

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8059 HOUSE RESOURCES

324



Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

Telephone: (907) 246-3421
Fax: (907) 246-6602



March 23, 1993

The Honorable Carl E. Moses
Alaska House of Representatives
Alaska State Legislature
Capitol Building, Room 204
Juneau, Alaska 99801-1182

RE: Lake and Peninsula Borough/State Land Selection

Dear Representative Moses:

I appreciated very much your recent telephone call and your willingness to take the time to discuss some of the issues facing the Lake and Peninsula Borough. We continue to be optimistic about the possibility of EDA funding for the Egegik Dock, and appreciate whatever you may be able to do to help assure some state funding for the project.

As I think I mentioned to you, the Borough is presently preparing its first comprehensive plan. One segment of the plan deals with the selection of state lands pursuant to the Alaska Statutes, Title 29, Chapter 65. Although AS 29.65.030 provides for the determination of entitlement for newly incorporated municipalities, it is our understanding that we may be able to receive our land entitlement under an amendment to AS 29.65.010. Accordingly, I have prepared and enclosed a bill for possible introduction to the Legislature that would amend AS 29.65.010 by adding an entitlement to the Lake and Peninsula Borough of 187,000 acres.

The Borough Planning Commission and Assembly have spent many hours reviewing land status maps, and have identified the lands that the Borough would like to have considered for selection. Very little land within the Borough is presently classified as Vacant, Unappropriated, and Unreserved (VUU). We have been encouraged by the director of the Division of State Lands, however, to identify those state lands that the Borough would like to select, regardless of status, and request re-classification.

Land parcels totaling 187,000 acres have been identified for possible selection. In order to pursue the selection process, the Borough needs to either have the Legislature provide for an entitlement under AS 29.65.010 or determine

RON
SWANSON
762-2692

The Honorable Carl E. Moses
March 23, 1993
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an entitlement under the formula set out in AS 29.65.030. The formula in AS 29.65.030 is very restrictive, and does not provide for a selection considered to be adequate by the Borough Planning Commission and Assembly. We understand that Representative Eileen Maclean is sponsoring a bill to amend AS 29.65.030, and that her amendment would provide for a more liberal entitlement. We have not seen the bill, but we would certainly support such an amendment.

Nevertheless, if it is possible, we would prefer to use the more direct approach to determining the Lake and Peninsula Borough's entitlement, and simply amend AS 29.65.010. Would you be willing to sponsor such a bill? It would probably be appropriate to ask Representative Nicholia to co-sponsor the bill, but we will wait to hear back from you before we approach her. Would it also be advisable to ask Senators Jacko and Lincoln to introduce an identical bill in the Senate?

I look forward to discussing this matter with you or your staff once you have had a chance to review it. Thank you for the North Pole satellite photos. We have distributed them as you requested.

Sincerely,



Glen K. Vernon
Borough Manager

Enclosure



Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

Telephone: (907) 246-3421
Fax: (907) 246-6602



March 22, 1994

The Honorable Bill Williams, Chairman
House Resources Committee
House of Representatives
State Capitol, Room 128
Juneau, Alaska 99801-1182

RE: HB 259

Dear Chairman Williams:

This letter is in response to the March 4, 1994 correspondence from the Anchorage Fish and Game Advisory Committee. In short, the Lake and Peninsula Borough (LPB) strongly disagrees with a series of points made by the group. They include:

1. The lands LPB has identified through its planning process are not binding on DNR nor LPB. The Borough still needs to go through the process of selecting lands within DNR guidelines, including an extensive public hearing process. HB 259 only identifies an amount of land, not actual locations.
2. The letter is incorrect in its assertion that certain villages have successfully overturned the election that ratified the Borough boundaries. In fact, the villages are appealing the court decision because it is unfavorable to them. Even if the villages prevail in their appeal (which is very unlikely), a designated amount of acreage for the LPB would not necessarily affect lands in the disputed area.
3. The general statement that lands conveyed to local governments somehow threaten habitat and general public use is absurd. Resource management powers are still retained with lands transferred to a local government. Land conveyances to local governments often contain restrictions such as easements and rights-of-way. The LPB is at least as interested in protecting habitat and providing public access as the State.
4. The argument that land is only protected in state government is not only incorrect, but it reflects a short-sighted policy that does not promote economic development or growth.


The Honorable Bill Williams

March 22, 1994

Page Two

The LPB seeks a positive and cooperative relationship with the State on this issue, and has been pleased by the cooperative and understanding attitude exhibited by DNR and ADF&G staff. However, we consider the correspondence from the Anchorage Fish and Game Advisory Committee to be both uninformed and misleading. We appreciate the opportunity to express our concerns in this regard.

Sincerely,



Glen K. Vernon
Borough Manager

cc: Senator George Jacko
Representative Carl Moses
Lamar Cotten

Cross references. — For statement of purpose of 1978 Act that enacted the provisions from which this chapter derived, see § 1, ch 180, SLA 1978 in the Temporary and Special Acts.

Sec. 29.65.010. Determination of entitlement of boroughs and unified municipalities. (a) The general grant land entitlement of each of the municipalities in this subsection is the amount set out opposite each:

- (1) Municipality of Anchorage — 44,893 acres;
- (2) City and Borough of Juneau — 19,584 acres;
- (3) City and Borough of Sitka — 10,500 acres;
- (4) Bristol Bay Borough — 2,398 acres;
- (5) Fairbanks North Star Borough — 112,000 acres;
- (6) Haines Borough — 2,800 acres;
- (7) Kenai Peninsula Borough — 155,780 acres;
- (8) Ketchikan Gateway Borough — 11,593 acres;
- (9) Kodiak Island Borough — 56,500 acres;
- (10) Matanuska-Susitna Borough — 355,210 acres;
- (11) North Slope Borough — 89,850 acres.

(b) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am § 12 ch 34 SLA 1987)

Sec. 29.65.020. Determination of entitlement for cities. (a) The general grant land entitlement of a city formerly eligible to receive general grant land under the provisions of former AS 29.18.190 and 29.18.200 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land in the boundaries of each city at any time between the initial date of eligibility under former AS 29.18.190 and 29.18.200 and January 1, 1988. Within six months after January 1, 1988, the director shall determine the entitlement for each city eligible to receive general grant land under this section and certify that entitlement to the city.

(b) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am §§ 1, 12 ch 34 SLA 1987)

Sec. 29.65.030. Determination of entitlement for newly incorporated municipalities. (a) The general grant land entitlement of a municipality incorporated after July 1, 1978, that does not qualify for an entitlement under AS 29.65.010 or 29.65.020 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date.

(b) Within two years and six months after the date of incorporation of the municipality, the director shall determine the entitlement of

each municipality eligible to receive general grant land under (a) of this section and certify the entitlement to the municipality. However, the governing body of a city may, by resolution, request the director to certify the entitlement to the city on an expeditious basis. The director shall determine and certify the entitlement within six months after receipt of the resolution.

(c) [Repealed, § 12 ch 34 SLA 1987.] (§ 17 ch 74 SLA 1985; am §§ 2, 3, 12 ch 34 SLA 1987; am §§ 1, 2 ch 51 SLA 1991)

Effect of amendments. — The 1991 amendment, effective June 16, 1991, deleted the last two sentences in subsection (a) and added the last two sentences in subsection (b).

Editor's notes. — Section 11, ch. 34, SLA 1987 provides: "The general grant land entitlement authorized for the Northwest Arctic Borough under AS 29.65.030(a), as amended in sec. 2 of this Act, is a partial entitlement for the borough. After completion of the Northwest Area Plan prepared under AS 38.04.065, the governor shall submit to the legislature recommendations for additional general grant land entitlements for the Northwest Arctic Borough consistent with the general grant land entitlement policy developed by the governor. The governor shall also submit recommendations for additional general grant land entitlements for other newly-formed municipalities

consistent with the general grant land entitlement policy developed by the governor."

Section 9, ch. 51, SLA 1991 provides that, notwithstanding subsection (b), as amended by § 2, ch. 51, SLA 1991, "the director of lands may not certify an entitlement to a municipality until after January 2, 1994. Each entitlement for which certification is delayed under this section shall be certified by the director no later than January 1, 1996. The director shall by January 1, 1996, for each municipality incorporated after June 1, 1986, for which an entitlement was certified before June 16, 1991, redetermine and recertify the entitlement in accordance with AS 29.65.030(a), as amended in § 1, ch. 51, SLA 1991."

Under § 10, ch. 51, SLA 1991, the 1991 amendment to subsection (a) is retroactive to June 2, 1986.

Sec. 29.65.040. Status of entitlements. (a) After July 1, 1978, general grant land entitlements provided in former AS 29.18.201 and 29.18.202 are vested property rights that must be fulfilled as provided in AS 29.65.050 or 29.65.080. After January 1, 1988, general grant land entitlements provided in AS 29.65.010 are vested property rights that must be fulfilled as provided in AS 29.65.050 or 29.65.080.

(b) General grant land entitlements provided by AS 29.65.030 are property rights that vest on the date of incorporation of the municipality. The entitlement shall be fulfilled as provided in AS 29.65.050.

(c) Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under former AS 29.18.201 and 29.18.202 at any time before October 1, 1980. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010 at any time before October 1, 1990. However, if a municipal selection or nomination or a part of a municipal selection or nomination is rejected by the director, the municipality may, not later than 90 days after receipt of the rejection or final decision on an appeal filed under AS 29.65.050(d), select additional state land as necessary to satisfy its entitlement.

Date Referred: March 26, 1993

FURTHER REFERRALS:

Resources
Finance

Date of Committee Action: 2-8-94

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 259

HOUSE BILL NO. 259

GENERAL GRANT LAND ENTITLEMENT

"An Act relating to general grant land entitlements for certain boroughs and unified municipalities; and providing for an effective date."

RECOMMENDATIONS: [] the same title
be replaced with _____ [] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____

zero fiscal note CARH, NR

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Car Brents</i>	✓	<i>Henry Sanders</i>		✓	
<i>Julia D. Tooke</i>	✓	<i>John N. Charles</i>		✓	
		<i>Ed Willis</i>		✓	
		<i>W.K. William</i>		✓	
		<i>Harley Olvera</i>		✓	

Harley Olvera
CHAIRMAN'S SIGNATURE

TCN: 40554 DATE & TIME: 03/23/94 08:15 TO 10:00 STATUS:7 STATS: 14

**** ORDER SUMMARY ****

SPONSOR: HRFS HOUSE RESOURCES CHAIRS: WILLIAMS
PURPOSE: PUB PUBLIC HEARING LEGISLATIVE
CONTACT: MARY McDONELL TEL#: (907)465-3715
CHAIRING SITE: JUNEAU CAPITOL CAP124

SPONSOR REMARKS(PUB): TESTIMONY ALLOWED 3 MINUTE LIMIT
TESTIMONY WILL BE TAKEN WITH A 3 MINUTE LIMIT.
TCN REQUESTED ON 03/23/94 AND HAS 2 UPDATES

