

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8959 SENATE RESOURCES

conservation, development, and utilization of its fisheries resources. This policy should include relatively specific goals, in both the biological and socio-economic realms, and suggest operational approaches. Second, the board must develop specific regulations, governing both the decision process and what is considered in that process, to deal with the socio-economic issues pressed on it by statute. In order to do this, and to function efficiently and rationally once either or both of these are accomplished, the board must be provided with additional staff capacity to analyze these elements of the fisheries sector and to develop policy alternatives designed to achieve fisheries utilization consistent with the maximum possible benefit to Alaskans.

The ability of the board to meaningfully consider the socio-economic implications of regulation would require, as well as the addition of agency capacity to develop and analyze such information and the adoption of specific criteria and processes guiding its consideration a significant dose of public participation. This latter would be significant source of socio-economic data and a review of the information considered by the board. This participation could be conducted under the process suggested in the immediately previous objective discussion. These capabilities and standards are essential if the board is to meet the intent of 1986 legislation establishing allocation criteria. The formal inclusion of such information into the system would provide the board the basis for resolving some long standing allocation disputes. The formal, explicit analysis of socio-economic factors would enhance the ability of the board to regulate with the maximum benefit of the people as a goal. Enunciating the specifics of this goal would be the purpose of a comprehensive policy on fisheries. The combination of these two elements would further strengthen the board process and decisions against legal challenge as noted above. While no system could hope to eliminate

disagreement, a process with clear standards, more complete information and specific goals would lessen their likelihood and fervor. There is little apparent dissent that the board and users would be well served by these enhancements to the process. Again, the issues of conflict and representation would be partially addressed by this approach, but not nearly eradicated by present ethical standards, since decisions will still be arrived at by the board, not by a formula.

IV. If the objective is to ensure that the potential for conflict of interest is eliminated to the extent possible, alternatives to the regulatory authority and membership composition of the board must be considered.

One area of latent conflict is the assignment of both conservation and allocation authority to the Board of Fisheries. Separation of those responsibilities would relieve the board of possible pressure to allocate resources beyond the sustainable capacity of stocks and recognize the virtually complete de facto cession of authority for conservation by the board to ADFG. A formal recognition of this fact should be considered. In order to effectively eliminate conflict of interest complaints prompted as a consequence of board composition, the membership of the board would have to be, in some way, divorced from economic or institutional interests in the resource. This could be accomplished either by a true lay board, meeting on a periodic basis like the current board, or a professional board in continuous operation.

An explicit division of conservation and allocation authorities is certain to cause some protest. User groups would be reluctant to give up the ability to intervene in conservation decisions. In a few instances the board has

gone its own way on conservation decisions, not always to the benefit of the resource. It is certain that any potential conflict presented by users of fisheries determining how many fish are available for their use would be eliminated by according conservation authority to ADFG. It may be that the separation would best be accomplished by making the board and its staff more autonomous from the department.

As for the potential conflict of interest created by delegating allocation authority to a non-inclusive body of resource users, the appearance of a possible conflict will persist in such a situation. However, user control of the board is an element of regulation that many strongly support because of the expertise and commitment of such interests. Ideally, at present the integrity of individuals and the checks provided by the presence of competing interests prevents conflicts. However, the most certain means in an imperfect world to avoid the appearance or actuality of a conflict is to remove the apparent incentive for conflict by placing regulation into the hands of parties without economic or institutional interests in any fishery. A lay board unassociated with the resource, a body composed of a mixture of interests including regulators, users, and the wider public, or a professional board required to be disassociated with the resource would accomplish that. The expertise needed in a complex arena should be provided both by staff and by board members. The complexity of the subject and the historic volume of work both suggest that a board operating full-time may be appropriate. In both areas, separation of powers and composition of the board, the aim is to replace the burden on the integrity of individual board members with institutional safeguards. In any case, a differently constituted board would require the procedural improvements and increased analytical capabilities outlined in preceding objective discussions in order to fulfill legislative and public expectations.

* * * * *

The objectives discussed above and the actions necessary to achieve them are obviously not mutually exclusive issues and alternatives. Comprehensive, efficient, and meaningful reform of the Board of Fisheries is accomplished in varying degrees by each approach discussed in this section. An effort to definitively address each of the major problem areas would include parts of each alternative. The Board of Fisheries is not a static model of resource regulation. Since the Territory of Alaska first attempted to manage its fisheries almost seventy years ago, the board has been constantly evolving. The historical imperatives which gave the board its basic shape at statehood, while still strong, no longer have the same meaning. The conditions defining fisheries allocation, biological, political, economic, and social, have been in ferment. The expectations of the public as a whole and user groups in particular have changed in the decades since statehood. Is the Board of Fisheries equal to the challenge of these changes, or must it too change to better meet them?

APPENDIX
AND
REFERENCES

Table A1

Board Of Fisheries Workload

Date	Place/ Subject	Length (Days)	-----Proposals-----				Comments	Miscellaneous Notes	
			Pub/Ind	AC/RC	Staff	Petition			
12/75	Juneau Finfish	n/a							
			120	78	n/a	n/a	93		
4/76	Kodiak Shellfish	5	Adopt Reject	3 34	5 6	44 1	n/a	32	25 bills considered
12/76	Soldotna Finfish	12	Adopt Reject	18 91	10 32	78 9	n/a	30	30 bills considered
Year's total		17		146	53	132		62	
3/77	Juneau Both	12	Adopt Reject	10 23	6 14	42 3		30	
12/77	Anchorage Finfish	14	Adopt Reject	23 127	12 28	112 10	4 1		
Year's total		26		183	60	167	6	30	
4/78	Anchorage Shellfish	9	Adopt Reject	12 56	12 8	50 5			
12/78	Juneau Both	22	Adopt Reject	26 135	8 63	122 6			
Year's Total		31		229	91	183	5	11	

4/79	Anchorage Subsistence Shellfish	10	Adopt Reject	10 58	5 12	122 13	2 5	25 proposals not acted on; 11 bills	
12/79	Anchorage Finfish	22	Adopt Reject	45 128	10 38	148 12		141 proposals not acted on	

Year's Total		32		241	65	295	7	166 no action	
3/80	Anchorage Shellfish	11	Adopt Reject	16 25	5 5	37 6	2	36	6 proposals not acted on
12/80	Anchorage Finfish	44	Adopt Reject	42 128	17 38	87 10			Cook Inlet subsistence

Year's Total		55		211	65	140	2	36	6 no action
3/81	Anchorage Shellfish	21	Adopt Reject	7 29	8 11	51 1	2		
9,11/81	Juneau Finfish	29	Adopt Reject	15 62	14 33	46 4	3		12 bills considered

Year's Total		50		113	66	102	5		
3/82	Anchorage Shellfish	18	Adopt Reject	16 36	5 18	56 3			
12/82	Anchorage Finfish	26	Adopt Reject	29 59	16 12	61 6	5	81	53 proposals not acted on; 40 subsistence proposals deferred

Year's Total		44		140	51	126	5	81	93 no action

3/83	Anchorage Shellfish	16	Adopt Reject	19 51	16 14	34 4	4	4	60 proposals not acted on; area schedule

Year's Total		16		70	30	38	4	4	60 no action
2/84	Anchorage Finfish	14	Adopt Reject	2 7	1 5	7 0		143	
3/84	Anchorage/ Kenai Both	21	Adopt Reject	29 51	11 9	33 5	3 2	2	
9/84	Anchorage/ Ketchikan Both	8	Adopt Reject	0 6	0 0	12 1	3 1	9	
11/84	Anchorage/ Fairbanks Finfish	38	Adopt Reject	47 132	25 19	84 4	2 3	154	183 proposals not acted on

Year's Total		81		274	70	146	28	308	183 no action
2/85	Sitka SE Finfish	14	Adopt Reject	14 59	4 3	46 5	1 3	83	37 proposals not acted on; About 300 carried over proposals not acted on
3/85	Anchorage Shellfish	7	Adopt Reject	14 17	9 10	27 5	2 10	111	29 proposals not acted on
11/85	Anchorage W. Finfish	19	Adopt Reject	13 54	4 5	19 0		124	99 proposals not acted on
12/85	Petersburg SE Finfish	16	Adopt Reject	7 56	6 15	35 3		53	

Year's Total		56		214	56	140	18	371	450 no action

3/86	Anchorage Shellfish	15	Adopt Reject	18 37	5 11	21 0		94	38 proposals not acted on
12/86	Anchorage Finfish	12	Adopt Reject	11 53	0 1	10 2	6 4	212	64 proposals not acted on; 550 proposals not considered when meeting abruptly adjourned

Year's Total		27		119	17	33	10	304	650 no action
4/87	Anchorage/ Juneau Finfish	10	Adopt Reject	6 6	1 0	5 0	0 7	191	33 proposals not acted on

Year's Total		10		12	1	5	7	191	33 no action

Notes: Numbers must be considered approximations due to differences in record keeping practices by board staff over time and otherwise incomplete or confusing records.
 Only meetings involving full board included.
 Pub/Ind = Member of general public, an individual fisherman, or an industry group.
 AC = Advisory Committee RC = Regional Council
 Staff = ADFG staff, board members, or DWP staff.
 n/a = not available or recorded.

Source: Division of Boards, ADFG, 1975 - 87.

Table A2

Division of Boards, Commercial Fisheries Entry Commission,
and Subsistence Division FY 1985-88 Budgets
(5000 of nominal dollars)

	FY 1985	FY 1986	FY 1987	FY 1988
Fish and Game Boards				
Personnel	462.0	612.3	524.4	536.3
Travel	558.3	428.4	332.4	347.3
Contractual	238.2	118.2	226.0	253.4
Other	57.2	31.5	12.5	-
Subtotal*	1,315.7	1,190.4	1,095.3	1,137.0
CFEC	2,169.8	2,583.2	2,406.8	1,886.8
Subsistence*	3,194.6	3,297.9	2,832.9	2,229.0
TOTAL	6,680.1	7,071.5	6,335.0	5,252.8

Source: Legislative Finance Division, 1987; ADFG, 1987; CFEC, 1987.

* Approximately \$500.0 are federal matching funds, the remainder are State of Alaska General Funds.

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ADN 01 FEB 95

Pearce bills revamp Fish, Game panels

By IAN MADER
The Associated Press

JUNEAU — Legislation by Senate President Drue Pearce would dramatically alter state boards of Fisheries and Game by barring commercial fishermen and hunting guides.

Also, three full-time commissioners would replace the seven part-time public members who currently decide how to allocate fish and game among commercial, sport and subsistence fishermen and hunters.

The proposal would attempt to "depoliticize" each panel and make them better able to handle a growing workload, the Anchorage Republican said.

Fishing and hunting groups generally

Please see Page B-3, FISH



FISH: Boards would be altered

Continued from Page B-1

oppose scrapping the lay boards, which they consider contentious but democratic, and more responsive to the public than a professional board would be.

Currently, governors are supposed to appoint members without regard to political party or regional residence. But in practice governors try to balance regions and user groups in their appointments, which must be endorsed by the legislature.

"Every year, one of the most divisive, bitter fights no matter who's the governor and who's in the legislature, are appointments to the Fisheries and Game boards," said Pearce. "Because every user group feels they are under-represented and are not getting their fair share."

Many lawmakers reserved comment until they could review Senate bills 49 and 50, introduced late last week. Pearce acknowledged it would be difficult to secure support.

"It's a major change we're proposing, and we'll just have to see what happens," she said.

Many people agree the system could be reformed, said Rep. Mark Hanley, R-Anchorage. "But everybody has a different idea about what the problems are," Hanley said Monday.

Most adamantly opposed to professional boards are commercial fishing groups, who say they have important expertise to bring to those panels.

"To bar commercial fishermen from the board, I consider that insulting," said Theo Matthews of United Cook Inlet Driftnetters Association. "I hope that legislation is dead on arrival."

Among perennial disputes for the board are that commercial fishermen in Cook Inlet want to net more salmon. Meanwhile, sport fishermen want more of those salmon to escape and swim into Kenai River, where they can be caught with rod and reel.

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CONT'D

Subsistence fishermen on the Yukon River argue that chum salmon caught by commercial fishermen south of the Alaska Peninsula otherwise would enter their river, and the subsistence fishermen push for limits on the commercial fishermen.

But those kinds of disputes are worked out under the current system, so why change it? Democracy can be messy, but at least it's democracy, said Dick Bishop of the sportsman's umbrella group Alaska Outdoor Council.

Bishop said a professional board would become a bureaucracy to compete with the state's Fish and Game Department, which currently does studies and makes recommendations to the boards.

A professional board might develop its own conclusions based on studies by its staff, and would be less swayed by public input, Bishop suggested.

"The purpose of the boards is to bridge the gap between the technical experts and the public, and to decide on allocations. And I think the responsiveness to the public is important," Bishop said.

Many parties agree the Fisheries Board is somewhat unwieldy.

The board meets about six times a year for two-week stretches. Despite the marathon sessions, it is able to review each fishery only once every three years unless there is an emergency.

The Knowles administration's policy team on fish and game — made up of a mix of commercial, sport and subsistence representatives — recommended keeping the lay boards. But it also considered splitting the Fisheries Board into two panels, one for fin fish and one for shellfish.

