the place where board members can cajole each other on a specific proposal, ask clarifying questions from the department, offer their personal perspectives on an issue – but more importantly it builds the administrative record for the decision on whether a proposal is passed by the BOF. The board deliberation process is what gets examined in the court of law if a decision by the BOF is challenged legally in court.

If passed, CSHB 87 opens to judicial challenge any proposal passed where a BOF member could deliberate with a clear conflict of interest on a proposal. Regardless of whether a conflicted board member votes on a proposal, the question now becomes did the BOF pass a proposal after deliberation because of the conflicted interest of a fellow board member, or despite it? Opening BOF decisions to that new layer of judicial challenge does not bode well for trust in this regulatory process.

Finally, even BOF members, when discussing this issue at their last meeting, were confused as to how this would be implemented if passed. Would a member with a conflict, during deliberations, be able to put forth substitute or amended language? Be a second for motions during deliberations, but just not the final vote? Be just a technical fishery reference, like others such as legal or public safety advisors, or be able to argue on behalf of allocative intent of a proposal, for their own pocketbook?

Please keep the BOF deliberation and voting process free from conflicts of interest. We urge you to vote against CSHB 87. Thank you for your time and consideration on this issue.

Respectfully,



Ricky Gease, KRSA Executive Director