**** AGENDA ****

1 HB 259 GENERAL GRANT LAND ENTITLEMENT

**** PARTICIPATING SITES ****

ANC ANCHORAGE 716 W 4TH, #200 LOCATION STAFF
* JRU JUNEAU CAPITOL CAP124 LOCATION STAFF

**** VOLUNTEER & OFFNET SITES ****

ZZZ OFFNET 1 KING SALMON GLEN VERNON (907)246-3421

PARTICIPANTS IN: ANCHORAGE

ANC

1 MR. JEFF PARKER ANC P&G ADVE/COM TSPY, HB 259
1201 HYDER ANCHORAGE AK 99501 (907)272-9377
2 MR. CLIFF EAMES AK STR/ENVIROMEN TSPY, HB 259
519 W 8TH AVE, #201 ANCHORAGE AK 99501 (907)274-3621
3 MR. DAVID HULEN ANC DAILY NEWS OBSV, HB 259
1001 NORTHWAY DR ANCHORAGE AK 99508 (907)000-0000
4 MS. FRAN BENNIS OBSV, HB 259
21407 BOUVER LN CHUGIAK AK 99567 (907)688-7827

PARTICIPANTS IN: JUNEAU

JRU

1 REP B WILLIAMS TSPY, ALL ITEMS
AK (907)000-0000
2 REP C BUNDE TSPY, ALL ITEMS
AK (907)000-0000
3 REP P CARNEY TSPY, ALL ITEMS
AK (907)000-0000
4 REP J GREEN TSPY, ALL ITEMS
AK (907)000-0000
5 REP B HUDSON TSPY, ALL ITEMS
AK (907)000-0000
6 REP J JAMES TSPY, ALL ITEMS
AK (907)000-0000
7 REP D FINKLESTEIN TSPY, ALL ITEMS
AK (907)000-0000
8 REP E HULDER TSPY, ALL ITEMS
AK (907)000-0000
9 REP J DAVIES TSPY, ALL ITEMS
AK (907)000-0000
10 TO OBSERVE OBSV, ALL ITEMS
11 TO OBSERVE OBSV, ALL ITEMS
12 TO OBSERVE OBSV, ALL ITEMS
13 TO OBSERVE OBSV, ALL ITEMS
14 TO OBSERVE OBSV, ALL ITEMS

TCN: 40554 DATE & TIME: 03/23/94 08:15 TO 10:00 STATUS:7 STATS: 14

PARTICIPANTS IN: JUNEAU

JRU

15 TO OBSERVE OBSV, ALL ITEMS
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17 TO OBSERVE OBSV, ALL ITEMS
18 TO OBSERVE OBSV, ALL ITEMS
19 TO OBSERVE OBSV, ALL ITEMS
20 TO TESTIFY TSPY, ALL ITEMS
21 TO TESTIFY TSPY, ALL ITEMS

PARTICIPANTS IN: OFFNET 1

ZZZ OFF1

1 MR. GLEN VERNON TSPY, ALL ITEMS
KING SALMON AK (907)000-0000



HOUSE RESOURCES COMMITTEE

DATE: 3/23/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 259 - General Grant Land Entitlement
 HB 443 - Fish + Wildlife Confidential Records

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Willy Duane ✓	AK Env Lobby	PO Box 22151 Juneau	99802		463-3366	(Y) N	HB 259
Wayne Regelin	Fish & Game	PO Box 25526 Juneau	99801			(Y) N	HB 443
Karen BrAWO	Rep MOSES	Rm 204			3765	(Y) N	HB 259
Ron Swanson	DNR	PO Box 107005	99510		763-2092	(Y) N	HB 259
Frank Rue	ADF&G				405-4105	(Y) N	HB 259
Bob Walsh	DIRA	333 W 4th Ave Anch	99517		269-4500	(Y) N	HB 259
HAMAR COTTEN		Lake & PER. BOU			5861292	(Y) N	HB 259
		P.O. 103733 Anchorage	99510			Y N	
						Y N	
						Y N	
						Y N	

HB

260

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 26, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/7/93

The RESOURCES Committee considered:

HB 260

HOUSE BILL NO. 260

CHILKAT BALD EAGLE PRESERVE ADV. COUNCIL

"An Act relating to the membership of the Alaska Chilkat Bald Eagle Preserve Advisory Council."

RECOMMENDATIONS:

be replaced with _____ the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note DNR 4/6/93

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Paul Hudson</i>	<input checked="" type="checkbox"/>				
<i>(G.M. King)</i>	<input checked="" type="checkbox"/>				
<i>Joseph...</i>	<input checked="" type="checkbox"/>				
<i>Robert N. ...</i>	<input checked="" type="checkbox"/>				
<i>...</i>	<input checked="" type="checkbox"/>				
<i>...</i>	<input checked="" type="checkbox"/>				
<i>Don Bunde</i>	<input checked="" type="checkbox"/>				
<i>W.F. Williams</i>	<input checked="" type="checkbox"/>				

W.F. Williams
 CHAIRMAN'S SIGNATURE

Alaska State Legislature

REPRESENTATIVE
JERRY TACKIE



ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-4925

PO. BOX 795
CRAIG, ALASKA 99921
(907) 926-3008 OFFICE
(907) 826-2930 HOME

House of Representatives

SPONSOR STATEMENT

HB 260

I introduced HB 260 at the request of several residents of Haines. The bill would add one more member to the existing 12 member Alaska Chilkat Bald Eagle Preserve Advisory Council. The new member, appointed by the Governor, would be representative of landowners who have private property located within the preserve.

The Alaska Chilkat Bald Eagle Preserve was established in 1982 in order to manage and protect a unique concentration of our nation's symbol, the bald eagle. The area is renowned for the largest known gathering of bald eagles in North America.

An advisory council was also established at that time to assist the Department of Fish and Game and the Department of Natural Resources in the management of the preserve. The council is comprised in part of business, conservation, cultural, and fish and game interests local to the area. Also represented on the council are local government officials and state and federal government resource managers.

At the very beginning, the legislature recognized the concerns of citizens with land holdings located within the preserve. Rights of access and prohibition of eminent domain takings were some of the protections included in the enabling legislation to address these concerns. This group however was not directly represented on the advisory council.

HB 260 would allow inholders direct participation and involvement in the planning decisions of the Chilkat Bald Eagle Preserve. The increased representation on the advisory council would bring an added perspective from those citizens whose lands are necessarily affected by the management of the preserve.

FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

BILL NO. HB 260

Revision Date 4/8/93 Department Affected: Natural Resources
 Title: Memberships of the AK Chilkat Bald Eagle BRU: Parks and Recreation Management
Preserve Advisory Council Components: Parks Management
 Sponsor: Rep. Jerry Mackie
 Requestor: House Resources and Finance Component Serial No. 452

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) Impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

All meetings of the Advisory Council are held in Haines, and no additional expenses will be incurred if one more member were appointed from the local community.

Prepared by: William W. Garry/Neil Johannsen Phone: 4563/762-2800
 Division: Parks and Outdoor Recreation Date: 4/8/93
 Approved by Commissioner: Glenn A. Olds Date: 4/6/93
 Agency: Department of Natural Resources



Via Fax

April 2, 1993

Jerry Mackie, Representative
Room 602, Court
State Capitol
Juneau, AK 99801-1182

Dear Jerry,

Will you introduce the legislation House Bill No. 260 in the appropriate places and time periods.

The HB260 amends the 41.21.625, the current 12 members of the Advisory Council to 13. The 13th member shall be a individual property owner - not Mental Health or University of Alaska.

Presently, there is no one representing these individuals who own property within the Eagle Preserve. An affirmative vote on this amendment will insure two things:

- (1) Inholders' opportunity to represent themselves to protect their rights, such as access, tradition and customary uses as well as
- (2) providing an opportunity to participate in the management of the preserve with good detail knowledge of land and wildlife habits.

This certainly will enrich our management resource pool of making appropriate decisions on the bald eagle critical habitat.

Thank You

Ed Warren

Ed Warren

Sr. V.P. Klukwan, Inc.

EW:cr

cc: Klukwan, Inc. Board Members
Alaska Chilkat Bald Eagle Advisory Council
Inholders

KLUKWAN, INC.

P.O. BOX 1389 · HAINES, ALASKA 99827 · (907) 766-2211

WALTER J. HICKEL
GOVERNOR



P. O. Box 110201
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 11, 1993

*The Honorable Ramona Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Barnes:

In accordance with AS 39.05.080 and Article III, Sections 25 and 26, of the Alaska Constitution, I submit the following name for legislative confirmation of appointment to the position noted:

Big Game Commercial Services Board

Scott Ogan - Palmer

Appointed 03/09/92 Expires 06/30/93

RES

The resume for this appointment has been submitted to the offices of the Senate Secretary and the House Clerk.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

R E S U M E'

HCO4-9248
Palmer, AK 99645

Wm. Scott Ogan
(907) 745-3300

EDUCATION Graduated Seacrest High School, Delray Beach, Florida 1970
Southern Bell Telephone, cable splicing, cable repair school, 1970
Private Pilot ground school and training completed, 1982
Wildland Fire Fighting training, State of Alaska 1986
Structure Fire Fighting training- Butte Volunteer Fire Dept., 1989

OTHER QUALIFICATIONS Private Pilot -Owned and operated Citabria (1982-1989) throughout
Alaska. Day and night rated. 500 hrs. Alaska time. Bush
operations.
Marine - Currently constructing 26' wooden inboard double-end Dory

WORK HISTORY

1976-Present **MOUNTAIN WOODCRAFTERS:** HCO4-9248 Palmer, AK 99645
Own, manage and operate. Management Skills - Project Mgmt.,
Project Supervision, contract negotiation, bidding, contract
administration, problem solving skills, budget planning and
monitoring, expediting, statewide logistic planning, and sub-
contractor coordination. Also interviewing, hiring, firing
disciplining employees, employee performance reviews, training
employees and employee motivation. Blueprint reading and
drafting. General office skills including accounts payable
and receivable, routine correspondence and typing.
Construction Skills - Commercial and residential cabinetry
fabrication and installation. Plastic laminate fab and instal-
lation, rough and finish carpentry, light commercial construction
and remodeling, sheetrock, capping, tilesetting, painting, staining,
stain matching, residential plumbing and AC-DC wiring.
Equipment Skills - Backhoe (60 hrs.), Caterpillar (100 hrs.),
13 speed heavy trucks, forklift operations.

1986 - 1989 **WOLVERINE VOLUNTEER FIRE DEPARTMENT:** Founder and chief.
Incident command system training and implementation, structure
fire-fighting, wildland fire-fighting, Self-Contained Breathing
Apparatus (S.C.B.A.) systems, recruitment and training of
volunteers, purchase and maintenance of equipment and apparatus.
Grant writing, inter-governmental agency coordination.

1975 - 1976 **ROYAL CREST CONSTRUCTION:** Anchorage, AK. Carpenter, laborer.
Assisted construction trades. Detailed new houses before sales.

1974 - 1975 **AMPEX CORPORATION:** Colorado Springs, Colorado. Assembled
professional video tape machines and instant replay machines, read
schematics, assembled complex computerized electro mechanical
pneumatic machines from bare frame to testlab. Trouble-shot
sub-assembly problems.

1970 - 1974 **SOUTHERN BELL TELEPHONE:** Boca Raton, Florida. Cable splicer,
cable repairman, new construction, spliced underground, buried
and aerial telephone cable to 2700 pairs. Performed splicing
operations in working cables, trouble-shot telephone cable
systems from Central office to field terminals. Blueprint and
schematic reading. Operated test equipment, worked in field
without supervision.