Larry Edfelt of Juneau, a current member of the Fisheries Board, said serving on the panel has become nearly a full-time job in recent years.

"I think the current system is still working, but eventually the work load will get to be so great that a professional board will be necessary."



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
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May 4, 1984

MEMORANDUM

TO: Representative Mike Davis

FROM: Nancy Pease *Nancy Pease*
Legislative Analyst

RE: Fish and Game Boards in Other States
Research Request No. 84-092

You requested information on the structures and the operational processes of the fish and game Boards in other states, particularly states whose boards appear to function under a minimum of political pressure.

The first part of this memorandum provides an overview of the structures of fish and game regulatory bodies in other states, based on a survey conducted in 1979 by Greg Cook, then Executive Director of the Alaska Boards of Fisheries and Game. The second part of this memorandum briefly describes the political interplay in the wildlife management systems in eight western states.¹ Our descriptions of political influence in these states focus on how each system provides for, or limits:

- (1) public participation;
- (2) representation of special interests; and
- (3) communication between the board and the state administrative departments and the governor's office.

Finally, the last part of this memorandum presents comments on Alaska's board system from persons affiliated with the boards or with the Alaska Department of Fish and Game.

Structure of Fish and Wildlife Boards

Greg Cook's survey of the fish and game boards in 35 states included questions on the general structure of the boards and the selection of

¹Washington, Oregon, California, Idaho, Montana, Colorado, Utah and Nevada.

board members. Of the 35 states which Mr. Cook surveyed, four states--Connecticut, Delaware, New York and Illinois--did not have a designated regulatory body for the management of fish and wildlife resources. In these four states, the divisions of fish and wildlife within the states' administrative departments manage fish and game stocks and regulate harvests. (Regulatory decisions in these four states generally rest with the director of the fish or wildlife division or the executive director of the broader resources department.)

Most states have at least one specialized board or commission which is responsible for regulating wildlife harvests (and often other aspects of management such as stocking and habitat protection).

While Alaska has separate boards to oversee the management of fisheries and game, most states have a single commission or board to manage all wildlife species. Apparently, the only other state which has two boards is Utah, which has a Wildlife Board and a separate Big Game Control Board. Other variations of the single, general wildlife board include Washington's system of a game commission but no similar body to regulate the state's fisheries; and Rhode Island's board, which is used only in establishing marine fishing regulations.

Selection of Board Members or Commissioners. In all but two states, the governor appoints the board members. However, half of these states require the senate to advise and/or confirm the governor's selection of board members. North Carolina and Kentucky have somewhat more complex selection procedures which involve the legislature and interested members of the public. In North Carolina, the 13 members of the North Carolina Wildlife Resources Commission are named as follows:

- the governor appoints two (2) at-large members;
- the Speaker of the House appoints one (1) member from the State House of Representatives;
- the lieutenant governor chooses one (1) member from the State Senate; and
- members of the public hold meetings in each of nine (9) administrative districts and nominate by popular vote three candidates from their district for the commission. The candidates' names are submitted to the governor who then appoints one candidate to the commission from each of the nine districts.

The terms to which North Carolina wildlife commissioners are appointed vary in length, balancing the stability of a tenured membership with the fresh approaches of new appointees. North Carolina's District

Commissioners serve six-year terms,² the at-large members serve for four years, and the senator and representative serve for two years. Kentucky's wildlife regulatory commission is chosen by the state's Sportsmen's Club. Members of the Sportsmen's Club elect nine commissioners from among their ranks.

Removal of board members. In the majority of the western states, the governor is responsible for removing board members, but he may do so only for cause. In a few states, including Idaho and Montana, the governor may remove board members at his pleasure. In California, only the legislature can discharge a board member, by concurrent resolution in both houses.

Representation of Interests. Geographical distribution of residence is the most common guideline that states prescribe for the appointment of board members. All of the western states except Alaska, California and Nevada mandate that members be chosen to represent geographical districts.³ Another common qualification required for appointment to fish and wildlife boards is that the candidate be interested in, and well-informed of, the habits of wildlife and techniques of wildlife conservation.⁴ Political affiliation of board appointees is considered in roughly one-fourth of the states surveyed by Cook. These states generally take the approach of Idaho, Utah and Colorado, where statutes limit the number of board appointees belonging to the same political party. Holding of public office is reason for disqualification of board candidates in some states, including Washington, Idaho and Colorado. For example, Washington prohibits the appointment to the game board of a person who holds any other elective or appointive office with the state, a county or municipality. Representation of special interest groups is mandated by at least seven states. A few of these states reserve one or two positions on the board for special interest representatives. For instance, Montana requires that one commissioner must be "experienced in the breeding and management of

²The six-year terms are staggered so that three districts replace their commissioners every two years.

³Geographical representation, though not statutorily mandated, is a traditional criteria for the selection of fish and game commissioners in California. Nevada statutes specify that no two representatives may be appointed from the same county.

⁴Of the western states, Idaho, Montana, Utah, Washington and Wyoming require that board appointees be interested in and knowledgeable of wildlife conservation.

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domestic livestock";⁵ Ohio reserves two positions on its eight-member board for farmers; and Rhode Island's board of marine fisheries includes at least two sports fishermen.

In a more comprehensive approach, Nevada, Utah, Massachusetts and Louisiana have designated each of the positions on their boards to representatives of one or another special interests. Nevada's board must be comprised of:

- one member who is actively engaged in the conservation of wildlife;
- one member who is actively engaged in farming;
- one member who is actively engaged in ranching;
- two members who represent the interests of sportsmen;
- two members who represent the interests of the general public.⁶

Utah's Board of Big Game Control assures representation of special interests by including:

- the director of the division of wildlife resources, as chairman;
- a member of the Utah Cattlemen's Association;
- a member of the Utah Woolgrowers Association,
- a member of the Utah Wildlife and Outdoor Recreation Federation, and
- a representative of the regional office of the U.S. Forest Service in Utah.⁷

⁵Montana Code Annotated 2-15-3402.

⁶Nevada Revised Statutes 501.171

⁷Utah Code Annotated 3-14-5

Massachusetts grants sportsmen five of the seven seats on its fisheries and wildlife board.

Five board members shall be appointed from one of each of the five fish and game districts, shall hold and have held for at least five consecutive years a sporting license in the commonwealth, four of whom shall represent the fishing, hunting and trapping interests and at least one of whom shall have been actively engaged in farming on land owned by him for a period of not less than five years. Two board members shall be appointed at large, shall be particularly interested in the propagation protection, research and management of wild birds and mammals and any, so-called, endangered species and one of whom shall be a wildlife biologist.⁸

Louisiana balances its Wildlife and Fisheries Commission by reserving three of the positions for electors of the coastal parishes who are representatives of the commercial fishing and fur industries. The remaining four members must represent the state at large and have no ties to the commercial fishing or fur industries.

Oregon has taken the opposite approach by seeking to restrict rather than strengthen the influence of competing users of wildlife resources on the state's Fish and Wildlife Commission. Oregon disqualifies candidates for the commission if they "hold any office in any sports fishing organization or commercial fishing organization or have any ownership or other direct interest in a commercial fish processing business."⁹

Number of board members and length of terms. The number of members on wildlife boards and commissions ranges from 4 members in Missouri to 15 in Georgia. Among the western states in which you expressed interest, the boards have the following numbers of members: Idaho, Montana and California, 5; Washington, 6; Oregon, 7; and Colorado, 8. The length of terms for which members are appointed ranges from two to eight years. Most commonly, terms are five or six years in length. The terms of board members often are staggered so that replacements occur intermittently rather than simultaneously. In several states, one or two positions on the board have terms concurrent with the governor's term.

⁸Massachusetts General Laws Annotated 21 § 7.

⁹Oregon Revised Statutes 496.090

Public hearings. All of the western states in which you expressed an interest encourage citizens to participate in the process of regulating wildlife resources, though to varying degrees.¹⁰ Washington, Oregon, California, Idaho, Montana and Colorado actively request public recommendations for regulation changes by publishing the proposed changes, and then collecting public response for a period of several weeks. In addition, before the whole regulatory body meets, five of the states hold regional public hearings to listen to public comments. Four states allow further public testimony when the full board meets to adopt regulation changes. Public witnesses are generally not restricted in their presentation; most states do not impose time limits on the length of the testimony nor insist that testimony be limited to the issue of the hour.

Boards and the Political Process in Other States

Spokesmen affiliated with the fish and game boards or departments in other states were, for the most part, uncritical of their particular systems for wildlife management. In response to our questions, most spokesmen reported that (1) their states were not experiencing serious controversy over wildlife management and (2) that the demands and pressures of special interest groups were adequately diffused by their particular board/department structure. The most significant finding is that most of the boards or commissions appoint the director of the fish and game department and in that way serve to buffer the department from political prerogatives of the executive branch. Also, the removal of board or commission members appears to be uncommon.

Following are general descriptions of the dynamics of wildlife management agencies in eight of the western states, based on the comments of state wildlife personnel on citizen participation, special interest representation, and political influence. It appears that an accurate and insightful comparison of the efficacy of different board systems will require further research. We will be happy to continue this analysis at your direction.

Washington. According to Judy Hildebrandt, who serves as secretary to both the Washington Game Commission and the Director of the Department of Game, the game commissioners report to the governor and are considered employees of the governor. In turn, the Department of Game reports to the Game Commission. In Ms. Hildebrandt's opinion, the Department of Game is buffered from the prerogatives of the administration because the department's director is hired and fired by the commissioners and his term often extends across gubernatorial terms.

¹⁰Of all the western states, only Arizona does not publish proposed regulatory changes and consider public comment on the changes.

The commission does not solicit public advice prior to drafting regulations, although citizens may testify at the implementation meetings of the commission. Citizens are more involved with the Department: organized sportsmen's groups work with the department to formulate policy; the Citizens Advisory Group assists the department in the nongame wildlife program; and other sports groups and clients offer suggestions on a less formal basis.

Washington does not have a state-level board or commission to manage its fisheries. Fisheries management is the responsibility of the Division of Fisheries, whose director is appointed by the governor.

Oregon. According to Rolley Rousseau, Assistant Director for External Operations of the Oregon Fish & Wildlife Department, the Oregon Fish and Wildlife Commission actively encourages public participation in the regulatory process. Mr. Rousseau reports that public hearings and meetings of the commission are well attended by all wildlife user groups. While the commission does not have any lay advisory groups, the fish and wildlife departments have several: a salmon advisory committee, appointed by the governor; a salmon-trout enhancement committee, established by statute; and a nongame wildlife committee, appointed by the department director. According to Mr. Rousseau, legislation has been introduced in Oregon to support the establishment of regional advisory committees that would coordinate wildlife management among the northwest states; however such legislation has never passed. The Oregon Fish and Wildlife Commission is the only state-level board in Oregon which is appointed by the governor, but according to Mr. Rousseau, the board operates autonomously. There is no formal line of communication between the governor's office and the commission; the governor can remove a commissioner only for cause (and has not done so in at least thirty years); and the commission hires and fires the Director of the Department of Fish and Wildlife. Mr. Rousseau mentioned that on the only recent occasion (eight years ago) when the Governor of Oregon asked the commission to reverse a decision, the commissioners refused to do so.

Montana. Montana has no formal process for involving the public in wildlife management. Public hearings are held only prior to adoption of big game regulations and usually in central locations because of the high travel costs of sending commission staff to outlying areas of Montana. Citizens may make suggestions on wildlife management informally through either the commission or the department, and a landowners/sportsmen committee convenes on an ad hoc basis.

According to Serena Andrews of the Director's Office of the Department of Fish and Game, the department takes its direction from the commission.

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Although the governor appoints the department's director, the commission sets policy for the department, reviews and approves budgets, and sets harvest seasons. In Ms. Andrews perception, the commission has not been under political pressure from the department on any current issues.

Idaho. While Idaho's Fish and Game Commission does not have organized citizen advisory groups, the commission does solicit public suggestions at regular public hearings in each of six management regions and at commission meetings. According to Milt Williams, Hunter Education Coordinator, the commission usually responds to strong showings of public opinion on an issue.

Mr. Williams reports that most deliberations of the commission have not aroused partisan politics or special interest conflicts. The commission hires the Director of the Department of Fish and Game; and there is no formal communication between the commission and the governor's office. Although the governor may dismiss commissioners at his pleasure, no Idaho fish and game commissioner has been dismissed since the 1930s, and Mr. Williams said a dismissal would certainly "arouse public outcry".

Colorado. Colorado law requires that all proposed changes in game regulations be advertised to the general public and to those user groups who are directly affected. The commission does not schedule hearings prior to the meetings at which regulations are adopted. However, the department staff compiles suggestions in the interims between meetings and forwards this public commentary to the commission.

The administrative branch appears to have somewhat more influence over the wildlife commission in Colorado than in other states. The governor is free to nominate representatives of any interest groups. According to Ed Prenzlou, Deputy Director of the state's Wildlife Division, the recent trend has been to appoint ranchers and farmers (the commissioner of Agriculture is currently serving on the Wildlife Commission). Mr. Prenzlou added that the position of Wildlife Commissioner carries considerable prestige in Colorado, and commissioners' terms can be, and often are, renewed.

The commission's choice for Director of the Wildlife Division must be approved by the Executive Director of the Department of Natural Resources, who is appointed by the governor. According to Mr. Prenzlou, the Wildlife Commission in Colorado is primarily a rule-making body, with the Division of Wildlife handling research, habitat conservation and other management activities. While the Division of Wildlife assists the commission in setting harvest seasons, the Division of Wildlife must follow policies set by the Executive Director of Natural Resources.

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Although the Colorado Wildlife Commission shares authority for policy decisions with the administrative branch, Mr. Prenzlow reports that the system works satisfactorily. He says that both ranchers and sportsmen have learned to work out compromises through the system and are supportive of it.

California. Although California commissioners are appointed at large, they traditionally are named from different parts of the state and from different interest groups. The commission is currently comprised of four recreational wildlife users and one commercial user, but according to the commission's Executive Secretary, Hal Kribs, the commissioners have been issue oriented rather than interest oriented.

The California Fish and Game Commission, established through the state constitution, adopts regulations and also sets policy and guidelines for the Department of Fish and Game. According to Mr. Kribs, the department is responsible to the commission, not to the executive branch.

Utah. Utah's system of wildlife management includes a separate board for big game control, and the Interagency Committee, a panel of representatives from all the involved state and federal resource management agencies.

According to Information Officer Steve Phyllis, Utah's Board of Big Game Control was set up forty to fifty years ago at a time when livestock interests had an overriding control of game management. The present composition of the board balances the interests of stockmen with other users of wildlife. Utah's board appears unique in including a representative of a federal agency, the U.S. Forest Service. While Utah's sportsmen are in perpetual competition with the state's powerful livestock industry, according to Mr. Phyllis, the system produces the fairest possible compromises.

While Utah does not use citizens' advisory boards, it does have a structured system of public meetings to gather citizens' comments. For example, the Game Board holds a set of open meetings in each of five districts to collect public suggestions for managing game within the local district. Those suggestions are considered by the Interagency Committee in drafting recommendations. The Interagency Committee's recommendations are published, public comment is again encouraged, and finally the Game Board holds an executive session (open to the public for observation but not for comment) to implement regulations.

In the Utah system of wildlife management, the Director of the Division of Wildlife Resources is a central figure, serving as the secretary of

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both the Wildlife Board and the Big Game Control Board. While the director is officially a non-voting board member, he may vote to break ties on the Big Game Control Board and he submits a list of board candidates to the governor when vacancies occur.

Nevada. In the Nevada wildlife management system, the director of the Division of Wildlife Resources appears to have more policy-making authority than in most of the other states. The director is chosen appointed by the governor from a list of three candidates nominated by the boards. In addition to serving as commission secretary, the director plans the the Division of Wildlife's budget in cooperation with the executive branch. However, according to Dave Rice, Public Information Officer with the Department of Wildlife, the board works independently of the executive branch. He says that the current governor's office has had very little interaction with the commission, although one of the commissioners is a close friend of the governor and may serve as the governor's liaison. In general, Mr. Rice said, there is open communication between the board and the administration.

The Nevada system also provides for open communication between the board and the public. Until 1947, each county elected one representative to the seventeen-member board. Local participation is still assured through the individual county game management boards that convene, as required by statute, to recommend regulations prior to each hunting season. Although an individual citizen of Nevada is currently petitioning for a statewide initiative to return to the system of elected boards, Dave Rice says the present system works smoothly, partly because Nevada's small human population does not exert much pressure on the healthy wildlife populations. In Mr. Rice's view, the board is responsive to the public, and is on cooperative and independent terms with the administration.

Comments of Alaska Fish and Game Management Personnel

In attempting to describe the political forces in wildlife management, staff members in Alaska's fish and game management system raised a number of points of controversy concerning the structure and operations

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of the Alaska boards.¹¹ These points, outlined briefly below, could form the basis of a more systematic analysis of Alaska's board system depending upon your interest in the matter.

Citizen involvement. Alaska's system of local citizen advisory committees and regional councils allows Alaska's residents to be involved in, and aware of, wildlife management. They are generally praised for:

- providing direct citizen advice to the boards before and while regulations are being planned;
- involving all interest groups;
- educating residents of remote areas about the regulatory process;
- encouraging local involvement in resource issues; and
- assist in reconciling user groups and inter-regional differences.

While Alaska's system of extensive public participation often earns accolades from state wildlife managers, several points of the citizen involvement process have been criticized:

- public proceedings greatly slow the decision-making process.
- the boards may appear "unresponsive to the public need"¹² because they must eventually draw a single resolution from the copious and diverse input and scrutiny generated by the local bodies.

¹¹As you may be aware, Alaska's seven-member Board of Fisheries and seven member Game Board are appointed by the governor "without regard to political affiliation or geographical location of residence. The staggered terms are designed to provide continuity in board consideration of on-going issues and trends. Members must be confirmed by the legislature and may be removed by the governor "for inefficiency, neglect of duty, or misconduct in office". The Commissioner of the Department of Fish and Game is the ex-officio secretary of the boards. By statute, the boards are authorized to create advisory committees to facilitate the flow of local public opinion and advice to the boards. At present, the system includes 68 [local] advisory committees, overlain with a structure of six regional councils. The regional councils are comprised of advisory committee chairmen. Handbook for Alaska's Board of Fisheries and Game, February 1983, p. 2.

¹²Handbook, *ibid.*, p. 50.

- the local bodies may create greater political tension around an issue by generating an unending stream of requests for special allotments and exclusive use of resources.
- in many instances, the committee may not adequately represent a cross-section of the community's views. (For example, one spokesman mentioned the dilemma of representing the interests of a few gillnetters in a Southeast community with a strong troll fleet.)
- the regional/local bodies in some cases merely duplicate efforts.
- in some cases, the local and regional levels must compete with one another for the board's attention.

Full-time versus lay boards. Another generally appreciated aspect of the Alaska system is the "lay" composition of statewide boards. One spokesman contrasted Alaska's boards with California's, calling California's board a "professional, fulltime board which has developed a highly structured format for hearings that restricts public influence." However, some wildlife management personnel are concerned by the heavy work load and the discontinuity of the schedule imposed on Alaska's "lay" board. In contrast to states where boards are "full time" or meet monthly, Alaska boards convene only twice a year. This schedule appears to place a heavy burden on board members, as Former Executive Director of the Boards, Milstead Zahn, explains in the handbook of the boards:

[During]two or three weeks of concentrated work twice a year [the Boards] must deal with on-going issues that have been the focus of months or years of specialized effort by constituents and their full-time representatives. As a result, the Boards are engulfed in issues demanding answers that require assiduous attention to detail and to legal rules.¹³

Representation on the Boards. The question of representation on the board can be phrased not only in terms of what the board should be expected to accomplish, but how. The composition of the board may affect the dynamics of the decision-making process. Individuals chosen for their problem-solving ability contribute different information on the issues and different decision-making skills than would board members chosen to represent specific user groups. If the boards are restructured to include designated representatives of specific interest groups,

¹³ Handbook, *ibid*, p. 7.

there are a number of possible balances which other state and regional boards have experimented with: state and federal representatives, local and at-large representatives, special interest and non-aligned representatives, department staff and lay appointees, and even non-voting members.

Another alternative is elected boards. One concern about this option is the degree of representation of minority interests if the boards are elected statewide. Such a system must insure adequate representation of smaller user groups.

Political Influence. It is important to recognize that the allocation of limited public resources among competing private interests is inherently a political issue. Unless unrestricted public access to all wildlife resources is an acceptable means of allocation, government must devise some allocation process. As wildlife management personnel readily attest, no allocation process which limits users' access to resources can be expected to placate every user. Given the inherent political nature of allocating scarce resources, the realistic challenge may not be how to keep "politics" out of allocation decisions, but to adjust the process to increase its legitimacy.

One factor that influences the legitimacy and responsiveness of the the system is the independence of the boards. The Handbook of the Alaska Boards of Fisheries and Game" states that:

The regulatory authority [of the Alaska Boards] is defined by statute and is separate from the management and administrative authority of the Department. The statutory separation of powers between the Boards and the Department insure that each function is accountable as a discrete service in the public interest.

The boards must be sufficiently independent so that they are not perceived as working for a narrow interest group. At the same time, they must be subject to acceptable checks and balances. This point pertains to the boards' relationships with the Department of Fish and Game, other executive agencies, and the legislature.

* * * * *

We hope this information is helpful to you. It appears that a more thorough analysis of the effectiveness of boards and commissions requires contacting numerous interest groups in other states; users of wildlife resources are likely to be more openly critical of the wildlife management system than employees within the system. Such an inquiry would probably involve contacting conservation groups, sportsmen, commercial users of wildlife resources, and others. If such research would be of use to you, we will be happy to proceed at your direction.

STATE OF ALASKA - OFFICE OF THE GOVERNOR
Boards and Commissions Office

Membership Roster

(037) FISHERIES

Member	Appointed	Reappointed	Term Exp.
Trefon Angasan Public Bristol Bay Native Corporation P.O. Box 100220 Anchorage, AK 99510 Work Phone - (907) 278-3602 FAX - (907) 276-3924	01/31/92	02/09/95	01/31/98
Dick H. Bower, Sr. Public P.O. Box 3662 Soldotna, AK 99669 Home Phone - (907) 262-7132 FAX - (907) 262-7132	02/04/94		01/31/97
Larry Edfelt Public 1212 Pike Court Juneau, AK 99801 Home Phone - (907) 780-4780 FAX - (907) 463 3475	07/23/91	01/31/93	01/31/98
Larry J. Engel Public -- Vice-Chair P.O. Box 197 Palmer, AK 99645 Home Phone - (907) 745-4132	02/04/94		01/31/97
Dick Jacobsen Public P.O. Box 54 Sand Point, AK 99661 Home Phone - (907) 383-2042 FAX - (907) 383-5370	01/31/93		01/31/98
Frank Rue Commissioner/Fish and Game/ex officio secretary Acting Commissioner Department of Fish & Game P.O. Box 25526 Juneau, AK 99802-5526 Work Phone - (907) 485-4100	01/13/95		
Virgil L. Umphenour Public 2400 Davis Road Fairbanks, AK 99701 Work Phone - (907) 456-3885 FAX - (907) 456-3889	01/22/94		01/31/98
John R. White Public P.O. Box 190 Bethel, AK 99559	02/09/95		01/31/98

SB

50

Alaska State Legislature

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111 C Street, Suite 150
Anchorage AK 99503 3925
(907) 561 2038
Fax (907) 561 4194



Dunng Sevon
State Capitol
Juneau AK 99801 1182
(907) 465 4993
Fax (907) 465 4872

Senator _____
District _____

Sponsor Statement for SB 50

Senate Bill 50 will change the composition of the Board of Game from the existing seven member part time board to a three member full time board. The bill would prohibit the members from having any vested economic interest in game resources. Each board member would serve a four year term and would be in a fully exempt position that serves at the pleasure of the governor.

Historically, the Legislature and the Governor have struggled over confirmations of board members. Different geographic districts and economic interests have always felt they were slighted and not proportionately represented. This has led to power struggles over appointments and confirmations and even alleged incidents of vote trading by members who represent certain user groups. Full time board members with no economic vested interests in game resources will go a long way to decrease this problem.

Three member boards will work more efficiently and can be cheaper to run. A board structured after Alaska's Public Utilities Commission or the Alaska Oil and Gas Commission allows single board members to independently hold public hearings in the field and to then bring their findings and recommendations back to the full board for a decision. Not requiring the full membership of the board to be present during field hearings will present a considerable cost savings by itself.

A full time board will more effectively serve the interests of all Alaskans once board members are prohibited from any vested economic interest in game resources.

Sponsor Statement

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

907, 465-3567 or 465-2450
FAX 907, 465-2029
Mail Stop 3101

130 Seward Street Suite 409
Juneau, Alaska 99801-2103

MEMORANDUM

February 3, 1995

SUBJECT: Sectional Summary of SB 50, An Act relating to the Board of Game.

TO: Senator Drue Pearce

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of SB 50, An Act relating to the Board of Game.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16 05 221(a) by changing the membership of the Board of Game from seven to three members, providing that the governor appoint a chair of the board to serve a term of two years, and prohibiting members of the board from having a vested economic interest in utilization of game resources.

Section 2 of the bill amends AS 16 05 221(c) by providing that the members of the Board of Game shall serve four year terms.

Sections 3 and 4 of the bill amend AS 16 05 290 to provide that members of the Board of Game shall receive a salary equal to step C, range 26 for Juneau. The effect of these provisions is to make the Board of Game into a full time board and the members of the board into full time state employees.

Section 5 of the bill amends AS 16 05 320 by making technical amendments to the quorum requirements for the Board of Game and the Board of Fisheries.

Section 6 of the bill amends AS 39 25 110(11) to provide that the officers and employees of the Board of Game are in the exempt state service.

Section 7 of the bill provides that the governor shall appoint, subject to confirmation by the legislature, three persons to serve on the Board of Game and provides for initial terms.

Section 8 of the bill provides for the transition from the current Board of Game to the new Board of Game in the event that the effective date of the bill is not passed by the legislature.

Sectional Analysis

*Senator Drue Pearce

February 3, 1995

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Section 9 of the bill provides that secs. 1 - 6 of the bill take effect on July 1 following confirmation of at least two persons to serve on the new Board of Game.