R E S U M E'

HCO4-9248
Palmer, AK 99645

Wm. Scott Ogan
(907) 745-3300

Continued -

REFERENCES/CLIENTS

References: Bill Eckhart, General Manager
Alaska USA Credit Union
4000 Credit Union Drive
Anchorage, AK
563-4567

Gordon Thompson, Architect
711 'M' Street
Anchorage, AK
279-2554

Ron Thomas, C.P.A. Legal Admin.
Hellen, Partnow & Condon, Attorneys
510 'L' Street
Anchorage, AK
276-2713

Al Strawn, General Manager
Matanuska Valley Federal
Credit Union
1020 S. Bailey
Palmer, AK 99645
745-4891

Barbra Cash A.S.I.D.
Interior Space Design
3111 'C' Street, Suite 202
Anchorage, AK 99503
562-7884

Clients: Alyeska Pipeline Service Co.
Mark Air
United Airlines
Western Airlines
Hunt Properties
Anchorage Westward Hilton
Alaska USA Credit Union
Bristol Bay Native Corporation
Matanuska Valley Federal Credit Union
Hellen, Partnow & Condon, Attorneys at Law
Lease Kisse Construction Co.
Boglough Construction
Providence Hospital
Homer Museum
Alpha Construction
Birch, Horton, Bittner, Pastinger & Anderson, Attorneys at Law
Frontier Alaska Credit Union
Jensen, Harris & Roth, Attorneys at Law
Strand Construction
Jermain, Dunnagan & Owens, Attorneys at Law

April 6, 1993

Ed Warren,

If Sen. Bill 796 was adopted we were promised that we would have a rep. from within the preserve on the proposed Eagle Preserve board (March, 1982 at the Haines ANB Hall, Haines, AK). Those that guaranteed this, Reed Stoops, Frank Rue representing John Katz Comm. of D.N.R. Al Adams put a fiscal note on 796 until we were granted a Rep., then the borough Mayor Bob Henderson said that he could recommend a place through the Gov. then they would amend 796 so that the people within the Eagle preserve (52,000 acres) would have a voice and policy on their land, now those people who live outside of the preserve (8 mile to 30 mile) make policy for us (taxation without representation). When Mayor Henderson retired and Mayor Shields took his place he recommended a tree hugger (we lost our slot on the board).

It's the same old story, promises, promises, but after the Preserve was passed (Sen. Bill 796), Reed Stoops, Frank Rues and the John Katzs forgot about their promises. We who live within this preserve feel like we're in a concentration camp due to the fact we do not have any voice in our destiny as policy is made in Haines, and the State government.

Hank Jacquot

April 6, 1993

Ed Warren

If Sen Bill 796 was adopted
We were promised that we would
have a rep. from within the preserve
on the proposed Eagle Preserve board (March 1982
at the Haines A.N.S. Hall, Haines, Ak.) Those
that wanted this, Red Stoops, Frank Rice
representing John Katz Comm. of U.N.R.

Al Adams put a fiscal note on 796
until we were granted a rep. then the
borough Mayor ~~Hudson~~ that he could recover
a piece through the Gov. then they would
amend 796 so that the people within the
Eagle preserve (52,000 acres) would have
a voice and policy on their land, now
those people ^{outside} who live outside of the
preserve (8 mile to 30 mile) make policy
for us (taxation without representation)
when Mayor Hudson retired in March, Shultz
took his place he recommended ~~us~~ a tree huggers (we
lost our spot on the board).

Its the same old story promises, promises
but ~~when~~ ^{after} the preserve was passed, (Sen Bill 796)
Red Stoops, Frank Rice and the John Katz
forgot about their promises. We who live
within the preserve feel like were in a
concentration camp due to the fact we do
not have any voice in our destiny.
(As Policy is made in Haines, and the State government)
H. J. J. J.



HOUSE RESOURCES COMMITTEE

DATE: April 7, 1993

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 260 - Chilkat Bald Eagle Preserve
 Committee discussion on Board of Game Appeals
 Confirmation: Scott Ogan to Big Game Comm. Svcs. Bd.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
(3) Bill Garry	State Parks DNR	460 Willoughby - 2nd Fl. Juneau	99801		4563	(Y) N	HB 260
(4) Ed Warren	Klukwan, FWC	P.O. BOX #389 Seward Rd. Haines AK 99827	99827	767-5537 767-2211	766-2211	(Y) N	HB 260
John Brower	Tlingit-Haida Central Council	320 W. Willoughby #300 Juneau, AK 99801	99801	789-0591 555-1332	586-1432	Y (N)	HS 260
(1) W. Scott Ogan		HC04-9248 Palmer AK	99645	745-3300		(Y) N	conf.
(2) Dave Gray	Mackie	Ct. Bldg Rm 602		4925		(Y) N	HB 260
(5) Barbara Blossom	AG	P O Box 110300	99811-0300	3600		(Y) N	Bd of Game
(10) Jerry Lueckhaupt	LNA Legal	130 Seward JWO	99801-2105	2450		(Y) N	" " "
						Y N	
						Y N	
						Y N	
						Y N	

HB

266

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 26, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/7/94

The RESOURCES Committee considered:

HB 266

HOUSE BILL NO. 266

ELIGIBILITY FOR GUIDE-OUTFITTER LICENSE

"An Act relating to guide-outfitter and master guide-outfitter licenses; extending the termination date of the Big Game Commercial Services Board; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 266 (L&C) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Commerce / 1-24-94

SIGNING <u>DO PASS</u>	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<u>Bill Hudson</u> Hudson	<input checked="" type="checkbox"/>	<u>David Ankelstein</u> Ankelstein		<input checked="" type="checkbox"/>	
<u>John Carney</u> Carney	<input type="checkbox"/>				
<u>Green</u> Green	<input type="checkbox"/>				
<u>James</u> James	<input type="checkbox"/>				
<u>David N. Davies</u> Davies	<input checked="" type="checkbox"/>				
<u>Alton Mulder</u> Mulder	<input checked="" type="checkbox"/>				
<u>Car Bunde</u> Bunde	<input checked="" type="checkbox"/>				
<u>W.K. Williams</u> Williams	<input checked="" type="checkbox"/>				

W.K. Williams
CHAIRMAN'S SIGNATURE

REPRESENTATIVE GAIL PHILLIPS
SPONSOR STATEMENT FOR CSHB 266 (L + C)
GUIDE-OUTFITTER AND MASTER GUIDE-OUTFITTER
LICENSES

HOUSE RESOURCES COMMITTEE

FEBRUARY 7, 1994

THIS BILL SEEKS TO ACCOMPLISH THREE THINGS:

- 1. EXTEND THE BIG GAME COMMERCIAL SERVICES BOARD'S STATUTORY AUTHORITY TO JUNE 30, 1997.**
- 2. BROADEN THE STATUTE IN ONE SECTION TO ENABLE COMPLIANCE WITH A COURT DECISION IN COBB VS. STATE**
- 3. RE-ENACT AND DEFINE THE "MASTER GUIDE" LICENSE.**

THIS LEGISLATION IS SUBMITTED ON THE B.G.C.S. BOARD'S BEHALF AS A RESULT OF THEIR WORK AND DELIBERATIONS.

THE FIRST PART OF THIS BILL IS SELF EXPLANATORY. THE BOARD HAS REACHED THE END OF ITS TENURE AND CURRENTLY IS IN ITS SUNSET YEAR WHICH EXPIRES IN JUNE 1994. THIS IMPORTANT BOARD GOVERNS A 100 MILLION DOLLAR A YEAR INDUSTRY. IT RECEIVED HIGH MARKS ON LAST YEAR'S LEGISLATIVE AUDIT REPORT AND ENJOYS TREMENDOUS SUPPORT AND RESPECT STATEWIDE.

THE SECOND SECTION OF THE BILL DELETES LANGUAGE ON CLIENT RECOMMENDATIONS REQUIRED FOR OBTAINING A GUIDE-OUTFITTER LICENSE. THIS PART OF THE CURRENT STATUTE LANGUAGE IS TOO NARROW TO ADEQUATELY AND FAIRLY ADDRESS SOME SITUATIONS THE BOARD HAS COME ACROSS. FOR EXAMPLE, THE LAW STATES THAT AN APPLICANT FOR THIS LICENSE MUST HAVE TWO RECOMMENDATIONS PER YEAR FOR THE MOST RECENT THREE YEARS. IF AN APPLICANT HAD BECOME INCAPACITATED DURING ONE OF THOSE YEARS AND COULD NOT GUIDE, THEY WOULD BE INELIGIBLE REGARDLESS OF THE NUMBER OF CLIENTS THEY HAD GUIDED IN PREVIOUS YEARS.

SINCE THE PREMISE UNDERLYING THE LICENSING CRITERIA IS HISTORICAL EXPERIENCE, THE BOARD WOULD LIKE TO SEE THE MINIMUM NUMBER OF CLIENT RECOMMENDATIONS CHANGED FROM SIX TO EIGHT, AND HAVE THE WHEREWITHAL TO TAILOR THE QUALIFYING YEARS TO FIT THE SITUATION.

30 IN ORDER TO RESPOND TO THESE SITUATIONS IN A TIMELY FASHION, IT IS DESIRABLE TO HAVE A BOARD WITH THE ABILITY TO SET THESE REQUIREMENTS IN REGULATIONS, WHERE THEY CAN BE FINE TUNED MORE QUICKLY THAN HAVING TO GO THROUGH THE LEGISLATIVE PROCESS. THE B.G.C.S. BOARD CHAIRMAN, PAUL JOHNSON, IS HERE TODAY AND CAN ANSWER YOUR SPECIFIC QUESTIONS ON THIS SECTION.

SECTION THREE OF CSHB266 DETAILS THE CHANGES NEEDED TO MAKE THE MASTER GUIDE CLASSIFICATION FAIR AND WORKABLE. STATUTES ENACTED IN 1989, GRANDFATHERED IN SOME MASTER GUIDE LICENSES WITHOUT PROVISIONS TO ACCOMMODATE FUTURE QUALIFIED CANDIDATES. WHILE THE STATE RECOGNIZES NO SUBSTANTIVE DIFFERENCE BETWEEN THE MASTER GUIDE AND REGULAR GUIDE-OUTFITTER LICENSE, THE ABILITY OF THOSE GRANDFATHERED IN TO ADVERTISE AS MASTER GUIDES IS UNFAIR TO THOSE OF EQUAL EXPERIENCE WHO MAY ONLY ADVERTISE AS GUIDE-OUTFITTERS. THIS BILL LAYS OUT REQUIREMENTS FOR THE MASTER GUIDE LICENSE, INCLUDING PRIMARILY THE MINIMUM NUMBER OF CLIENT RECOMMENDATIONS, AND MINIMUM YEARS OF PARTICIPATION AS A GUIDE-OUTFITTER, WHICH ARE SUBSTANTIALLY ABOVE THOSE REQUIREMENTS FOR A REGULAR GUIDE-OUTFITTER LICENSE.

THE HOUSE LABOR AND COMMERCE COMMITTEE HEARD THIS BILL, AND AMENDED IT TO INCLUDE THE 1997 SUNSET DATE, AND THE NEW LANGUAGE IN SUBSECTION 10 OF SECTION 2. THE BILL WAS PASSED OUT OF THAT COMMITTEE WITH THREE DO PASS, FOUR NO RECOMMENDATION, AND ZERO DO NOT PASS VOTES.