GEM:kib

95-030 kib

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 50

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to the Board of Game; and BRU: Legal Services
providing for an effective date." Component: Operations
 Sponsor: Senator Pearce
 Requester: Senator Pearce COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (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

Estimate of any current year (FY95) cost: \$ 00

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 16.05 and AS 39.25 to replace the existing seven-member Board of Game, who are members of the public with a three-member professional board, who would be full-time state employees in the exempt service. This proposed change in the composition of the Game Board represents a major departure in how the Board's activities will be conducted, and is properly a policy decision for the legislature and the administration. Nevertheless, the Department of Law provides extensive legal services assisting the Board of Game in carrying out its responsibilities. This level of service is not expected to change, whatever the composition of the Board.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/6/95
 Approved by Commissioner: R. I. Peques / FOR Date: 2/6/95
 Agency: Bruce M. Botelho, Attorney General

PREPARER TO PROV
For further

LEGISLATIVE OFFICE
State Office

Fiscal Note



Alaska State Legislature

Please enter into the record my testimony to the SENATE RESOURCES
 committee name
 committee on SB 50, dated 2/20/95
 bill/subject

I AGREE THAT THE BOARD OF GAME MEMBERS NOT
 HAVE A VESTED ECONOMIC INTEREST IN THE UTILIZATION
 OF GAME RESOURCES.

HOWEVER I BELIEVE THAT THE BOARD OF GAME
 MEMBERS NOT BE REDUCED FROM ~~SEVEN~~ SEVEN TO
 THREE MEMBERS. KEEP THE BOARD AT SEVEN
 MEMBERS. A FULL TIME BOARD OF STATE EMPLOYEES
 WITH NO VESTED INTEREST WILL BEST SERVE THE
 CITIZENS OF ALASKA.

Signed: William J. Gawn - AK REP. GUIDE # 617
 Testifier

SELF

Representing (Optional)

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Senator Drue Pearce
District F

Sponsor Statement for SB 50

Senate Bill 50 will change the composition of the Board of Game from the existing seven member part time board to a three member full time board. The bill would prohibit the members from having any vested economic interest in game resources. Each board member would serve a four year term and would be in a fully exempt position that serves at the pleasure of the governor.

Historically, the Legislature and the Governor have struggled over confirmations of board members. Different geographic districts and economic interests have always felt they were slighted and not proportionately represented. This has led to power struggles over appointments and confirmations and even alleged incidents of vote trading by members who represent certain user groups. Full time board members with no economic vested interests in game resources will go a long way to decrease this problem.

Three member boards will work more efficiently and can be cheaper to run. A board structured after Alaska's Public Utilities Commission or the Alaska Oil and Gas Commission allows single board members to independently hold public hearings in the field and to then bring their findings and recommendations back to the full board for a decision. Not requiring the full membership of the board to be present during field hearings will present a considerable cost savings by itself.

A full time board will more effectively serve the interests of all Alaskans once board members are prohibited from any vested economic interest in game resources.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB50

Revision Date: 1/25/95 Dept. Affected: Fish and Game
 Title: An Act relating to the BRU: Boards F&G
 Board of Game: _____ Component: Board Service
 Sponsor: Sen. Pearce
 Requester: Senate Resources COMPONENT SERIAL NO. #482

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	278.6	278.6	278.6	278.6	278.6	278.6
TRAVEL	(59.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CONTRACTUAL	(10.0)	(7.5)	(7.5)	(7.5)	(7.5)	(7.5)
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	209.6	221.1	221.1	221.1	221.1	221.1

CAPITAL EXPENDITURES

--	--	--	--	--	--	--

CHANGE IN REVENUES

--	--	--	--	--	--	--

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF	209.6	221.1	221.1	221.1	221.1	221.1
1005 GF Program Receipts						
1005 GF MHTIA						
Other						
TOTAL	209.6	221.1	221.1	221.1	221.1	221.1

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS						
FULL TIME	1	1	1	1	1	1
PART TIME						
TEMPORARY						

ANALYSIS (Attach a separate page if necessary)

This analysis assumes that the Board of Game will continue its present cycle and that hearings will be held throughout the state by one board member. The total number of hearing and regulatory meeting days will be about the same as the board now meets in regulatory session. Space costs will be slightly reduced, however printing, mailing and advertising will be approximately the same. Also, it is assumed that advisory committees will remain as is for the present time.

There are some questions about process that could increase the cost. For example, all regulatory meetings are now taped. Will hearings be taped? Having a complete record is important for legal challenges. Taping will require staff as well as board member at hearings. It may be difficult for the board to confine public testimony to hearings and not allow during regulatory meetings. This could increase time and expense. See page 2 for a cost comparison.

Prepared by: Beverly Reardon Phone: 465 6095
 Division: Administration Board Support Section Date: 2/14/95
 Approved by Commissioner: [Signature] Date: 2/14/95
 Agency: Fish and Game

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BOARD OF GAME - SB50

	CURRENT	CHANGE	PROPOSED
PERSONAL SERVICES	201.1	278.6	479.7
TRAVEL	89.2	(59.0)	30.2
CONTRACTUAL	75.9	(10.0)	65.9
SUPPLIES	4.7	0.0	4.7
EQUIPMENT	0.0	0.0	0.0
TOTAL	370.9	209.6	580.5

NOTES

For personal services we have assumed the current executive director position would be eliminated. However, a secretary would be added and the current half-time regulations specialist would go to full time. These changes would result in a net zero. The publication technician and shared administrative assistant would be retained. Three new full-time board members would be added.

We have assumed that advisory committees would continue to exist and work in a manner similar to the current status. Currently, the Board of Game Executive Director supervises the advisory committee coordinators in Boards and has some liaison responsibilities with advisory committee coordinators in other divisions. This function would have to be picked up by one of the new board members.

For travel, we have reduced travel to almost half assuming significant reductions due to limited hearings.

Legislative Research Agency

Alaska State Legislature



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June 23, 1994

MEMORANDUM

TO: Senator Drue Pearce

FROM: Maria Gladziszewski
Legislative Analyst

RE: Professional Fish & Game Boards in Other States
Research Request 94-215

You asked if other states operated fish and game boards with full-time, paid board members. Experts with whom we spoke were unable to confirm the existence of any full-time professional boards in other states or Canada. Most states operate fish and wildlife commissions or boards similarly to Alaska with part-time commissioners appointed by the governor. Attached are a few pages from the *State Wildlife Law Handbook* regarding the appointment procedures and qualifications for state wildlife commissioners.

Fish and wildlife experts at the National Conference of State Legislatures report that no state operates full-time professional fish or game boards. According to Sandra Wolfe, the Secretary/Treasurer of the Western Association of Fish and Wildlife Agencies, none of their member states (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, North Dakota, New Mexico, Oregon, South Dakota, Utah, Washington, Wyoming) operate a full-time professional board. In addition, Ruth Musgrave, author of a 50-state survey of state wildlife laws, *State Wildlife Law Handbook* published by the Center for Wildlife Law at the University of New Mexico, did not find any full-time professional boards during her research.

I hope this information is useful for your purposes. Please do not hesitate to contact us if you have additional questions.

We spoke with representatives from the National Conference of State Legislatures, the Western Association of Fish and Wildlife Agencies, and the Center for Wildlife Law at the University of New Mexico.

Background

State Wildlife Laws Handbook



Center for Wildlife Law

at the

Institute of Public Law
University of New Mexico
Albuquerque, New Mexico

(535)

Ruth S. Musgrave, J.D. and Mary Anne Stein, Ph.D., J.D.

with contributions from

Karen Cantrell, Ph.D., J.D.; Sara Parker, J.D.; and Miriam Wolok, J.D.



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1. Wildlife conservation--Law and legislation--United States--States. I. Stein, Mary Anne. II. University of New Mexico. Center for Wildlife Law. III. Title. KF5640 Z95M87 :1993
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Introduction

Tables 1-3. Director, Commissioner and Commission:
Appointments and Qualifications

There is considerable variation in how the fish and wildlife director, commission, commissioners, and various agency advisory board members are chosen. We recommend that qualification requirements such as various types of examinations, qualifications by experience or training, representation from various state interest groups (sportsmen, farmers, ranchers, commercial fishermen, conservation groups, geographic location, etc.), and mixing members by age, sex, and ethnicity in commission and advisory board composition be imposed by all states. Limitations on the number of members allowed to be from the same political party may be desirable. Ideally, appointments would not be tied to one political party by Governor appointments. Criteria such as written exams, physical exams and interviews for hiring department leaders and conservation officers are a good idea (see New Mexico, South Carolina and others).

Some states provide that although the Governor appoints Commission members, they must be selected from a list of eligible candidates, so that at least some expertise can be guaranteed in those who are appointed. Other states expressly set up commissions and advisory boards to allow input from competing interests, and thus are able to mediate and discuss the concerns of such interests. Examples include Colorado's Habitat Partnership Council which consists of representatives of agriculture, wildlife and rangeland management interests, designed to resolve rangeland forage issues; the Hawaii Natural Area Reserves System Commission, whose members have academic degrees in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology, or geology; the Indiana Heritage Trust Program committees, whose membership include various organized hunting and fishing, environmental and other groups; and the New Mexico Fish and Game Commission, which must have one farmer-rancher member whose land contains at least two species for which the state requires a license to hunt or fish, and one member with demonstrated involvement in wildlife and habitat protection.

Every state has experts in many relevant areas, and such expertise should be utilized to the benefit of fish and wildlife agencies. There are many excellent examples in the state summaries of required qualifications, representation of different state interests, and inclusion of persons with widely differing backgrounds. Maine mandates that the Commissioner shall review other states' provisions for developing good relationships between hunters and landowners and implement similar programs with emphasis on courtesy and responsibility for private lands.

Tables 1-3 give a rough outline of appointment qualifications of the director, commissioner and commission members. In states with no director, but rather a "secretary" of a natural resources department, such secretary was treated as a director for purposes of this table.

Table I. Director of Agency: Appointment and Qualifications

State	Governor Appointed	Appointed by Commission or Other	Submitted from List	Legislative Approval	Gubernatorial Approval	Secret of Finance of Comptroller	Academic Experience Qualification	Knowledge/ Internal Qualification	Other Qualification
AL	Not applicable								
AK		*			*				
AH	No direct information								
AZ		†					*		
CA	*				*				
CO		†							*
CT	Not applicable								
DC	*								
DE		†							
GA	Not applicable								
HI		†							
IA	*			*			*	*	
IL							*	*	
IN	Not applicable								*
KS	*			*			*		*
KY	Not applicable								
LA	*				*				
MA		†				*	*	*	
MD	Not applicable								
ME		†							
MI		*							
MN									
MO	*		*	*			*		
MS	*			*					
MT	*			*					

* Commission established by statute
 † Director serves at the pleasure of the governor
 ‡ Director shall be appointed as provided by law

REF ID: A6622002

REF ID: A6622002

Table 1. Director of Agency: Appointment and Qualifications (continued)

State	Appointed	Appointed by Commission or other	Submitted from the	Legislative Approval	Substantial Approval	Years of Service of Commission	Academic Experience Qualifications	Special Interest Qualifications	Other Qualifications
AL									
AZ	The appointee								
CA									
CO									
CT									
DC									
DE									
FL									
GA									
IA									
IL									
IN									
KS									
KY									
LA									
MA									
MD									
ME									
MI									
MN									
MO									
MS									
MT									
NC									
ND									
NE									
NH									
NJ									
NM									
NV									
NY									
OH									
OK									
OR									
PA									
RI									
SC									
SD									
TN									
TX									
UT									
VA									
VT									
WA									
WI									
WV									
WY									

* Commission and Council jointly appoint members.
 * Commission shall set its own standards from the Commission on the qualifications, skills and experience necessary for the position.
 * Must be at least age 30.

Table 2. Commissioner: Appointments and Qualifications

State	Governor Appointed	Legislative Approval	Appointed from Within Commission	Secret of Pleasure of the Governor	Academic or Experience Qualification	Knowledge or Interest Qualification	Other Qualification
AK						*	
AL	*						
AR	Not applicable						
AZ	Not applicable						*
CA							
CO	Not applicable						
CT	*	*			*		
DC	*						
DE	*	*	*				
GA	Not applicable						
HI	Not applicable						
IA	*	*			*	*	
ID			*			*	
IL	Not applicable						
IN	*						
KS	*	*		*	*	*	*
KY					*	*	*
LA	Not applicable						
MA	By statute authorization						
MD	*	*		*	*		
ME	*	*			*		
MI	Not applicable						
MO	*						
MS	Not applicable						
MT	*		*		*		
NC							
ND	*						
OH							
OK							
OR	*		*		*		
PA							
RI	*						
SC							
SD	*		*		*		
TN							
TX							
UT	*		*		*		
VA							
VT	*						
WA							
WI							
WV							
WY	*		*		*		

* Not present at the Commission's first meeting as a result of the Regulatory and Commission created by the Federal Energy Regulatory Commission Act

† Secretary appointed but Governor appointed

‡ Commission appoints Commissioner

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Table 2. Commissioner: Appointments and Qualifications (continued)

State	Governor Appointed	Legislative Approval	Appointed from Within Commission	Served at Pleasure of the Governor	Academic or Experience Qualification	Knowledge or Internal Qualification	Other Qualification
HI	Not applicable						
IL					*		
IN	Not applicable						
IA	*		*		*	*	
KS	Not applicable						
KY	*	*		*	*		
LA	*	*	*	*	*		
MA							
MD	Not applicable						
ME	*	*	*	*	*		
MI	*	*	*	*	*		
MN	Not applicable						
MO	Not applicable						
MS	Not applicable						
MT	Not applicable						
NC	*	*	*	*	*		
ND	Not applicable						
OH	Not applicable						
OK	Not applicable						
OR	*	*	*	*	*		*
PA	Not applicable						
RI	Not applicable						
SC	*	*	*	*	*		
SD	Not applicable						
TN	Not applicable						
TX	*	*	*	*	*		
UT	Not applicable						
VA	Not applicable						
VT	*	*	*	*	*		
WA	Not applicable						
WI	Not applicable						
WV	Not applicable						
WY	Not applicable						

* May not be able to serve as a member of the Board of Education or as a member of the State Board of Education or as a member of the State Board of Education.

* Appointed pursuant to the provisions of 10 USC.

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Table 3. Commission Members: Appointments and Qualifications

State	Division Appointed	Geographic Selection	Legislative Approval	Must be Blind Party	Academic or Professional Qualification	Knowledge or Interest Qualification	Other Qualification
AK	Not applicable						
AL	Not applicable						
AR	Not applicable						
AZ	*	*	*	*	*		
CA	Not applicable						
CO	*	*	*	*			
CT	Not applicable						
DC	Not applicable						
DE	*	*	*	*			
FL	*	*	*	*			
GA	*	*	*	*			
HI	*	*	*	*			
IA	*	*	*	*			
ID	*	*	*	*			
IL	Not applicable						
IN	*	*	*	*			
KS	*	*	*	*			
KY	*	*	*	*			
LA	*	*	*	*			
MA	*	*	*	*			
MD	*	*	*	*			
ME	Not applicable						
MI	Not applicable						
MN	*	*	*	*			
MO	*	*	*	*			
MS	*	*	*	*			
MT	*	*	*	*			
NC	*	*	*	*			
ND	*	*	*	*			
NH	*	*	*	*			
NJ	*	*	*	*			
NM	*	*	*	*			
NV	*	*	*	*			
OH	*	*	*	*			
OK	*	*	*	*			
OR	*	*	*	*			
PA	*	*	*	*			
RI	*	*	*	*			
SC	*	*	*	*			
SD	*	*	*	*			
TN	*	*	*	*			
TX	*	*	*	*			
UT	*	*	*	*			
VA	*	*	*	*			
VT	*	*	*	*			
WA	*	*	*	*			
WI	*	*	*	*			
WV	*	*	*	*			
WY	*	*	*	*			

* Commission member appointed by the Governor

* Commission member appointed by the Legislature

* Member of the Blind Party appointed by the Governor from a list of five names submitted by the appointment of each blind member

* The Governor appoints one member from a list of candidates submitted by the Massachusetts Probation Society, Bureau of Applied Research, and Teachers of Blindness

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Table 3. Commission Members: Appointments and Qualifications (continued)

State	Executive Appointed	Geographic Section	Legislative Appointed	Must be Blind Party	Academic or Experience Qualifications	Knowledge or Interest Qualifications	Other Qualifications
AK	•	•	•	•	•		•
AL	•	•	•	•	•		•
AR	•	•	•	•	•		•
AZ	•	•	•	•	•		•
CA	•	•	•	•	•		•
CO	•	•	•	•	•		•
CT	•	•	•	•	•		•
DC	•	•	•	•	•		•
DE	•	•	•	•	•		•
FL	•	•	•	•	•		•
GA	•	•	•	•	•		•
IA	•	•	•	•	•		•
IL	•	•	•	•	•		•
IN	•	•	•	•	•		•
KS	•	•	•	•	•		•
KY	•	•	•	•	•		•
LA	•	•	•	•	•		•
MA	•	•	•	•	•		•
MD	•	•	•	•	•		•
ME	•	•	•	•	•		•
MI	•	•	•	•	•		•
MN	•	•	•	•	•		•
MO	•	•	•	•	•		•
MS	•	•	•	•	•		•
MT	•	•	•	•	•		•
NC	•	•	•	•	•		•
ND	•	•	•	•	•		•
NE	•	•	•	•	•		•
NH	•	•	•	•	•		•
NJ	•	•	•	•	•		•
NM	•	•	•	•	•		•
NV	•	•	•	•	•		•
NY	•	•	•	•	•		•
OH	•	•	•	•	•		•
OK	•	•	•	•	•		•
OR	•	•	•	•	•		•
PA	•	•	•	•	•		•
RI	•	•	•	•	•		•
SC	•	•	•	•	•		•
SD	•	•	•	•	•		•
TN	•	•	•	•	•		•
TX	•	•	•	•	•		•
UT	•	•	•	•	•		•
VA	•	•	•	•	•		•
VT	•	•	•	•	•		•
WA	•	•	•	•	•		•
WI	•	•	•	•	•		•
WV	•	•	•	•	•		•
WY	•	•	•	•	•		•

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* Appointed and approved by the Executive and Council

* Appointed and approved by the Executive and Council

* Appointed and approved by the Executive and Council

* Appointed and approved by the Executive and Council

* Appointed and approved by the Executive and Council

* Appointed and approved by the Executive and Council

ADN 01 FEB 95

Pearce bills revamp Fish, Game panels

By IAN MADER
The Associated Press

JUNEAU — Legislation by Senate President Drue Pearce would dramatically alter state boards of Fisheries and Game by barring commercial fishermen and hunting guides.

Also, three full-time commissioners would replace the seven part-time public members who currently decide how to allocate fish and game among commercial, sport and subsistence fishermen and hunters.

The proposal would attempt to "depoliticize" each panel and make them better able to handle a growing workload, the Anchorage Republican said.

Fishing and hunting groups generally

Please see Page B-3, FISH



FISH: Boards would be altered

Continued from Page B-1

oppose scrapping the lay boards, which they consider contentious but democratic, and more responsive to the public than a professional board would be.

Currently, governors are supposed to appoint members without regard to political party or regional residence. But in practice governors try to balance regions and user groups in their appointments, which must be endorsed by the legislature.

"Every year, one of the most divisive, bitter fights no matter who's the governor and who's in the legislature, are appointments to the Fisheries and Game boards," said Pearce. "Because every user group feels they are under-represented and are not getting their fair share."

Many lawmakers reserved comment until they could review Senate bills 49 and 50, introduced late last week. Pearce acknowledged it would be difficult to secure support.

"It's a major change we're proposing, and we'll just have to see what happens," she said.

Many people agree the system could be reformed, said Rep. Mark Hanley, R-Anchorage. "But everybody has a different idea about what the problems are," Hanley said Monday.

Most adamantly opposed to professional boards are commercial fishing groups, who say they have important expertise to bring to those panels.

"To bar commercial fishermen from the board, I consider that insulting," said Theo Matthews of United Cook Inlet Driftnetters Association. "I hope that legislation is dead on arrival."

Among perennial disputes for the board are that commercial fishermen in Cook Inlet want to net more salmon. Meanwhile, sport fishermen want more of those salmon to escape and swim into Kenai River, where they can be caught with rod and reel.

JEE Pg 2

ADN 01 FEB 95

CONT'D

Subsistence fishermen on the Yukon River argue that chum salmon caught by commercial fishermen south of the Alaska Peninsula otherwise would enter their river, and the subsistence fishermen push for limits on the commercial fishermen.

But those kinds of disputes are worked out under the current system, so why change it. Democracy can be messy, but at least it's democracy, said Dick Bishop of the sportsman's umbrella group Alaska Outdoor Council.

Bishop said a professional board would become a bureaucracy to compete with the state's Fish and Game Department, which currently does studies and makes recommendations to the boards.

A professional board might develop its own conclusions based on studies by its staff, and would be less swayed by public input, Bishop suggested.

"The purpose of the boards is to bridge the gap between the technical experts and the public, and to decide on allocations. And I think the responsiveness to the public is important," Bishop said.

Many parties agree the Fisheries Board is somewhat unwieldy.

The board meets about six times a year for two-week stretches. Despite the marathon sessions, it is able to review each fishery only once every three years unless there is an emergency.

The Knowles administration's policy team on fish and game — made up of a mix of commercial, sport and subsistence representatives — recommended keeping the lay boards. But it also considered splitting the Fisheries Board into two panels, one for fin fish and one for shellfish.

Larry Edfelt of Juneau, a current member of the Fisheries Board, said serving on the panel has become nearly a full-time job in recent years.

"I think the current system is still working, but eventually the work load will get to be so great that a professional board will be necessary."

ALASKA BOARD OF FISHERIES

Present Structural/Administrative/Action Practices and Problems

1. BOARD ADMINISTRATION

A. STRUCTURE

PROBLEM: ACTION OF THE BOARD AND ITS REPUTATION HAS BEEN COMPROMISED AND WEAKENED THROUGH THE APPOINTMENT OF MEMBERS WITH DIRECT FINANCIAL TIES TO THE STATE'S FISHERIES INDUSTRIES.

ANALYSIS: Financial involvement by members or their families in any commercial endeavor related to state fisheries has been ruled a conflict of interest by the Attorney General. It is difficult to separate one's interest in one segment of the industry from one's interest in the overall industry for the purposes of making sound, rational and objective decisions on management and allocation under existing legal constraints.

SOLUTION: Replace those members with personal or family financial interests in fisheries with individuals having no financial ties to fisheries.

BENEFIT: Persons with no financial ties to fisheries should be better able to make objective decisions based upon available data and the board's mission given their lack of personal financial concern in the resource. Decisions will then be made by the entire board rather than only by those members not conflicted out.

3. SUPPORT

PROBLEM: ADMINISTRATIVE SUPPORT FOR THE BOARD IS INADEQUATE TO PROVIDE THE FULL ADMINISTRATIVE SUPPORT NEEDED FOR THE VOLUME OF WORK REQUIRED IN THE BOARD PROCESS.

ANALYSIS: Past reduction of the Board's Support Section has left an inadequate number of personnel to provide needed administrative assistance such as public information (press/media relations), data collection, liaison with other agencies, and administrative tasks required or assigned by the board.

SOLUTION: Enhance the Support Section to provide an adequate number of personnel for efficient, effective board administration and support.

BENEFIT: The board's workload can be distributed to allow more efficient use of both board and staff time. Productivity and effectiveness of the board will provide better responsiveness to resources needs and allow for a more pro-active approach to the board's management functions.

C. ADMINISTRATIVE PRACTICES

PROBLEM: THE BOARD LACKS A MISSION STATEMENT AND BY-LAWS NECESSARY TO DIRECT ITS ACTIONS AND ENABLE EVALUATION OF THE BOARD AND ITS EFFECTIVENESS.

ANALYSIS: Fundamental to organizational effectiveness is the establishment and recognition of the board's mission, formal structuring of the organization to achieve that mission and development of evaluation criteria to measure success in accomplishing its mission. Without these basic organizational elements the board's purpose, functions, effectiveness, and decisions come into question.

SOLUTION: Either through board members, support staff or outside contract services, establish a Board of Fisheries mission statement, by-laws, and organizational chart to provide formal structure to the board's functions and provide evaluation criteria and validation of the board's powers and actions.

BENEFIT: Adoption of by-laws and a mission statement will provide the board with necessary structure and direction for decision making processes, will validate the decisions of the board relative to its mission, will provide evaluation capability enhancing board effectiveness and will allow the public to better understand the purpose and process relating to the Board of Fisheries.

(Proposed) BOARD MISSION STATEMENT

To guide the development, management and utilization of this state's marine and fresh water resources toward the constitutionally mandated goals of sustained yield, common use, and the wisest and best use for the people of the state of Alaska using scientific, economic, demographic and social data provided by related state and federal agencies, outside expertise, and public testimony.

D. PLANNING

PROBLEM: THE CURRENT SCHEDULING OF BOARD OF FISHERIES MEETINGS ALLOWS LITTLE TIME FOR THE BOARD TO ADDRESS ITS ADMINISTRATION AND PRO-ACTIVE CONCERNS FOR FISHERIES RESOURCE MANAGEMENT. AT PRESENT, MEETINGS ARE SCHEDULED FULLY TO ADDRESS ONGOING FISHERIES ISSUES.

ANALYSIS: Regularly scheduled board meetings are presently fully scheduled to address ongoing fisheries issues. Special meetings are scheduled to address emergency issues. Board administration issues and concerns are being neglected or conducted via telephone two members at a time (open meetings law requirements must be considered here). This method precludes the board's ability to work together on important administrative matters (i.e. by-laws, mission statement, evaluation, direction, planning) thus the board maintains an inefficient, cumbersome method of administration and a reactive attitude toward fisheries management.

SOLUTION: Incorporate into the board's meeting schedule an annual administrative meeting devoted exclusively to board administrative, not fish management, issues, per se. This will allow the board time to organize administratively, network with support and agency staff, and develop plans, goals and objectives for future work.