I STRONGLY SUPPORT HOUSE BILL 266. THE CONTINUATION OF THIS BOARD IS VITAL TO THE CONTINUED HEALTH OF OUR BIG GAME RESOURCES, AND THE INDUSTRY IT SERVES.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 266 (L&C)

Revision Date: 1/31/94
 Title: An Act relating to Master-Guide Outfitters and Guide-Outfitters;...
 Sponsor: Rep. Phillips
 Requestor: Rep. Phillips

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

CSHB 266 (L&C) extends the Big Game Commercial Services Board to June 30, 1997, reinstates the Master Guide license category, and clarifies entry requirements for a guide-outfitter license. New funds are not required to implement provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 1/31/94
 Date: 2-3-94

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**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. HB 266

Revision Date: 1/23/94
 Title: An Act relating to Master-Guide Outfitters and Guide-Outfitters;...
 Sponsor: Rep. Phillips
 Requestor: Rep. Phillips

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

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OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS		FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME		0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
 HB 266 extends the Big Game Commercial Services Board to June 30, 1995, reinstates the Master Guide license category, and strengthens entry requirements for a guide-outfitter license. New funds are not required to implement provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 1/22/94
 Approved by Commissioner: Paul Fuhs Date: _____
 Agency: Commerce and Economic Development

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April 15, 1993

The Big Game Commercial Services Board was created by the guide-outfitter legislation of 1989 for the purpose of licensing and regulating the activities of those businesses providing services to big game hunters. These include guides, transporters, and gear and equipment service rental companies.

The value of Alaska's wildlife resources cannot be overstated. A rational utilization of these renewable resources facilitated by commercial entities requires a carefully structured system of regulations. These regulations should ensure high licensing and performance standards. They are necessary to enforce legal and ethical practices which support principles of game conservation. It is essential that we conduct our activities as stewards of the resource and not as unregulated exploiters of it.

It is in the best public interest that the Big Game Commercial Services Board regulate commercial activities related to the taking of game. Without this board, there would be chaos and the depletion of one of Alaska's most important value-added resources.

Joseph R. Klutsch, President
Alaska Professional Hunters
Association

ms 3/22/93

Judi

Jones' Guide & Outfitting
33675 Jones Dr.
Homer, AK 99603

March 11, 1993

Dear Representative Phillips,

Thank you so much for your efforts concerning the licensing of Master Guide/Outfitters and other issues regarding the Guiding industry. Your concern and actions are highly appreciated.

I have reviewed the draft bill on Master Guide/Outfitter licensing that you sent and am very pleased with it as it is written. Hopefully we can get some of these things straightened out. It certainly helps when we have people like yourself representing us in Juneau.

Unfortunately there seems to be a lot of misunderstanding these days about the Guide industry. I think a lot of people have the impression that the guides are a wealthy group of outlaws out there destroying the resource and ripping off the public. Certainly this description could be applied to a few guides, but the vast majority are small time operators, adhering to the game regulations, have a sincere concern for the resource, and work together with the Department of Fish & Game to take care of the resource. Only the outlaws ever make the Headlines, so people never hear about the rest. This adversative attitude sometimes makes it difficult to get laws and regulations passed that are beneficial to the industry. In these times of economic hardships it is certainly in our best interest to lend support to those industries in Alaska that are dependent on renewable resources and have the potential to provide jobs and employment on an ongoing basis. But I had better get down off my soap box for now. Take care and thanks again.

Sincerely Yours,


Cecil R. Jones

LETTER OF SUPPORT

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BIG GAME COMMERCIAL SERVICES
BOARD

October 8, 1993



Audit Control Number:

08-1408-94

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

October 8, 1993

Members of the Legislative Budget
and Audit Committee:

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

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BIG GAME COMMERCIAL SERVICES BOARD

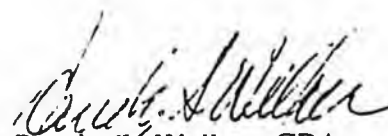
October 8, 1993

Audit Control Number

08-1408-94

The objective of the audit was to determine if the Big Game Commercial Services Board should continue its existence. AS 44.66.010 has scheduled the board for termination on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap-up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature extend the board's termination date to June 30, 1997.

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


Randy S. Welker, CPA
Legislative Auditor

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BIG GAME COMMERCIAL SERVICES
BOARD

October 8, 1993



Audit Control Number:

08-1408-94

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

BUDGET AND AUDIT COMMITTEE

Senator Randy Phillips, Chairman
Senator Al Adams
Senator Steve Frank
Senator Steve Rieger
Senator Bert Sharp
Senator Jay Kerttula (alternate)

Representative Terry Martin, Vice Chair
Representative John Davies
Representative Mark Hanley
Representative Ron Larson
Representative Eileen MacLean
Representative Sean Parnell (alternate)

DIVISION OF LEGISLATIVE AUDIT

Randy S. Welker, CPA
Legislative Auditor
Merle R. Jenson, CPA
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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

October 8, 1993

Members of the Legislative Budget
and Audit Committee:

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

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BIG GAME COMMERCIAL SERVICES BOARD

October 8, 1993

Audit Control Number

08-1408-94

The objective of the audit was to determine if the Big Game Commercial Services Board should continue its existence. AS 44.66.010 has scheduled the board for termination on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap-up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature extend the board's termination date to June 30, 1997.

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

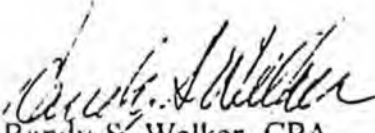

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Big Game Commercial Services Board to determine if it should continue in existence as provided for under terms of the State's "sunset" legislation.

As required by legislative intent, this report is part of the oversight function when they consider if a board or commission should be reestablished. The law currently specifies that the board will terminate on June 30, 1993 and will have one year from that date to conclude its affairs. As of the date of this report, the board is technically in its one-year "wrap-up" period.

Objectives

Our specific audit objectives were:

1. To make recommendations to the legislature regarding the continued existence of the board.
2. To determine if the board is performing in compliance with state statutes and regulations.
3. To determine if the board is performing in the interest of the public.

Scope and Methodology

We focused on activities that have occurred since the board was established on May 12, 1939 to determine if it has been operating in the interest of the public. Also, we reviewed the proceedings of the current board to ensure that they are in compliance with Alaska statutes and regulations.

During the course of our audit, we attended a teleconference meeting of the board which focused on the requests for additional guide use areas under state regulations (12 AAC 38.82^f). During the meeting, we observed the proceedings of the board. We were able to see firsthand how the board operates and interacts with the public.

In order to address our audit objectives, we reviewed the following:

- Applicable sections of Alaska's statutes and regulations.
- Minutes of prior board meetings.
- The director's reading files.

- Investigation and litigation files.
- Office of the Ombudsman closed case file.
- Budget documents, session laws and other legislative information relating to the board's operations.
- Internal reports and documents prepared by the board.
- Other documents as deemed pertinent.
- Financial reports from the state accounting system.
- Prior year audit work papers and audit reports.
- Office of the Governor, Boards and Commissions' files.

In addition, we conducted interviews with the management and staff of the board and Department of Fish and Game employees involved in developing guide-outfitter use areas.

ORGANIZATION AND FUNCTION

In the October 21, 1988 *Owsichuk* decision, the Alaska Supreme Court decided that the statutes and regulations establishing the State's exclusive guide area system were unconstitutional. These statutes and regulations had been used by the Guide Licensing Control Board, and later the Guide Board, as an integral part of their oversight function. The Big Game Commercial Services Board was established in the Department of Commerce and Economic Development in May 1989 by Chapter 37, SLA 1989 [House Bill (HB) 112]. It was the intent of the legislature that the board establish a resource-based management system for allocating big game hunting opportunities among guide-outfitters. The management system was to:

1. Provide for the conservation of the game resources.
2. Provide for equal opportunity to all qualified guide-outfitters when access to hunting rights are assigned or reassigned.
3. Provide financial compensation to the State for the commercial harvest of Alaska's big game resources to be used for game management purposes.
4. Designate the Alaska Department of Fish and Game as the lead agency to formulate management areas.
5. Provide for long-term stability and economic health of any commercial industry utilizing big game resources.
6. Include recommendations from private and public land owners in order to ensure statewide applicability.

The provisions of AS 08.54 define the board's authority, purpose, and scope of work. In addition to establishing the resource-based management system above, the primary functions of the board include the following:

1. Determine qualifications of applicants for guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, and assistant guide-outfitter licenses.
2. Establish performance standards for providers of big game commercial services and regulate the activities of these providers.
3. Compile, maintain, and publish an annual register of big game commercial service providers.
4. Prohibit guide-outfitting, transporting, and other big game commercial services activities that are unsportsmanlike, unethical, unsafe, against principles of game conservation, degrading to the professions, or that adversely affect natural resources.

5. After a hearing, revoke, suspend, or deny renewal of a license or permit.
6. Authorize issuance of transporter licenses and commercial use permits.
7. Establish the level of supervision that a guide-outfitter will provide for class-A assistant guide-outfitters and assistant guide-outfitters.

**BIG GAME COMMERCIAL SERVICES BOARD
OCTOBER 1993**

Glen Alsworth, Transporter
Peter R. Buist, Guide-Outfitter
Richard Burley, Board of Game Representative
 (pending appointment by the Game Board)
Glenn W. Fredricks, Native Land Holder
Robert A. Hinman, Commercial Use Permit Holder
Paul E. Johnson, Guide-outfitter, Chairman
Scott Ogan, Public
Thomas N. Scarborough, Public
Eric C. Stirrup, Transporter

The board consists of nine members (see inset at above right) who, unless otherwise noted, are appointed by the governor and serve at the pleasure of the governor. By statute, the nine member board must be made up of:

1. two licensed guide-outfitters;
2. two transporters (one in the business of air transport);
3. one commercial use permit holder who does not hold any class of guide-outfitter license or a transport license;
4. one member of the Board of Game who is chosen by the Board of Game and does not hold a commercial use permit;
5. one member who represents Native landholders; and
6. two public members.

Members serve staggered four-year terms.

BACKGROUND INFORMATION

As discussed in the Organization and Function section, the *Owsichek* decision handed down in October 1988 by the Alaska Supreme Court struck down the legality of statutes and regulations related to the exclusive guide area (EGA) system. In many respects, the decision was the culminating blow for the State's guiding industry as it then existed and was regulated. The decision was a watershed event that lent even more urgency to the effort to overhaul how the State's hunting guides were regulated.

Owsichek decision was the major, but not the only critical problem facing guide regulators

The EGA system was an integral part of the administrative responsibility of the former Guide Board. The legal demise of EGA came on the heels of other problems and concerns facing guide regulation in general, and the Guide Board in particular, such as:

1. The lack of regulation of air taxi operators, many calling themselves "outfitters," who in the view of many guides were acting as unlicensed competitors.
2. Complaints by individuals that the guide licensing process was too subjective and that obtaining a license or an EGA depended more on "connections with the right people" and subjective evaluation, than objective consideration of relevant experience.
3. The problem that the Division of Fish and Wildlife Protection was having enforcing guiding laws, due to difficulty in defining what constituted unlicensed guiding activity.

Legislature had already established a task force to consider changes in guide regulation

Even before the *Owsichek* decision brought the problems of the industry to a cataclysmic pitch, the legislature was already considering a public policy response. Chapter 160, SLA 1988 established what was termed the Interim Task Force on Guiding and Game, under the jurisdiction of the legislative council. The task force was to examine these various problems and develop a proposed alternative regulatory method. The task force consisted of:

1. the commissioners of the Departments of Fish and Game, Commerce and Economic Development, and Public Safety, (or their designees);
2. two members of the Senate and two members of the House of Representatives; and
3. six other "special interest" members appointed by the governor as follows:
 - a. one member of the Guide Board,
 - b. one big game licensed guide, not a member of the Guide Board;

- c. two persons engaged in a business, other than guiding, that were involved in transporting big game hunters to and from the field (but only one of the two could be an air taxi operator); and
- d. two public members, neither of whom had a financial interest in any business involving or related to the commercial taking of game.