BENEFIT: By scheduling an annual "business meeting" the efficiency and effectiveness of the board will be increased to the benefit of all.

II. BOARD ACTIONS

A. DATA AVAILABILITY

PROBLEM: RELEVANT DATA IS PRESENTLY NOT BEING INCLUDED FROM ALL AVAILABLE SOURCES PRIOR TO BOARD DELIBERATIONS RESULTING IN QUESTIONABLE DECISIONS OR THE DECISION MAKING PROCESS.

ANALYSIS: Presently the board receives detailed information only from ADF&G, the Department of Law, and the public. In cases of allocation ADF&G input is minimal. The board needs information from other agencies (University of Alaska, AK Departments of Commerce and Economic Development, Community and Regional Affairs, Environmental Conservation, and federal agencies such as: National Marine Fisheries Service, USFS, USF&WS), as well as outside expertise in some cases to make objective, sound decisions.

SOLUTION: Board staff should work with the board to determine all needed information prior to deliberations and should solicit same from appropriate sources. This information can then be provided to the board prior to meetings for study and needed testimony can be requested for the meeting.

BENEFIT: Board members will be able to base important decisions on deliberation of all relevant data providing well rounded decisions made in the best interest of both the resource and the public and in accordance with its mission and constitutional mandates.

B. DATA RELIABILITY

PROBLEM: ACCURATE, VERIFIABLE SCIENTIFIC DATA IS UNAVAILABLE OR CONFLICTING DATA IS PRESENTED BY VARIOUS "EXPERTS" OR SOURCES RESULTING IN DELIBERATION AND DECISIONS WHICH ARE CHALLENGED SCIENTIFICALLY OR LEGALLY IN THE COURTS.

ANALYSIS: ADF&G organization of biologists/research for some species has been divided into commercial vs sport fish categories. These Divisions differ greatly in funding levels, personnel and areas of responsibility even though the same species of fish may be involved. This pits the various divisions against one another in their stated mission, their interpretation of data, their ability to do research and in their relationship with the board and the public.

SOLUTION: Reorganize the Department to provide a unified Research Division with sections for specific species (i.e. shellfish, finfish, aquaculture, etc.) as necessary to provide accurate data, encourage research, minimize conflicts between staff, and provide an ecosystem approach to scientific study.

BENEFIT: The board will benefit in its decision making from accurate, objective, verifiable data. The Department will benefit from the same information, cooperation between staff and increased efficiency. The public will benefit from sound decision making and the resource will benefit from increased understanding and an ecosystem wide approach to management.

E TRAINING

PROBLEM: BOARD MEMBERS RECEIVE NO "TRAINING" TO ALLOW THEM TO BETTER UNDERSTAND FISHERIES MANAGEMENT ISSUES, STUDY METHODS, OR THE REGIONS AND PEOPLE AFFECTED BY THEIR DECISIONS.

ANALYSIS: Members are appointed to the board with varying degrees of understanding of the geography and people of the state and its fisheries resources. They then attend meetings to make decisions based on information of which they may only have a rudimentary understanding and which will affect regions and people existing largely on a map in their minds. This can lead to considerable mistrust in the public's mind and confusion on the part of the board member.

SOLUTION: A board member "training program" should be implemented which will introduce the new member to the types of information available and its sources, the board's mission and bylaws, methods of commonly used scientific research and its limitations, and an overview and introduction to the various regions and peoples affected by board decisions. This program, at a minimum should include:

1. The State Board/Commission Member Handbook.
2. Alaska State Constitution
3. Current State statutes and Alaska Administrative Codes pertaining to the sphere of the board's power and responsibility.
4. Technical Manual addressing currently used research methods, data sources and contacts, information formats and interpretation guidelines, brief geopolitical/geophysical description of involved regions of the state, historical overview of state fisheries resources and critical regional fisheries background.
5. Scheduled annual field training for all members involving "in-season" regional visits with agency personnel, community leaders, and the general public. These visits would be conducted in pairs with members attending one field training session each year.

BENEFIT: By providing training as outlined above board members will be better equipped to make objective, informed decisions based upon first hand understanding of a wider variety of factors. In addition, board credibility will be heightened by increased public contact and exposure to on-going fisheries. Finally, deliberations will be enhanced through a more thorough understanding of data presented, its sources and limitations, and knowledge of where and what additional information is necessary to make an informed decision.

C. EVOLVING FISHERIES

PROBLEM: THE BOARD IS ASKED TO MAKE REACTIVE ALLOCATIVE AND FISHERIES DEVELOPMENT DECISIONS BASED ON MINIMAL SCIENTIFIC DATA FOR EVOLVING FISHERIES (i.e. little neck clams, sea cucumbers, sea urchins).

ANALYSIS: The growth of the seafood industry and interest in previously under or unutilized species has placed new demands on the resource as a whole. Given the demand and the lack of baseline data (i.e. basic stock, sustained yield levels, harvest effort impact upon other species, upon the food chain, etc.) the board has allowed development of fisheries and increased harvests in reaction to harvest demand with little information needed to assure sustained yield of these species and minimize impacts of harvests on other reliant species.

SOLUTION: Establish within ADF&G a Development Division charged with assimilating data from a Research Division, industry representatives, and outside expertise prior to opening or expanding commercial exploitation of new species. This information will then be provided to the board prior to deliberations on issues affecting these species.

BENEFIT: Sound, objective decision making based on this structuring and information will allow for rational development of marine resources while assuring minimal impact on other species and decision making in accord with constitutional and biological concerns for fisheries resource protection, sustained yield, common use and highest and best use.

D. PLAN DEVELOPMENT

PROBLEM: MANAGEMENT PLANS PRESENTLY ARE DIRECTED PRIMARILY UPON SINGLE DISCRETE SPECIES RATHER UPON THE ECOSYSTEM WITHIN WHICH THE SPECIES EXIST. MANAGEMENT PLANS ARE ALSO CONFINED TO GEOGRAPHIC BOUNDARIES WHICH FAIL TO RECOGNIZE THAT SOME SPECIES TRAVEL OR ARE DEPENDENT UPON ADJACENT OR DISTANT BODIES OF WATER.

ANALYSIS: All species of fish depend upon the full range of the ecosystem within which they travel throughout their life. They also depend upon other species for food and in many cases also influence factors within the ecosystem upon which the other species depend. In addition to the direct impact that the harvest of a single species may have upon the ecosystem the impact of the gear used for fishing may have significant and long range implications for other species and the ecosystem as a whole.

SOLUTION: All management plans must be comprehensive plans within the context of the ecosystem involved. Only after consideration of the impact of single species harvest upon the ecosystem can decisions and judgements be made about seasons, allocation, methods and means. It may be possible within a detailed ecosystem management plan to then differentiate harvest of a discrete species with some degree of safety.

BENEFIT: The most significant beneficiary of the ecosystem approach is the ecosystem itself. Secondly all species will individually benefit. Last, but not least, people will benefit from a healthy ecosystem and its rewards to those who recognize and honor the elements critical to its survival. Without such recognition Alaska's waters will soon be depleted as have been the highest productive waters of much of the rest of the world.

E. PLAN REVIEW

PROBLEM: THE ROTATIONAL BASIS FOR REGIONAL MANAGEMENT PLAN REVIEW PRECLUDES TIMELY ADJUSTMENTS TO PLANS IN RESPONSE TO RAPIDLY CHANGING FISHERIES.

ANALYSIS: To reduce demands on the board a rotational basis is used in schedule evaluation and adjustment to regional management plans. Past board decisions regarding discussion of plans in reaction to changing demands have held that 'opening plans' out of rotation will only be allowed under a biological emergency. This has greatly encumbered the board's ability to address changing socio-economic conditions affecting specific fisheries.

SOLUTION: Develop further alternative methods of enabling management plans to be revisited out of rotation based upon pertinent information on changing biological or socio-economic conditions.

BENEFIT: Allowing review and adjustment of plans in relation to the mission of the board, when conditions merit, will provide sensitivity to changing social, economic, and biological impacts. The dynamic nature of fisheries resources requires dynamic management alternatives.

F. DATA TIMELINESS

PROBLEM: BOARD DECISION MAKING ON HIGHLY SEASONAL FISHERIES (i.e. anadromous species) IS HINDERED BY AN UNDULY SLOW, CUMBERSOME, AND INEFFICIENT METHOD OF ACCUMULATING HARVEST AND ESCAPEMENT DATA.

ANALYSIS: Presently harvest information on anadromous species, specifically salmon, is generated through analysis of commercial fish tickets and through sport fishing creel and mail out surveys. Typically information on commercial harvest is available shortly after the commercial season ends. Sport harvest data, however, is not available for up to eighteen (18) months after the season. This time lag in compiling complete data greatly reduces the board's ability to react to changing harvest conditions in a timely manner and detracts from the ability to meet goals mandated by Alaska's Constitution.

SOLUTION: Implementation of a punch card system for reporting sport catches of salmon with mandatory reporting deadlines will greatly reduce the lag time between seasons end and the development of necessary data. This will allow the board more sensitivity to changing conditions and support more soundly made decisions.

BENEFIT: More efficient collection of harvest data and its positive effect on the board's decision making processes will provide sound decision making based upon current data information benefiting all users and the resource in general.

G. ADDITIONAL DATA NEED

PROBLEM: There presently is no institutions commitment or mechanism for obtaining annual feedback on successes, failures and recommendations for changes or improvements to management strategies or regulations during or following a fishing season.

ANALYSIS: Those persons directly involved in direct and indirect fishing related activities often possess a strong commitment to both the protection of the resource as well as its best utilization. They have direct knowledge of factors which could be of inestimable value to fisheries managers as they do pre-season planning, in-season adjustment, and post season evaluation.

SOLUTION: By specifically opening effective lines of communication in season, during, and post season with both commercial and non-commercial sources and users it will be possible to achieve improved management and establish a stronger relationship with these users and the general public. Person to person critiques with the major processors should be scheduled and the findings consolidated by ADF&G staff and resulting decisions or changes then communicated back to the source.

BENEFIT: The fisheries resource will profit from changes which may prevent adverse impacts to continue. The department will profit from additional data and the perspective enhanced by other experiences and opinions. The department will also benefit from the understanding and respect possible through this sharing of information. The public will benefit both from improved management and the opportunity to become part of the process about which many now have little or no information or knowledge.

H. BIOLOGICAL DECISIONS vs. POLITICAL DECISIONS

PROBLEM: Research and field biologists are now placed in direct relationship with the public on political, economic and allocative issues. Most biologists have minimum or no training in the political, behavioral or social sciences and are not now given such training in connection with assuming such responsibilities.

ANALYSIS: In many instances the above results in their involvement in highly controversial and emotional battles often leading to a loss of respect and confidence. It is the responsibility of administrative and management personnel to make decisions on these issues. It is also the responsibility of these persons to obtain information and support data and recommendations from the biologists, other scientists, and other sources by which they can both make decisions and assume responsibility in their regard.

SOLUTION: Biologists can be shielded from non scientific controversy by being placed in a more scientific arm of ADF&G such as the Research Division previously recommended. Not only will their working environment be improved but also their ability to do their primary job now often sacrificed to the demands of other tasks not directly related to the fisheries resource.

BENEFIT: The Department will profit from a more stable and efficient scientific arm and the ability to expand efforts into research and scientific areas now so sadly lacking. The general public will profit from having persons fully prepared to handle the often controversial issues which are growing more complex every day.

I. STAFF MEETINGS

PROBLEM: To most fully utilize all persons available in making management decisions within the Department teleconference Staff Meetings are often utilized to link staff across the state. It is now evident that some offices involved in this process have permitted members of the general public and/or persons with specific special interests to sit in on these administrative sessions. In some highly charged controversial decisions the managers responsible for making decisions have been subsequently openly challenged by these non staff persons who cite being present during the discussions or exchanges of opinions on the part of various personnel during the teleconferences.

ANALYSIS: The use of telephones and teleconferences is a widely used method of communication in the conduct of management and administrative business. The ability to link together persons from widely dispersed sites in this fashion saves countless dollars and hours of the staff so involved. It also permits more people to be involved in the decision making process. However, some have apparently believed that such administrative uses fall under the open meetings requirements. These uses are no different than having a staff meeting within the walls of an agency building.

SOLUTION: The general public or non-staff personnel should not be present for a teleconference unless their presence is requested or approved by the person directly in charge of the teleconference. Expression of opinions, ideas or recommendations by individual staff members and disagreements often resulting in such discussions are confidential in nature and should remain in-house unless released by the persons in charge.

BENEFIT: Managers and decision makers will profit from the most productive exchange of data and ideas from the widest range of staff members possible. All professionals within the Department will benefit by an opportunity to freely exchange opinions and openly disagree or challenge potential options based upon their knowledge or experience.

Dear Governor Knowles:

May I express my delight with the positive and public based philosophy represented by your mission statements for the new administration. In my short tenure with the Board of Fisheries and our responsibility to interface with the North Pacific Fishery Management Council I feel an even greater sense of urgency regarding our fishery resources than at the time I was nominated to the Board of Fisheries.

I am enclosing a copy of some observations of the Board of Fisheries which I developed following your election, and based upon your statements of the philosophy that you will follow in your leadership of the state. I have sent this information to Larry Engle, Chair of the Board of Fisheries, and to Ben Ellis, as a member of your Transition Team.

There are two issues which I would like to emphasize:

I - PHILOSOPHY AND POLICY: The first is establishing a sound and strong statement of philosophy and policy regarding Alaska's fisheries resources. Probably no other state in the nation has a constitution which speaks so specifically about its natural resources and their importance. Certainly, no other state in our nation, indeed, no other region in the world, has the vast untapped marine resources of the state of Alaska and its adjacent waters. Yet some of these resources are in jeopardy because of haphazard utilization and shortsighted management in recent years.

At the present time we find all manner of "management plans" which appear to have no central mission or goal and fail to relate to the many common factors which should guide such plans. All management plans should have, as their very first section, the same succinct statement of this commitment of the state of Alaska.

II - COMPREHENSIVE ECOSYSTEM PLAN: The second issue is that of a need for comprehensive plans which are developed around an ecosystem approach rather than single species and/or administratively established geographical boundaries. Whether viewing actions of the Board of Fisheries or the North Pacific Fishery Management Council it is clearly evident that the broad, and sometimes critical, impact of some decisions upon other than the targeted species creates problems far greater than those "solved" by the action taken.

I shall be happy to expand upon these issues or provide other thoughts at any time. Little did I know that upon "retirement" I would find myself more involved in some of the critical issues facing our state than I was during my employment. I am still very optimistic that we can find some answers while there are still resources around to benefit from our effort.

Please do not hesitate to call upon me if there is any way in which I can contribute, as a volunteer, in carrying out your mission.

Enclosure:

bcc

December 22, 1994

Dear Ben,

Congratulations on your appointment to the Knowles administration policy transition team. I am certain that you will be able to make a valuable contribution to the transition process. You asked for my impression of the effectiveness of the Alaska Board of Fisheries and for suggestions for improving the manner in which fisheries policy is developed and implemented in Alaska. I'd be happy to offer you a number of constructive comments based on the twenty years that I have spent working with the Alaska Department of Fish and Game.

The way I see it there are three potential starting positions for my comments, they are, 1) The Board of Fisheries process is just fine the way it is; 2) The Board of Fisheries process is so seriously flawed that it should be scrapped in favor of a professional board or some other new process; or 3) The Board of Fisheries process is essentially sound but it could and should be improved to make it more responsive to the issues of the 90's and beyond. My choice as a starting point is number 3. In addition to spending twenty years with the Alaska Department of Fish and Game, during the past five years I have had the privilege of working with the Western Association of Fish and Wildlife Agencies, the International Association of Fish and Wildlife Agencies, the U.S. Fish and Wildlife Service Management Assistance Team and the fish and game agencies in Minnesota, Wyoming and Delaware. I've observed numerous other state's systems for allocating fish and wildlife resources, setting seasons, methods and means and limits and I have concluded from that experience that Alaska's fisheries boards process is a basically good public process and one that should be retained.

I try to keep this fairly short and to the point, you will undoubtedly be getting plenty of advise on this subject. The Board process is very good at implementing fisheries policy. In my opinion, where the Board runs into trouble is when they attempt to develop policy in the absence of statutory guidance. When this happens, the Board usually winds up in court, on the losing end. Title 16 makes for some fascinating reading to us eccentrics interested in the rational development of our state's fisheries resources. In Title 16 you will find most of the policy upon which our management plans and regulations are based. Check the dates of adoption for the Chapters, Articles and Sections in Title 16 and you will find that they have been adopted piecemeal over time since statehood. No one has ever sat down and looked for the obvious contradictions and obsolete and outdated directions these laws provide.

Most of the major fisheries issues that I'm aware of are addressed in some fashion in Title 16 including, subsistence, allocation criteria, mixed stock management, management of wild and enhanced stocks, finfish farming, limited entry, cost recovery and so on. All of this policy level guidance was developed by the legislature and signed into law by some passed governor. It

seems to me that if there is a growing dissatisfaction with the manner in which the Board of Fisheries is operating that at least part of the cure need to come in the form of clarification of existing policy or development of new policy. The Board shouldn't be charged with the responsibility of developing the policy that it will in turn be required to implement. I believe that there needs to be a commitment to broad based comprehensive planning for our state's fisheries. I see the planning process as being agreed to by the Board, the Legislature and the Governor, facilitated by the Department of Fish and Game and conducted with our state's best interest in mind.

If we can not mount an effort such as I have suggested, then we must at least look carefully at the guidance that Title 16 currently gives the Board with respect to the most volatile fisheries issues. I would suggest that the mixed stock policy, the allocation criteria and the management of wild and enhance fish stocks could all benefit from further legislative guidance. The present lack of a comprehensive approach toward fisheries management benefits the status quo and in my opinion, guarantees that we will never realize the true economic or social benefit that can be derived from our fisheries resources.

Sincerely,

The Alaska Sport Fishing Association, Alaska's largest sport fishing group, would like to provide the Knowles/Ulmer Transition Team on Fisheries the following comments:

The comments will attempt to be in a format which follows the mission of the team which, we understand is to examine the structure and access to the Board of Fisheries (BOF).

The BOF is the regulatory body established by the Alaska Legislature to manage the fishery resource which belongs to all the people of Alaska. The Legislature has the statutory responsibility to manage the resources of the State and has delegated to the BOF the management of the State's fishery resources. Constitutionally, the BOF must manage for SUSTAINED YIELD of the resource. In doing so, it sets numerous management guidelines that should result in the management of the resource for a) sustained yield, b) reasonable access for each user group, and c) allocation of the resource that best meets the seven criteria set up by the Legislature.

The BOF utilizes the expertise of the Alaska Department of Fish and Game during its deliberations and uses the agency as the vehicle to execute its management schemes. Therefore, the two are closely intertwined. Additionally, the BOF seeks advise from the Attorney General's offices amongst other State agencies.

In private industry, we are constantly being challenged by the charges - to be creative, to seek continuous improvement, to be best in class and I would expect no less from any agency of the State. We feel that the BOF has periodically accomplished (?) its mission but could be a much better manager of the people's resource if it broke away from some of its current ways of doing business. The world of fisheries management has evolved to become a complex animal requiring an incredible amount of knowledge not only of the fishery being managed but also of the other commingled species. Not only are there a preponderance of Mixed Stock fisheries on the harvest side but also mixed stocks on the rearing/grazing side of the fish's life span. We called it a world of fisheries management because the fish know no national borders and roam wherever they chose. It is admirable that the BOF members attempt to understand and use all the data that is available. But is that enough? Could they do a better job? We can all do a better job, whatever our mission!

The BOF's current management style of traditional management needs to be updated. Lets agree first that the decisions must be made based on sustained yield of the species and that the traditional tools of seasons, methods and means, escapements, commercial economics, bag limits, etc. have served the BOF reasonably well (?) in the past. What's missing? Where's the improvement? Lets recognize that the traditional model of management is outdated. The BOF must begin to utilize today's management philosophies which use additional approaches and theories, in concert with the traditional style, to best manage the fishery resource. Among additional types of information that need to be used when making decisions are resource economics, biological trends analysis, and state of the art survey data. ADF&G is, in our eyes, the premier fishery agency in the world. They have the people and skills to provide the BOF such additional information. Lets use these top notch people to help better the process.

Does the BOF efficiently and effectively manage the resource? The answer usually depends on the level of your user group's satisfaction with the BOF decisions. That's bunk!!! We must transcend our personal desires and look at how the resource is managed for everyone because we all own the fish.

Since we all own the fish, do we all get a fair opportunity to participate in this public process. We don't think so. The improvement lies in several new directions:

- a) improve access for all users by scheduling management meetings where the fishery takes place (assuming adequate lodging and meeting places are available). Why aren't A-Y-K or False Pass management meetings held in Western Alaska where the fishery is? Why can't the meetings for the Yukon be held in Western or Central Alaska? This minor change would make it easier for all users to participate equally, not just those with the money to fly to Anchorage for meetings.
- b) take a hard look at the local advisory committees to redetermine not only what their function is but also that they reasonably represent the user groups of the area and not the local political strength of any particular user group. If they don't, lets require that a change be made. Once that's done, we need to make sure that the committees are performing their assigned mission. If not, they must change or the BOF must change to allow them to accomplish their job.

c) the two prominent agencies advising the BOF are the Attorney General's Office and ADF&G. How can we improve these interactions? The AG's office is, in our opinion, driving many of the decisions made by the BOF. The BOF has, in the past, been a very poor risk taker in that if the AG's office says that there is a 'gray area', the BOF rarely pursues that line of reasoning because they might be sued. In private business, the largest rewards frequently go to those who take the biggest chances. (The skipper with the better gear which costs more money frequently catches more fish.) The reality is that the BOF has felt that if they went against the advise of the AGs office that the AG would not vigorously defend them in any litigation. This thought serves no one but the AG and the people controlling the AG's office. Another area that we must reexamine is the AG recommendations on conflict of interest. The AG has been more and more frequently advising the BOF that members should desist from participation because of a conflict of interest. We agree that no voting should be permitted should the member or a member of his/her immediate family have a meaningful financial interest in the fishery being reviewed. However, one of the reasons, the other being political, for the BOF's members hailing from different regions of our State is to be able to provide a local knowledge of the fishery for the other members of the Board. Perhaps naively, what wrong with that? This conflicting out is becoming a way to eliminate adverse votes by special interest groups. Its quite possible that a majority of the BOF could be conflicted out of some fisheries discussions.....so could the BOF function without a quorum? Don't think its legal. Are we trending towards a full-time paid professional BOF? That's certainly an option that several states have gone to. Is it Alaska's turn?

The ADF&G staffers are exceptional. However they need to provide more and different information to the BOF as we noted above. Additionally, the respective divisions should be able to present their thoughts at the meetings even if they disagree with another division's. The current practice of having the BOF rely exclusively on the division that manages the fishery for the user group taking the largest proportion of the fish needs to be addressed. The other user groups deserve to have the experts that manage their portion of that fishery able to present their views as well. This will provide the BOF with more information with which to make decisions.

d) please look at the three year cycle of regional management reviews. In the world of dynamic fisheries management, is the three

years between reviews harming the efficiency and productivity of the BOF? Does the three year cycle place decision making requirements on ADF&G that the BOF has not formally delegated? Should we go back to a two year cycle?

Regarding your recommendations: Changes made just for the sake of saying that you've made a change is just as pitiful as making no change. Management of the change is more important than the change itself. Lets be proactive in providing the Governor with some realistic meaningful recommendations for improving the BOF process including some ideas as to how to manage the changes and some measurement tools to help determine that the changes are being accomplished and are beneficial to the overall mission of the Board.

One last comment, please. The members of your team hardly reflect the constituency of the citizens of the State. There are NO personal use representatives, only five sport fishers, only eight subsistence users, but twenty one commercial fishers. This implies that there are four times the number of commercial fishers in Alaska than sport fishers and that subsistence users number less than one third of the number of commercial fishers. And we guess that the personal use regulations should be repealed as there is apparently no one in Alaska who qualifies.

Thank you for the opportunity to provide our comments.

Phil Cutler, President

REPORT TO THE GOVERNOR
ON THE BOARD OF FISHERIES

Board of Fisheries Review Committee
February 23, 1998

STEVE COWPER, GOVERNOR

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF AUDIT & MANAGEMENT SERVICES

PO BOX 4M
JUNEAU, ALASKA 99811-0199
PHONE: 907/465-3568

February 22, 1998

The Honorable Steve Cowper
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Cowper:

As Chairperson of the Board of Fisheries Review Committee, I have the pleasure of submitting to you our report with its recommendations. In choosing committee members, you succeeded in selecting persons who are highly knowledgeable of the fishing industry in the State of Alaska and with a great concern to improve its regulatory processes. I believe that the given recommendations represent sound advice which will eliminate many of the problems currently associated with operations of the Fisheries Board.

Sincerely,

A. Mathisen
Ale A. Mathisen, Chairman
Board of Fisheries Review
Committee

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1. INTRODUCTION

The effective management of Alaska's fisheries resources is a matter of considerable public concern. Many state residents depend on the harvest of fish stocks for subsistence needs, while commercial fishing is one of the most important segments of the Alaskan economy.

The regulatory system designed and implemented by the Alaska legislature upon statehood was purposely crafted to provide substantial opportunities for fishermen and other interested members of the public to participate in the regulatory process. This was largely in response to a legacy of federal management, resource depletion, and special-interest bias during the territorial period.

Over the years this commitment to open participation has become an integral part of the regulatory process which the public strongly supports. To quote from the 1987 Senate Advisory Council report on fisheries management:

"It is difficult to emphasize just how strongly many believe that 'participatory democracy' is the essence of Alaska's fisheries management regime. They speak very critically of other systems, such as Canada's Department of Fisheries and Oceans and of the management agencies in California and Washington as bureaucracies which limit or essentially exclude public involvement. The legacy of territorial days during which Congress and federal regulators routinely ignored the concerns of local fishermen is strong."

While public participation is an essential part of the regulatory process, in recent years the virtually unlimited opportunity for such participation, combined with ever-increasing complexity of fisheries issues, has created an almost impossible working situation for the board. To again quote from the Senate Advisory Committee report:

"...many fishermen, past and present board members, and others expressed the conviction that some action to either control the agenda or to enhance the ability to cope with the workload was necessary. They referred to the present system as verging on chaos."