Chapter 10, SLA 1989 extended the task force's termination date to the earlier of January 15, 1990 or the enactment of legislation establishing:

- 1. A licensing system for hunting guides and other providers of big game services to hunters; and
- 2. A management system for allocating rights of access to big game to licensed guides.

The legislation also added two additional members to board: (1) an individual with expertise in research and analysis, and (2) a representative of Native landholders.

Task force recommended creation of Big Game Commercial Services Board

The task force recommended that a new regulatory board be created. It also recommended expanding the regulatory purview of the new board to cover both the guides and outfitters (classifying a singular group as "guide-outfitters") in addition to a group designated as transporters. The House Resources Committee introduced legislation that incorporated much of what the task force recommended.

The legislature allowed for the reestablishment of what was termed "area assignments" which were, to a very limited degree, analogous to the old EGA concept, whereby certain license holders would be permitted to guide in designated geographic areas. But in various intent statements, the legislature directed that the precepts of the *Owsichek* decision be respected in the development of any new guide area system. The intent from the Senate Finance Committee directed, in part, that

it is the intent of the legislature that the Big Game Commercial Services Board, with recommendation from the Task Force on Guiding and Game, . . . shall consider the implications of the Owsichek decision issued by the Alaska Supreme Court . . . when establishing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

Regulations for area assignments started adoption process in January 1992

In January 1992, maps of designated use areas were first developed. The first draft of associated regulations which established how license holders could apply and qualify for areas were finished in July. The BGCSB held public hearings on the proposed regulations in late September 1992, after the new rules had been circulated publicly for more than 60 days. At their September 27, 1992 meeting, the board adopted the regulations, as amended based on public comment. The regulations were forwarded to the Department of Law for legal review in early October and were approved in their final form by the lieutenant governor in late January 1993.

Areas began being assigned by the Division of Occupational Licensing (OL) in July of 1993. As of the date of this report, OL has received 845 applications for area assignments from 330 guides. As of the same date, 720 of the area permits had been granted. As discussed in Recommendation No. 1, we have excluded any analysis of the area assignment process from our sunset review. We feel that there has not been enough experience to assess the fairness and objectivity of the area assignment process. However, we are encouraged by the initial role played by the Department of Fish and Game in establishing relevant game management units that serve as the underlying structure for the area assignments.

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REPORT CONCLUSION

Alaska Statute 44.66.010 requires that the Big Game Commercial Services Board be terminated on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap-up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature extend the board's termination date until June 30, 1997 (see Recommendation No. 1).

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The statutory sunset provision for the Big Game Commercial Services Board should be extended until June 30, 1997.

Under Alaska Statute [AS 08.03.010(c)(5)], the termination date for the Big Game Commercial Services Board (BGCSB) was June 30, 1993. As of the date of this report, the BGCSB is technically in its one-year "wrap-up" period. If no action is taken by the legislature, the BGCSB will be dissolved at June 30, 1994.

We have reviewed the activities of the BGCSB since it was created as the successor to the Guide Board. In our view, the BGCSB is operating in the public's interest. The board, through the licensing and supervision of big game guides is adequately protecting the hunting public. Accordingly, we recommend that the board continue operations through FY 97.

The establishment and allocation of designated guiding areas between licensed guides was still very much in its "start-up" phase at the time of our audit fieldwork. The use, trading, and allocation of previous exclusive guiding areas was the central issue in the 1988 *Owsichek v. State* court decision. The *Owsichek* decision determined that the statutes under which the Guide Board was issuing and designating exclusive guide areas were unconstitutional.

The BGCSB and the Division of Occupational Licensing (OL) has just recently started the allocation and distribution of guide areas (on a non-exclusive basis) using regulations formally adopted in January 1993. Since this critical function is in the "start-up" phase, we suggest extending the board's "sunset" date for three years. By doing so, our agency can better assess and consider the manner the original area allocation process was carried out by OL and the board. At that time there would be two years of actual experience to analyze and consider when we conducted the subsequent BGCSB "sunset" review in the summer or fall of 1996.

Recommendation No. 2

The Department of Commerce and Economic Development (DCED) and OL should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

OL's methodology for determining FY 93 fees allocates costs to a board or occupation in one of two ways. Some costs, termed direct costs by OL, are directly distributed to a specific licensing program. Direct costs include personnel assigned to one specific occupation, travel associated with board business, public notices of board proceedings, and

printing of board applications and statute booklets. Other costs, termed indirect costs, are allocated based upon the percentage of licensees in each occupation compared to the total number of occupational licensees. These costs include the expenditures associated with licensing examiners', investigators', hearing officers', management's, and clerical staff's time.

Effective August 24, 1992, DCED was required to establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for that occupation [AS 08.01.065(c)]. Prior to FY 93, DCED could establish fees that reflected, but did not exceed, the actual costs of the activity for which the fee was charged and could establish a fee at less than full cost if they deemed it unreasonable to impose the full cost of the activity on the licensee.

Our office and OMB have both reviewed OL's cost allocation methodology to determine if it is sufficient to meet the requirements of AS 08.01.065(c). Both our office and OMB do not believe that OL's cost allocation methodology distributes costs reflective of the actual effort spent. The primary disparity involves the classification of licensing examiners', investigators', and hearing officers' time. The manner in which these three categories of employees' cost have been allocated prior to FY 94 can cause occupations with a large number of licensees to absorb costs that are not reflective of the actual effort spent regulating their profession.

In addition to our concerns with OL's cost allocation methodology, we found problems in how they distributed costs in their calculation of a two-year average of expenditures used in determining FY 93 license fees. The percentages applied to allocate indirect costs were not always correct. These inconsistencies were caused by formula errors on spreadsheets prepared by OL staff. Also, documentation supporting some expenditures on the spreadsheets has not been retained. Review of the selected current information available does not confirm these numbers. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distributions of costs.

In their September 1993 report, *Occupational Licensing Fee-Setting Policy Assessment*, OMB made seven recommendations to OL on how to allocate costs so that the intent of AS 08.01.065(c) is met. According to OMB's report, "A follow-up review for this project will be scheduled for March 1994." DCED has recently indicated that, for the determination of the FY 94 fees, they will allocate costs for licensing examiners, investigators, and hearing officers based on estimated time spent by those employees, with periodic adjustments to actual time spent in accordance with our office and OMB's recommendations. As of October 1993, the allocation of direct and indirect costs using FY 93 expenditure data has not been performed.

DCED should continue to work with OMB in establishing fee levels for occupational licensees that are more reflective of actual regulatory cost of the occupation.

Recommendation No. 3

OL should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

Alaska Statute 08.01.050 establishes DCED's administrative duties for professional licensing boards. Alaska Statute 08.01.070 identifies the administrative duties of the boards. Included in the board's responsibilities are the taking of minutes and records of all proceedings, forwarding of a draft of the minutes of proceedings to the department within 20 days after the proceedings, and submission of an annual performance report to the department before the end of the fiscal year. However, we found that OL rather than the Big Game Commercial Services Board performed these duties.

For example, the licensing examiner is responsible for tape recording the board proceedings, recording votes, taking notes, and preparing the minutes. OL also compiles much of the information in the board's annual report. OL has the records needed to determine statistics such as the number of licenses issued and examinations given and passed.

We recommend that OL review the statutes and request changes that reflect actual responsibilities and timelines that are both practical and timely.

Recommendation No. 4

DCED, OL should, in conjunction with the Equal Employment Office, review the licensure application for each professional occupation to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

The guide-outfitter, class-A assistant guide-outfitter, and assistant guide-outfitter applications require the height and weight of the candidate. The Equal Employment Office (EEO) within the Department of Administration, Division of Personnel discourages agencies from asking applicants information on height and weight. If an applicant were denied a license, the board or OL may find it difficult to prove that there was no discrimination involved if this type of information had been provided to the persons reviewing the application for licensure.

The application forms used by OL should be reviewed with EEO to make sure that the height and weight are pertinent to the licensure of guide-outfitter candidates. One of the reasons height and weight were requested was for identification. However, the information has not been used for identification, it is no longer printed on licenses, and it is no longer entered into the licensing data base. If this information is considered necessary for identification or other reasons, it should be separated from the application prior to review of the application for licensure. If the information is not necessary, the request for it should be removed from the application.

Recommendation No. 5

DCED, OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law.

The Alaska Executive Branch Ethics Act (AS 39.52) requires members of boards and commissions to disclose potential violations of that Act to their designated supervisor. The designated supervisor for members of a board is the chair or acting chair of the board. Functionally, OL staff advise the professional licensing boards associated with them as to the reporting necessary for compliance with the Ethics Act, as does the Department of Law (Law). Disclosures by board members are compiled by OL for submission to Law. These reports are required to be submitted on a quarterly basis. Law reviews these submissions and makes available to the public a summary of the reports received with sufficient deletions to prevent disclosure of a person's identity.

These reports have not been submitted in a timely manner. In 1991, no reports were submitted to Law. In 1992, reports were submitted three to six months after the end of the quarter. In 1993, the first two quarters' reports were submitted in July. In addition division personnel have indicated that there is some confusion as to what should be reported. While staff at the Department of Law believe that OL understands what should be reported, written policies and procedures governing the reporting of potential ethical violations would benefit OL as well as board members. There would be clear criteria for OL staff to follow as to what should be reported as well as when it should be reported.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

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

1. The board adopted regulations concerning guide-outfitter qualifications, guide-outfitter operations, professional conduct, transporters, guide-outfitter use areas, and use area registration to insure the public of qualified practitioners. The public is notified about upcoming examinations and meetings and is invited to provide input at board meetings.
2. The board has developed goals and objectives. Some of the goals the board achieved in FY 93 include:
 - a. The board continued to place a strong emphasis on maintaining a consistent discipline program to ensure compliance with the new statutes and regulations.
 - b. With the exception of the assistant guide-outfitter examinations, many board members actively participated in the administration of the registered guide-outfitter written and oral examinations offered in Anchorage.
 - c. The board continued to define current regulations relating to transporters, commercial use permit holders, and guide-outfitters, and worked in conjunction with the Department of Natural Resources and the Department of Fish and Game with the implementation of the guide-outfitter use area registration system.
3. The board has conducted guide-outfitter examinations twice a year, and the exam for class-A assistant guide-outfitters and assistant guide-outfitter 6 times a year.

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.

See the following section.

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

The board has been seeking further definition from the legislature on several issues:

1. **Alaska Statute 08.54.350(a)(10)** requires a guide-outfitter candidate to have

been favorably recommended in writing by six big game hunters, two for each year of the person's most recent three years as a class-A assistant guide-outfitter or assistant guide-outfitter, whose recommendations have been solicited by the board from a list provided by the applicant.

In several cases, an assistant guide-outfitter or class-A assistant guide-outfitter has been injured after working for one client. As a result that year is the most recent year, but there is no way s/he can be licensed as a guide-outfitter until three years later. This is not fair.

Under House Bill 266 eight recommendations will be required, one of which must be for a grizzly hunt and another for a mountain or Dall sheep or mountain goat hunt. Also, the applicant must have spent at least 90 days in the field during three of the last five years.

This will help assure: (1) that the guide is qualified by having been on the type of hunt guide-outfitters are hired for and, (2) eliminate the incompetent but not the unfortunate.

2. House Bill 87 and Senate Bill 52 make amendments to AS.08.54.395 regarding insurance requirements for guide-outfitter, marine mammal guide-outfitters, class-A assistant guide-outfitters, and assistant guide-outfitters.
3. The board also requested legislation relating to commercial users other than guide-outfitters and transporters. This includes people who sell wildlife photos and videos, military bases that use wildlife resources and brokerage firms, and "ecotourism" operators who commercially exploit big game resources without board overview and without compensation to the State. The legislation did not pass.

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 public is invited to attend board meetings. Notices of meetings and examinations are published in at least three major newspapers and a time for public comment is reserved at board meetings.

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

Public notices of proposed regulations are published in major newspapers. Public comment to proposed regulations, both written and oral, are considered at board meetings.

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 the Ombudsman have been processed and resolved.

The Division of Occupational Licensing (OL) receives more complaints regarding the activities of license holders regulated by the Big Game Commercial Services Board (BGCSB) than for any other profession for which the agency is responsible. Since FY 89, OL investigators have opened more than 100 complaint investigations involving guide-outfitters. When added with other guiding-related complaints and those involving assistant guides, guide applicants, and unlicensed guides the total comes to more than 180.

More than half of these complaints have originated from the Department of Law and state or federal officials responsible for enforcement of laws protecting wildlife resources. Seventeen complaint cases since December 1988 have resulted in the revocation of licenses for four or more years.

We reviewed a sample of cases that were both currently open or had recently been closed by OL in consultation with the Department of Law (Law). For those cases reviewed, particularly those involving consumer complaints regarding guide services we felt OL and Law resolved the complaints in a timely and appropriate manner considering the resources available.

Further, review of recently closed Ombudsman's case files and inquiries with the Human Rights Commission, Equal Employment Opportunities Office, and the Attorney General indicated that no significant complaints were either unresolved or outstanding involving the BGCSB or their licensing activities.

The extent to which the board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

As of June 30, 1993, the board regulated 423 guide-outfitters, 116 class-A assistant guide-outfitters, 551 assistant guide-outfitters, 134 transporters, and 31 commercial use permit holders.

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.

The Equal Employment Opportunity Office has not received any complaints related to the board's activities.

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.

See above.

APPENDIX A

Department of Commerce and Economic Development
Big Game Commercial Services Board
Schedule of Revenues Compared with Expenditures
(Unaudited)
(Note 1)

Revenues (Note 2)	\$190,270
Expenditures (Note 3)	<u>205,707</u>
Excess of Expenditures over Revenues (Note 3)	<u>\$(15,437)</u>

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from discussions with Division of Occupational Licensing (OL) personnel and from OL prepared documents comparing revenue and expenditures for fee determination. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is comprised of license renewal fees. For the current fee structure, see Appendix B. Most licenses are renewed biennially. Because of the renewals, revenues vary substantially year to year. Therefore, OL combined revenues collected in FY 90 and FY 91 and calculated an average in order to obtain a representative amount of annualized revenues collected for comparison with expenditures.

Note 3

Expenditures consist of direct costs resulting from board member activities, (i.e., travel and per diem) and an allocation of overhead costs of OL. Our understanding of the allocation methodology is discussed in Recommendation No. 2 of this report and is the subject of a September 1993 Office of Management and Budget (OMB), Division of Audit and Management Services report entitled *Occupational Licensing Fee-Setting Policy Assessment*. Both our office and OMB do not believe that OL's method of allocating costs to a professional licensing board distributes costs reflective of the actual effort spent regulating their profession.

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**Appendix B
Big Game Commercial Services Board
Application, License, and Other Fees¹**

Application and Other Fees²			
Type of Fee	Guide- Outfitter	Class-A Assistant and Assistant Guide- outfitters	Commercial Use Permits and Transporter Licenses
Application	\$50	\$50	\$50
Examination	50	50	N/A
Unit examination for taking initial examination, retaking examination, or adding units	50/per unit	N/A	N/A
Use area registration application for each use area	50	N/A	N/A
License Fees			
License Category	Initial	Renewal ¹	
Guide-outfitter	\$200	\$200	
Class-A Assistant and Assistant Guide Outfitter	200	200	
Use area registration for each use area (The fee is due for each year of the registration)	100	N/A	
Transporter license	150	150	
Commercial Use Permit	100	100	

¹The licensing fees charged by the Division of Occupational Licensing for Big Game Commercial Services Board are set out in the Alaska Administrative Code at § 12 AAC 02.230. The last change to the board's fee regulations became effective February 25, 1993. According to Division of Occupational Licensing staff, at this time there are no planned fee changes for this board.

²The Division of Occupational Licensing is also authorized to charge administrative fees. Administrative fees include duplicate license fee, photocopying fee, and penalty for reinstatement of a registration, license, permit, or certificate which remains lapsed for more than 60 days.

³The renewal periods for the Big Game Commercial Services Board license categories are as follows: Annual guide outfitters, December 31, 1993; biennial Class-A Assistant and Assistant Guide-outfitter license, December 31, 1994; annual Transporter license, December 31, 1993; and annual Commercial Use Permit, December 31, 1993.

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DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

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JUNEAU, ALASKA 99811-0800
PHONE: (907) 465 2500
FAX: (907) 463-3841

November 24, 1993

Mr. Randy Welker
Legislative Auditor
Legislative Budget and
Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED
LEGISLATIVE AUDIT

Dear Mr. Welker:

Thank you for the opportunity to review the preliminary audit report regarding whether the Big Game Commercial Services Board (BGCSB) should be continued or terminated under AS 44.66.010.

The department concurs with **Recommendation No. 1, The statutory sunset provision for the Big Game Commercial Services Board should be extended until June 30, 1997.** The department believes that the Big Game Commercial Services Board is operating in the public's interest and protecting the hunting public. The establishment of the nonexclusive guide-outfitter use area system in 1993 has helped to stabilize the industry which has been troubled since the Owsichuk Decision in 1988 which declared the exclusive guide area system unconstitutional. The Big Game Commercial Services Board is also working toward regulation of the transporter industry and revision of the examination process.

Recommendation No. 2, The Department of Commerce and Economic Development (DCED) and the Division of Occupational Licensing (DOL) should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

During 1993, the division accomplished fee revisions for all program areas to reflect program expenses. The calculations were based upon all available data regarding direct and indirect program costs.

Concerns were voiced by various boards regarding their fee increases/program costs. Based on these concerns, the department requested an independent review by OMB of the procedures used in calculating expenses by the Office of Management and Budget. The OMB

audit was completed early October. OMB's recommendations for defining direct costs, including the implementation of timekeeping records for licensing staff, investigators, and hearing officers has been implemented effective July 1, 1993 by the division.

The OMB audit recommended a cap on incremental fee increases of no more than 10-25% per licensing period. This is problematic inasmuch as it places a limit on recovering the actual cost of licensing the industry. OMB budget reviewers placed an even more restrictive cap of 7% on the license fee this fiscal year. Unpredictable and unforeseen program expenses occur due to, investigations, litigation and legal challenges which are not controlled by the board or the division. Limiting expenditures in order to comply with these caps is anticipated to have serious effects on the boards' abilities to comply with their statutory mandates. Under the present scheme, once a program has expended its "acceptable" limit for fee increase adjustments under the OMB recommendations and in accordance with AS 08.01.065, the board will effectively be shut down for the remainder of the fiscal year. The consequences have potential health and safety risks as well as potential economic hardships for licensees who wish to renew their licenses, complete area applications, etc. The division will make requests for additional spending allocation to Legislative Budget and Audit to alleviate these harsh consequences, but failing favorable consideration, the division must control its expenditures.

The division does not fully concur with the audit findings that errors were made in the calculation of a two-year average of expenditures used to determine the FY 93 license fees, and as a result, license fees did not truly reflect the cost of providing regulatory services to each occupation. Detailed expenditure information used in calculating a two-year average was based on information obtained from the state accounting system. It is a real possibility that data generated from the state accounting system for the purposes of this audit has changed from data obtained by division staff at the end of the fiscal year. Since appropriate division staff was not consulted regarding specific financial information, the division cannot agree with this finding until both audit and division staff has had the opportunity to discuss this matter.

The recommendation of estimating time spent by certain job classes of employees stated in the OMB fee-setting policy assessment audit was implemented on July 1, 1993; and at the start of FY 94, the division prepared an FY 94 budget allocation for each licensing program.

In conclusion, DCED has attempted to work with the OMB auditor regarding this issue, but we have been informed that the audit is over and no more time will be allocated to this issue.

The department concurs with **Recommendation No. 3, the Division of Occupational Licensing should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.**

A rewrite of AS 08.01 is available, and we are seeking legislative support to introduce it. This rewrite makes numerous revisions including amendments to the statutes cited in this recommendation.

The rewrite includes revisions which make drafting minutes a department responsibility. It also provides for annual report deadline submission of August 1. The annual report deadline revision is necessary as many statistics needed for the annual report are not available until June 30, thus making it impossible for the boards to meet the existing deadline of submission by June 30.

The department strongly disagrees that the annual report authorship should be amended to make annual report submission a department responsibility. We recognize that division staff are instrumental in assisting boards when completing reports. Staff provide statistical and clerical assistance, however, this report must be reflective of the boards' position on various matters involving the profession regulated including legislative and regulatory needs, budget requests, and upcoming goals. These are areas which the board is solely responsible for developing.

The department disagrees with **Recommendation No. 4, DCED, DOL should, in conjunction with the Equal Employment Office, review the licensure application for each professional occupation to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.**

Height and weight questions continue to be reflected on the initial applications for Guide-Outfitters, Assistant Guide-Outfitters, and Class A Assistant Guide-Outfitters. The data from initial applications is entered in the computer and is considered appropriate for identification purposes. Height and weight information is printed on the wallet card portion of the license; the wallet card is typically the document carried in the field and shown to protection officers as proof of licensure.

We have removed height and weight questions from renewal applications for the following reasons: 1) typically, a licensee's height is not expected to change; 2) an individual's weight generally does not fluctuate a great deal and the administrative benefits of not being required to make minor weight alterations annually on each license screen overrides the need for "exact" weight at renewal; and 3) if the height/weight questions were left blank at renewal, the renewal would be processed with data already noted in the computer and reflected on the wallet card. Our experience in other license programs is that if a person's weight has greatly changed due to weight loss, we are notified by the licensee who wants his/her wallet card corrected to reflect the new weight; weight increase is not always reported.

Your suggestion of separating the information from applications before the board reviews them is troublesome for two reasons: 1) licensing applications are public records, and we believe it would be inappropriate for division staff to withhold public information from the board; and 2) the mandate for an oral exam prior to guide-outfitter licensure would defeat any

meaningful attempt to conceal the height and weight of an applicant since applicants are visually observed by board members.

License denials must be based upon a provision in boards' statutes or regulations. Denial notices must list the specific authority for rejection. We believe the procedures for denying an applicant, and the practice of listing the specific reasons for denial in the notice to the applicant provides adequate protection for the board from being subject to discrimination complaints based on the height/weight questions.

Recommendation No. 5, DCED, DOL should develop and implement written policies and procedures for reporting potential violations of conflict of Executive Branch Ethics Act to the Department of Law.

The department agrees and will comply with this recommendation. A written procedure developed by staff will be limited to include directives for staff follow-up at each meeting with collection of ethic reports as well as clarifying dates which quarterly reports must be compiled and forwarded to the Attorney General's Office. We concur that staff is responsible for the timely submission to the Department of Law. This is the limit of responsibility recognized on behalf of the department.

All other policy, procedures, interpretations, and written directives for what must be reported must come from the Department of Law. Guidance on when a member must report a conflict, what should be reported, confirmation of what constitutes a conflict, and who has authority to rule/overrule a decision made by a designated supervisor are all matters which are beyond the scope of DCED staff expertise. Consequently, the department disagrees with the statement in the text of recommendation #5 which states "Functionally, DOL staff advise the professional licensing boards associated with them as to the reporting necessary for compliance with the Ethic Act"

The department has asked for a written directive, from the Department of Law, in layman's terms which clarify these matters. Any forthcoming directives from the Department of Law will be distributed to board members.

Sincerely,


Paul Fuhs
Commissioner

PF/sh033.fuh
112493a

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
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December 16, 1993

Members of the Legislative Budget
and Audit Committee:

We have reviewed the Department of Commerce and Economic Development, Division of Occupational Licensing (OL) response to our preliminary audit report on the Big Game Commercial Services Board. For those areas where they do not agree, we have considered their responses and in one case have modified the report because we believe that additional clarification was warranted. In particular, the section of Recommendation No. 2 regarding OL's cost allocation methodology was changed. After review by audit and OL staff, it was found that the percentages applied to allocate indirect costs were not always correct due to formula errors on spreadsheets prepared by OL staff. Also documentation supporting some expenditures on the spreadsheets has not been retained. Review of selected current information available does not confirm these numbers. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distribution of costs.

This change is considered minor and does not lead us to change our overall stated position. We therefore reaffirm our conclusions and recommendations as contained in this report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Randy S. Welker".

Randy S. Welker, CPA
Legislative Auditor



HOUSE RESOURCES COMMITTEE

DATE: 2/7/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 266-Elig. for Guide Outfitter Lic
 HB 343-Res. Sport Hunting Licenses

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Geron Bune ✓	ADFG	P.O. Box 25526	99802	555	465-6143	<input checked="" type="radio"/>	<input type="radio"/>	HB 343
Kevin Brooks	ADFG	" "			465-5999	<input type="radio"/>	<input checked="" type="radio"/>	HB 343
BILL VALSANTINE ✓	PUBLIC SAFETY	450 WITTIER ST. JUNO			465-4322	<input checked="" type="radio"/>	<input type="radio"/>	HB 343
Paul Johnson	BCCSB	Box 22 Ektinole	99825			<input checked="" type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
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						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

HB

286

Alaska State Legislature

House Resources Committee

House Rules Committee

Interim Address:
P.O. Box 871746
Wasilla, Alaska 99687
(907) 373-2518

Session Address:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2136

Representative Patrick J. Carney

SPONSOR STATEMENT HOUSE BILL 286

"An Act relating to certain activities within rivers, lakes, and streams that are important for spawning, rearing, or migration of anadromous fish."

This legislation addresses two issues: (1) it authorizes the commissioner of the Department of Fish and Game to exempt certain portions of anadromous fish streams that are used for crossings. (2) It provides a lesser penalty for violations of current statute (AS 16.05.870 - 16.05.895) that were unintentionally committed, such as a piece of equipment falling through ice, as long as the violator did not act recklessly.

According to Article VIII, Section 1 of Alaska's Constitution, our policy is to "encourage . . . the development of its resources by making them available for maximum use consistent with the public interest." This legislation attempts to correct an inequity in current statute. An anadromous stream cannot be crossed if there is even a possibility of fish production. This would seem to favor one resource -- fish -- over another, such as timber, even when it could be shown that spawning grounds would not be harmed nor fish stocks reduced as a result of an attempted stream crossing with a piece of equipment or a vehicle.

While it is important to protect anadromous streams from damage from recreational vehicles or equipment used for logging, we must allow flexibility for the department to allow for unintentional violations and to exempt certain portions of streams where there is no possibility that fish stocks would be harmed.

DEPARTMENT OF FISH AND GAME

POSITION PAPER

BILL NO: HB 286

SPONSOR: Representative Carney

DIVISION: Habitat and Restoration

DEPARTMENT POSITION: Oppose

The department opposes HB 286 because: 1) it would increase department administrative costs by establishing unnecessary and cumbersome procedures for authorizing crossings of anadromous streams; 2) the amendments would make investigating and prosecuting AS 16.05.870 - .895 violations more difficult and costly; and 3) HB 286 would reduce penalties for failure to meet the application requirements of AS 16.05.895 to the point where the penalties no longer serve as an effective incentive to obtain a permit. Collectively, these amendments substantially reduce protection for anadromous fish streams without any commensurate benefit for the public. Specific problems include:

1. Amendment of AS 16.05.870. Section 1 of HB 286 would amend AS 16.05.870 to add a new subsection (e) reading as follows:

The commissioner may by regulation exempt a portion of a specified river, lake, or stream from (b) - (d) of this section if that portion is used as a crossing or ford to provide access across the river, lake, or stream for management or utilization of upland resources.

Impact of Amendment. Under the proposed subsection (e), the advance notification and plans and specifications approval process required in AS 16.05.870 would be dispensed with for a specified "crossing or ford" provided the "crossing or ford" was identified via a duly adopted regulation.

The proposed subsection (e) requirement that the "crossing or ford" be identified by regulation would seriously alter ADF&G's current practice and significantly increase costs and the time necessary to authorize a crossing by substituting a costly and time-consuming regulatory process for the current permitting process. Currently, the department authorizes crossings of anadromous waters in two ways: (1) by individual permit application which allows one individual to cross a waterbody for a specified period of time (average time to issue a permit is 21 days and 99.3 percent of all applicants receive permits); and (2) the department issues general permits without application, authorizing crossing of certain waterbodies where long-term general public access is needed. Over 100 of these authorizations

DEPARTMENT OF FISH AND GAME
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have been issued to date in Southcentral, Southwestern, Interior, and Northwestern Alaska. Both permits are issued administratively. Examples of general fording permits include: Fish Habitat Permit FG 93-II-0070 (February 12, 1993) (vehicle stream crossings for Peters Creek, Cache Creek, Nugget Creek, and Thunder Creek permitted); Fish Habitat Permit F3 93-II-0568 (July 28, 1993) (vehicle stream crossings for Rabideux Creek near the Susitna River permitted). HB 286's proposed subsection (e) would, apparently, end ADF&G's practice of issuing general permits because the identification of an exempted "crossing or ford" would have to come first by regulation. Once identified by regulation, however, ADF&G could not impose conditions on the use of the "crossing or ford" as is currently done under a general permit to protect anadromous fish or their habitat.

The proposed subsection (e) does not identify any criteria for the adoption of "crossing or ford" exemption regulations, save that the "crossing or ford" be for the management or use of "upland resources." This restriction seems of no practical consequence because almost any activity might qualify as the use of "upland resources." Under subsection (e), the Commissioner could by regulation specify a "crossing or ford" and allow its use without regard to any material damage to spawning beds or prevention or interference with the migration of fish that the use of a "crossing or ford" would cause. No criteria are provided for the commissioner to base a decision to promulgate a regulation to exempt a "crossing or ford" from the requirements of subsections (a) - (d). These subsections currently provide the Commissioner guidance for determining whether a proposed use or activity in an anadromous fish stream provides for the proper protection of fish and game. Consequently, subsections (a) - (d) provide the Commissioner a process for working with the applicant to develop alternative crossing plans that do provide for protection of fishing resources. The proposed addition of subsection "e" is not needed to provide access across anadromous streams to upland resources because that mechanism is already provided for in subsections (a) - (d). Subsection "(e)" appears to provide for inexpensive access to upland resources but at the expense of anadromous fish resources and the state's commercial, subsistence, and sport fisheries.

HB 286 does not provide for a process whereby a person could petition ADF&G to adopt a regulation specifying a "crossing or ford." A person might, however, use the petition process provided in AS 44.62.190 - 44.62.230. Under these statutes, any "interested person" could file a petition with the Commissioner requesting that a "crossing or ford" be exempted from AS 16.05.870 permitting requirements. AS 44.62.220 requires that within 30 days, the Commissioner must deny the petition in writing, or

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schedule it for hearing under AS 44.62.190 - 44.62.230. The Commissioner could reject the petition without holding a public hearing or otherwise engaging in any public process. However, it is not clear whether or not a Commissioner's decision to reject a petition would be subject to the formal administrative hearing requirements in AS 16.05.870(d) and AS 44.62.330 - 44.62.630. Formal hearings can be very time consuming and costly. Any decision with respect to the petition would, however, be subject to appeal to the Superior Court, either by challenge to the regulation which would, in effect, accept the petition by specifying the "crossing or ford" exempt from AS 16.05.870, or by challenge to the Commissioner's decision rejecting the petition.

The costs associated with the review and rejection of a petition done without any public notice or hearing process would consist of ADF&G staff time and expense involved in analyzing the petition, complying with other potentially applicable statutory requirements (such as Alaska's Coastal Zone Management Act), and issuing a decision. It is difficult to estimate what these costs might amount to, but no doubt they could be significant if substantial amounts of research and analysis were needed to determine the potential effects on anadromous fish.

If the Commissioner elected to grant the petition by adopting a regulation exempting a portion of an anadromous waterbody, the costs would include those normally associated with the adoption of a regulation, such as the costs of public notice, a public hearing if held, staff time, and travel costs as required. Because of the importance of many anadromous waterbodies to commercial, sport, and subsistence fisheries, and to water-craft-related recreation, there would likely be expensive court challenges to the adoption of any such regulation.

This amendment to AS 16.05.870(e) would substantially increase ADF&G costs, and increase risk of costly appeals and lawsuits, with no corresponding benefit to the public. It would impose a costly and time-consuming regulatory process instead of the current administrative process. The department already issues both short and long-term stream crossing permits wherever they are needed and do not have long-term impacts on anadromous fish habitat. Over 99 percent of all applicants receive permits, and receive them in less than 21 days.

2. Amendment of AS 16.05.900(a) and (b). Section 4 of HB 286 amends AS 16.05.900(a) and (b) to require that a prosecutor prove that a person who violates AS 16.05.870 - .895 intentionally, knowingly, or recklessly committed the violation. Section (b) of the proposed amendment substantially reduces the penalties for a person or governmental agency who, with criminal negligence or

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without a culpable mental state, violates AS 16.05.870 - .895 to a class B misdemeanor. For a class A misdemeanor, upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than \$5,000 upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of (1) \$200,000, or (2) two times the pecuniary gain realized by the defendant as a result of the offense. A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year. A class B misdemeanor is punishable by a \$1000 fine and 3 months in jail.

The department opposes these amendments to AS 16.05.900 (a) and (b) because the requirement that a prosecutor prove a specific mental state to obtain a conviction of an Anadromous Fish Act violation will substantially increase a prosecutor's workload. The increased workload will make it more difficult to get overworked prosecutors with large numbers of felonies, murders, and other crimes, etc., to prosecute Anadromous Fish Act AS 16.05.870 violations. It will make prosecutors more inclined to drop cases and plea bargain for reduced penalties to avoid lengthy court battles. Increased difficulty in prosecuting violations will result in less protection for anadromous fish habitats and for resources of critical interest to commercial, subsistence, and sport fishing, as well as hunting and tourism. Passage of HB 286 would mean state prosecutors would have to provide evidence of the appropriate culpable mental state for each element of the offense charged. To the extent that state prosecutors have prosecuted AS 16.05.880 - 16.05.895 offenses without needing to prove a culpable mental state existed, except for class B misdemeanor prosecutions, HB 286 changes would increase the amount and type of evidence prosecutors would need to collect in order to put on a successful case. Evidence of a defendant's mental state at the time of an offense is often the most difficult type of evidence to gather, particularly in the context of public welfare offenses. Moreover, culpable mental state is often the most hotly debated issue in a criminal trial, because the Alaska criminal code punishes intentional conduct much more severely than negligent conduct, and this would also be true under HB 286's amendments to AS 16.05.900(a) and (b). For these reasons, the Attorney General has strenuously resisted defense arguments which have attempted to add to the prosecutor's burden of proof of a culpable mental state. Because carrying the burden of proof of intentional, knowing, or reckless conduct to secure a class A misdemeanor is very substantial, the results may be that busy state prosecutors will pursue only class B misdemeanor cases under the Anadromous Fish Act.

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An additional stumbling block for prosecutors may also arise because HB 286 does not say which element of a particular offense the culpable mental state must be proved for. It is not possible to tell, for example, whether in prosecuting for failure to notify the commissioner of the existence of "material damage" to a stream, a violation of AS 16.05.895, it is HB 286's intent that proof of a culpable mental state is required for the lack of notice, the existence of damage, or the material nature of the damage, or all or some combination of each of these elements. While HB 286 proposes some changes to AS 16.05.895, the changes are largely cosmetic, and they do not help clarify this issue.

The reduction in penalties and the increased burden for prosecutions will make the Anadromous Fish Act less of a deterrent to violators who, under present law, can be faced with a potential \$5,000 fine and up to a year in jail for working in an anadromous waterbody without a permit from the ADF&G.

Preparing permit applications for work in a specified anadromous waterbody takes time and, if in the coastal zone, the review process can run from 30 to 50 days depending upon the complexity of the project. In many cases, projects may have to be modified, and terms and conditions may be placed on Anadromous Fish Act permits to protect spawning salmon and incubating eggs. This can add to project costs and delay work if the operator does not plan for it in advance. The very small fines for class B misdemeanors may serve as an incentive for some operators to work in anadromous waterbodies without applying for permits. If caught, a violator can claim that they did not know that a permit was required, and the high level of proof to prove knowing or reckless conduct will make it likely that only class B misdemeanor charges would be pursued by prosecutors. The maximum \$1000 fine is less than a few hours of equipment rental and a small fraction of most projects' budget, and may actually encourage unscrupulous operators to violate the notice and plan requirements of the Act. The requirements to submit plans and specifications to the ADF&G for review and approval are the most important part of the protection provided under the Anadromous Fish Act, and anything that provides a disincentive to do this will result in increased damage to anadromous fish populations and their habitat.

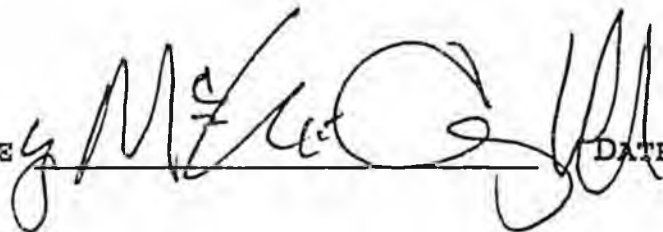
The amendments proposed to AS 16.05.900(a) and (b) will reduce protection for anadromous fish, substantially increase ADF&G costs, and further burden the judicial system without any corresponding benefits to the public or increased fairness to violators. A relatively small number of Anadromous Fish Act violations are prosecuted annually. Courts and prosecutors usually tailor the burden of proof required to obtain a conviction to the severity of the offense. Fines and sentences are based

DEPARTMENT OF FISH AND GAME
POSITION PAPER
House Bill 286
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upon the seriousness and circumstances surrounding the violation. Fines for most AS 16.05.870 - .895 violations are usually small and most sentences are suspended.

The addition of the culpable mental state language to AS 16.05.900(a) and (b) will also increase ADF&G's and the Alaska Department of Public Safety's administrative workload since both agencies gather evidence and help prepare cases for prosecution by the district attorneys. About 26 ADF&G employees will probably have to be given additional training in searching for and gathering reliable culpable mental state evidence if this amendment is adopted.

COMMISSIONER'S SIGNATURE

 DATE 3/7/94

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF FISH AND GAME

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE (907) 344-0541

BOARDS SUPPORT SECTION

Anchorage Advisory
Committee
Box 454
Girdwood, AK 99587

March 16, 1994

Members of the Alaska State Senate
Members of the Alaska State House of Representatives
State Capitol
Juneau, Alaska

Re: (1) Our Opposition to HB 286 (Amending the Anadromous Fish Act)

Dear Senators and Representatives:

The Anchorage Fish and Game Advisory Committee opposes HB 286.

HB 286 substantially amends the Anadromous Fish Act, AS 16.05.870 - .895, to reduce penalties for some violators, to require state prosecutors to provide a higher standard of proof to convict violators, and establishes a process whereby a person desiring to ford a specified anadromous waterbody could submit a petition to the Commissioner to exempt that portion of the waterbody from the protection of the Act.

The essence of the existing law is the requirement in AS 16.05.870 that a person desiring to conduct activities within an anadromous fish stream must first obtain a permit from the Department of Fish and Game. Failure to do so is a misdemeanor.

The effect of sections 3 and 4 of HB 286 is to reduce penalties and makes convictions more difficult. They do so by requiring prosecutors to prove the mental states of the violator.

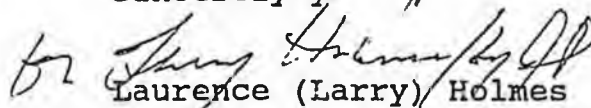
For example, a Class A misdemeanor requires that intentional, knowing or reckless conduct be proven, and a Class B misdemeanor requires proof of criminal negligence.

The result of such amendments would be to reduce the Anadromous Fish Act to a meaningless slap on the wrist for the more significant violations.

This bill arises out of an incident involving a timber company that obtained a permit take heavy equipment across anadromous fish habitat (a salmon rearing slough) by means of an ice bridge and then violated the permit. It appears from the record that the company thereafter argued it did so unknowingly. The effect of HB 259 would be to reduce the maximum fine for such a violator to \$1000. That essentially guts the Act. It reduces violations to a risk of doing business. It invites the simplest defense that one's conduct was negligent rather than willful.

The Anchorage Fish and Game Advisory Committee opposes this legislation and urges you to do the same.

Sincerely yours,



Laurence (Larry) Holmes
Chairman
Anchorage Fish and Game
Advisory Committee

cc: All Alaska State Senators and Representatives
Carl Rosier, Commissioner, ADF&G

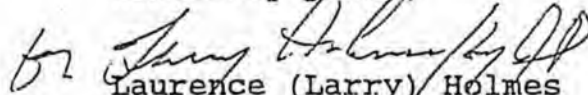
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Sincerely yours,



Laurence (Larry) Holmes
Chairman
Anchorage Fish and Game
Advisory Committee

cc: All Alaska State Senators and Representatives
Carl Rosier, Commissioner, ADF&G

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 286

Revision Date: _____
Title: Activities in Anadromous Fish Streams
Sponsor: Representative Carney
Requestor: (H) Special Committee on Fisheries

Dept. Affected: Alaska Department of Fish and Game
BRU: Habitat and Restoration
Component: Habitat
COMPONENT SERIAL NO. 486

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	44.4	46.7	46.8	47.9	47.9	49.7
TRAVEL	3.0	3.0	3.0	3.0	3.0	3.0
CONTRACTUAL	14.5	4.0	4.0	4.0	4.0	4.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	61.9	53.7	53.8	54.9	54.9	56.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	61.9	53.7	53.8	54.9	54.9	56.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	61.9	53.7	53.8	54.9	54.9	56.7

Estimate of any current year (FY 94) cost: \$ _____

POSITIONS

FULL-TIME Habitat Biologist III	7 mos.	7 mos.	7 mos.	7 mos.	7 mos.	7 mos.
PART-TIME Clerk Typist III	2 mos.	2 mos.	2 mos.	2 mos.	2 mos.	2 mos.
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached page

Prepared By: Frank Rye, Director Phone: 465-4105
 Division: Habitat and Restoration Date: February 28, 1994
 Approved by Commissioner: [Signature]
 Agency: Alaska Department of Fish and Game Date: March 1, 1994

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FISCAL NOTE
-Continuation-

State of Alaska
18th Legislature
Second Session

Bill No. HB 286

Analysis:

HB 286 would increase Alaska Department of Fish and Game costs through new standards for responding to public petitions, Administrative Procedure Act hearings and appeals, and litigation over regulations. Costs would also increase as a result of new standards for prosecution of Anadromous Fish Act violations. Amendments to the Anadromous Fish Act (AS 16.05.870-.895) proposed in HB 286 will likely increase ADF&G costs to administer and enforce the provisions of the act in three ways:

- (1) administering petitions submitted under the new statute (AS 16.05.870(e) and potential appeals provided for in the statute,
- (2) additional training required to investigate violations where new standards of proof are required to show culpable mental state, and
- (3) additional time investigating violations and assisting prosecutors.

In the past, appeals of AS 16.05.870 provided for in AS 44.62.330 - 44.62.630 have taken approximately two man months of staff time and from \$5K to \$15K in contractual services (hearing officer, recorder, etc.) to resolve. While there is no way to predict the number of petitions and appeals that may be received in one year, three to five petitions and one appeal might be a reasonable estimate. Costs for AS 16.05.870(e) petitions and appeals will likely be similar.

Three days of training in new investigative procedures and culpable mental standards by the Alaska Department of Public Safety and Alaska Department of Law for twenty-six department staff would be necessary and would likely cost around \$10.5K (not including salaries).

The additional costs of investigating violations, including an anticipated increase in the number of persons who will not obtain permits, plus the additional time required to assist prosecutors in preparing cases is estimated at four days per violation (for 15 to 20 violations). Any litigation of petitions could easily double costs. Clerical, administrative, travel, and contractual expenses also have to be added to these estimates. HB 286 would also increase costs in the Alaska Department of Public Safety and Alaska Department of Law for investigating and prosecuting violators.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 10, 1994

SUBJECT: Sectional Summary of HB 286 (Work Order No. 8-LS0910A)

TO: Representative Pat Carney

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is a sectional summary of HB 286, relating to activities in rivers, lakes, and streams important for spawning, rearing, or migration of anadromous fish (anadromous fish streams).

First, HB 286 authorizes the commissioner of fish and game to exempt from the permit requirements of AS 16.05.870 certain portions of anadromous fish streams that are used as ford or crossings. Second, HB 286 provides for a lesser penalty for violations of AS 16.05.870 - 16.05.895 that are not committed intentionally, knowingly, or recklessly.

Section 1 of the bill amends AS 16.05.870 by adding a new subsection that authorizes the commissioner to exempt certain portions of anadromous fish streams from the permit requirements of AS 16.05.870.

Sections 2 and 3 of the bill make conforming and clarifying amendments to AS 16.05.880 and 16.05.895. In order to conform with the provisions of AS 16.05.900(a) and (b), as added by sec. 4 of this bill, the provisions of AS 16.05.880 and 16.05.895 that make violations of these sections misdemeanors are eliminated. Violations of AS 16.05.880 and 16.05.895 will be punished as misdemeanors under AS 16.05.900, as amended by sec. 4 of the bill. Also, as mentioned below, provisions relating to abatement of violations and restoration of damaged streams contained in AS 16.05.880 have been deleted to conform to AS 16.05.900(c), as added by sec. 4 of the bill.

Section 4 of the bill sets out the penalties for violation of the anadromous fish stream protection provisions of AS 16.05.870 - 16.05.895. Subsection (a) provides that it is a class A misdemeanor to intentionally, knowingly, or recklessly violate provisions of AS 16.05.870 - 16.05.895. Subsection (b) provides that it is a class B misdemeanor