In response to public concern, Governor Cowper appointed a nine-member review committee in October 1987 to evaluate the structure and procedures of the Board of

Fisheries and to recommend changes necessary to facilitate effective management. Members of this committee are:

Ole Machisen (Chair)	Pete Schaeffer
John Garner	Larry Edfelt
John White	Hank Pennington
Cheryl Sutton	Don Mitchell
Dick Jacobson	

Staff Assistance and support from the Office of the Governor was provided by John Halterman and Sam Stoker. This report was drafted by Sam Stoker based on the committee's deliberations.

In his charge to the committee, the governor instructed the members to address the following questions:

- a. Is the present system of fisheries regulations well suited to meet the challenges posed by an increasing complex utilization of valuable resources?
- b. Is the current Board of Fisheries regulatory process fair, efficient, and responsive? If not, what changes should be made to make it so?
- c. Does the current process integrate all available data, including the most recent biological information, economic considerations, and state fisheries policy, in considering regulatory decisions? If not, what changes are required?
- d. How should board members be selected? Should they represent different gear groups, geographic areas, or knowledge and expertise? What other qualifications should be considered? Should membership to the board require divestiture of a personal economic interest in fisheries regulations? Should membership be a full-time paid occupation?
- e. Does the current process provide for sufficient input from all user groups and regions without discrimination or bias, and does the process promote orderly and efficient review of regulatory proposals? If not, what improvements can be made?

On November 6-13, 1987, the committee met in Anchorage for initial deliberation and for receipt of public testimony through a statewide teleconference. On February 4-5 the committee reconvened in Juneau to finalize its discussion and recommendations. The content of these hearings and deliberations are summarized in the following report.

2. IDENTIFICATION OF PROBLEMS

The number and diversity of problems, real or perceived, which have been attributed to the board and its processes over the years are myriad and nearly all-inclusive. Many of the present problems with the board derive from the increasing value of the resource, consequent competition for that resource, acknowledgement and definition of competitive user-groups, and better organization and lobbying pressure on the board from these user groups.

The following outline of problems and suggestions relating to the board is summarized from written comments received by the Governor's Office, a recent public teleconference in Anchorage, deliberations of this committee, and recent reports from the Board of Fisheries and the Senate Advisory Council.

a. Policy:

- o Inadequacy of statewide fisheries policy, resource assessment documents and area management plans for use by the board.

b. Regulatory Process:

- o Relationship of the board to relevant agencies.
 - (1) ADF&G
 - (2) Local advisory committees and regional councils
- o Accountability and documentation.
- o Criteria and guidelines for regulatory decisions.
- o Reliability, applicability and consistency of information supplied to the board.

c. Structure of and appointment to the board:

- o Full-time "professional" versus part-time "lay" board concept.
- o Creation of regional boards.
- o Division of boards by resource category.
- o Process of and criteria for appointment to the board.

o Conflict of interest and special interests
of board members.

- (1) divestiture of financial interests
- (2) disclosure of financial and other
interests

d. Staff support for the board.

e. Proposal submittal and review.

o Length of board meeting.

o Criteria for submittal and screening of
proposals.

o Role of advisory committees and regional
councils.

o Public access to the regulatory process

o Level of autonomy and authority of advisory
committees and regional councils.

3. RECOMMENDATIONS OF THE COMMITTEE

The following were approved by the committee as recommendations to the governor. Many of these recommendations may also apply to or affect the Board of Game.

3.1 Policy:

(a) To a large extent the Board of Fisheries has been delegated the task of regulating the take of fish stocks without specific guidance in the form of comprehensive fisheries policy adopted by the Legislature, which has the authority and responsibility to provide such guidance, pursuant to Article 8, Section 2 of the Alaska Constitution. The committee recommends therefore that the Legislature and the governor develop more specific fisheries policy in order to direct and assist the Board of Fisheries in its decision making process.

(b) Objectives of the board should be to prepare, in cooperation with staff of the Department of Fish and Game, resource assessment documents (RADS) and develop and implement area management plans (MPs) for geographic areas which represent ecological systems or entities in so far as such can be defined by available data. The timing and priority for development of these RADS and MPs should be consistent with state fishery policy as defined by the Legislature and/or the governor. Biological data contained in the RADS and MPs should have confidence limits or at least degrees of reliability clearly delineated so that all parties understand the biological risks associated with particular management and allocation decisions by the board. Ultimately, all regulatory proposals should be offered as amendments or revisions to management plans and considered against the objectives of those plans.

RADS and MPs should be updated on a biannual basis to incorporate new information, and should be made available to all segments of the regulatory system. Management plans should be promulgated for the purpose of developing both short-term and long-term sustained harvest and allocation policy addressing subsistence, commercial, sport and personal use needs as well as incidental catch.

The authorship of RADS and MPs and amendments to them should be noted and dated.

3.2 Regulatory Process

(a) The committee supports the board's return to a two-year cycle for proposal submittal and review, by alternate area, except as otherwise provided for.

(b) The board should address each section of the regulations as advertised, and should provide timely and public notification in the event of reconsideration or change of schedule.

(c) The location of board meetings should be determined by the board, based upon considerations of cost and efficiency, with the provision that adequate and timely notification of such decisions be made public.

(d) In addition to the biannual cycle for proposals by area, all regulatory proposals should be submitted sufficiently in advance of board meetings to accommodate adequate review according to an established schedule similar to the following:

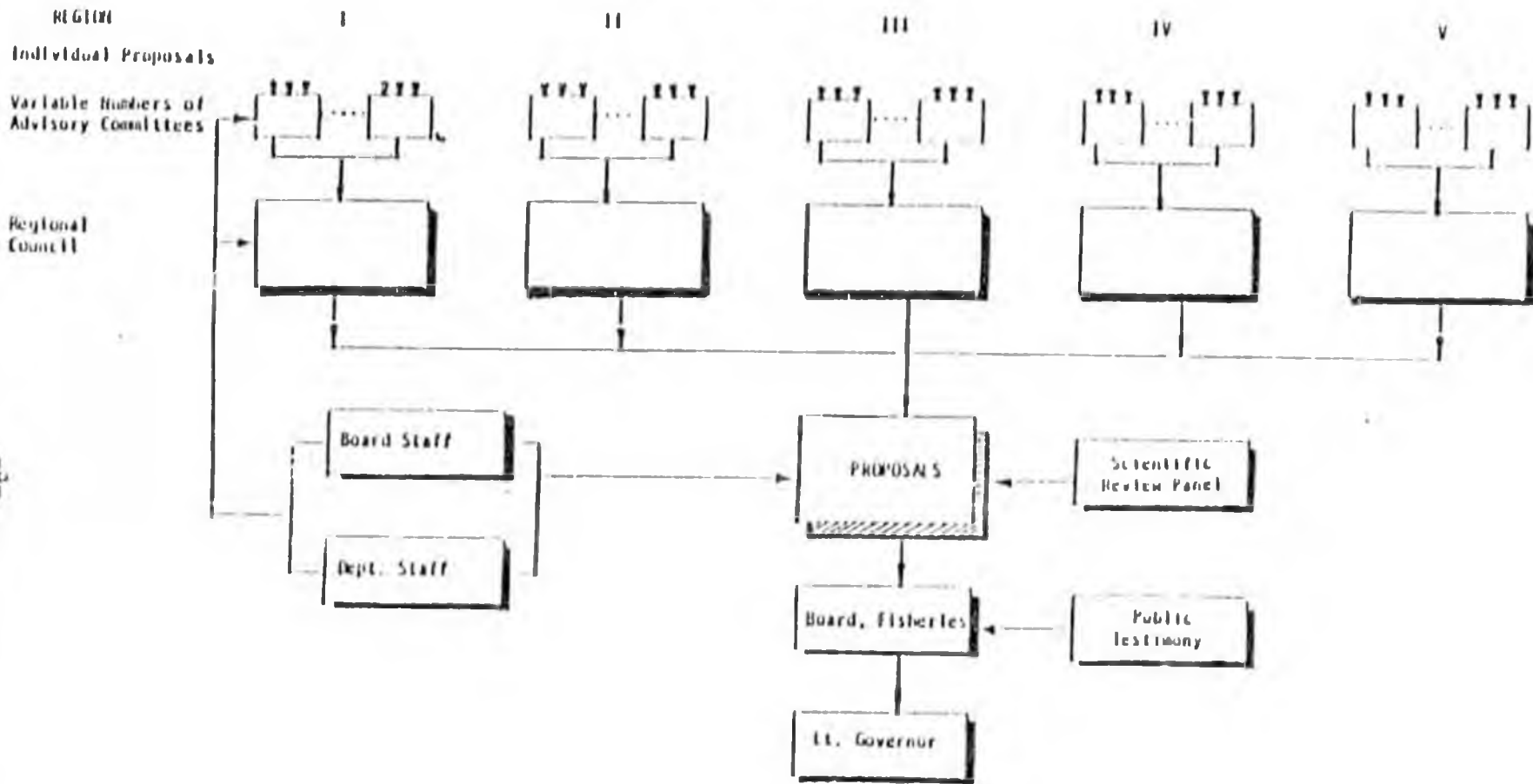
<u>Finfish</u>		<u>Shellfish</u>
January 1	Department proposed RADs and MPs should be published and distributed	January 1
February 1	deadline for submittal of proposals	May 1
March 1	deadline for publication and distribution of proposals	June 1
March 15	deadline for submittal of written comments relating to proposals, and meetings of Local Advisory Committees to discuss RADs and MPs	June 15
April 15	deadline for written comments on RADs and other proposals	September 15
May 15	meetings of regional councils for debate and comment on proposals	October 15
September 1	regional council meetings to review proposals for which new information has been acquired, with participation by the board and Department staff	November 1
October 1	deadline for submittal of recommendations by the regional councils	February 1
November 1	Board meeting	March 1

2.3 Appointment to the Board:

(a) The governor should appoint persons to the board who concur with and agree to implement state fishery policy. Such persons are expected to be knowledgeable and

ALASKA DEPARTMENT OF FISH & GAME

Flow Chart of Regulatory Process



experienced concerning aquatic renewable resources and their uses in Alaska.

3.4 Structure and Composition of the Board:

(a) After lengthy deliberation the majority view of the committee was that a full-time professional board is not necessary at this time and that the present lay board system should be retained. Other recommendations relating to this decision are as follows:

(b) Board of Fisheries appointments should be salaried, part-time positions within the state employee system.

(c) Appointment to the board should not require divestiture of financial interests in fisheries or fishery-related businesses. Board members, however, should not hold concurrent positions as officers or directors, paid or unpaid, of professional fisheries organizations.

(d) Members of the Board of Fisheries should be required to provide full public disclosure of interests, financial or otherwise, in fisheries related businesses or organizations. The board's current abstention policy should be maintained.

(e) Any member of the Board of Fisheries convicted of a violation of fish and game regulations should be subject to automatic removal. A minority of the committee felt a board member should be removed only for an intentional violation.

3.5 Ex parte Communication:

(a) Members of the Board of Fisheries may not have ex parte communication relating to regulatory proposals during meetings of the Board of Fisheries which they are attending, including periods of recess. Board members have the obligation to inform the public of this prohibition if improperly approached, and to disclose such approaches as soon as the board reconvenes. Failure to do so should be considered grounds for automatic removal of the board member. A minority of the committee felt that automatic removal was too severe.

In recognition of limitations which this places on the board and the public for information exchange, the committee recommends that chairpersons of advisory committees be allowed to participate in deliberation of issues relating to their areas at the discretion of the Board chairperson.

3.6 Documentation:

(a) The Board should provide written documentation which identifies evidence in the

administrative record upon which is relied in arriving at all decisions, along with a summary of reasons for such decisions. This administrative record should also include the voting record of board members on each decision.

3.2 Support Staff

(a) The executive director of the Board of Fisheries should be a partially exempt position, and should be hired and fired by mutual consent of the Board of Fisheries and the Commissioner of the Department of Fish and Game.

(b) The board should prepare and submit its own budget to the Governor for staffing and annual expenses.

(c) A professional staff, serving exclusively the board, should be hired and fired by the executive director of the board and should consist of partially exempt positions within the state employee system.

(d) Staff needs of the Board of Fisheries, as determined by its executive director, should be consistent with the recommendations of this report and the statutory duties of the board. The committee recognizes the need for both full and part-time staff to provide biological and socioeconomic advice as required.

(e) In addition to salaried staff, there should be appointed a non-salaried scientific review panel representing socioeconomic as well as biological, statistical and oceanographic areas of expertise. Funding for travel and expenses should be provided as necessary by the Board of Fisheries.

3.3 Criteria and Policy for Allocation:

The board should regulate personal use, subsistence, sport and commercial fisheries for long-term sustained utilization and with sufficient regulatory stability to facilitate efficient management and fair and reasonable utilization of such resources. In this context it is recognized that changes in biological, ecological, social and economic conditions may necessitate corresponding changes in allocation among the various user groups. In order to facilitate rational decisions by the board affecting such allocation, it is recommended that the following policy and criteria be adopted:

Management plans and regulations which allocate fishery resources among personal use, sport and commercial interests should:

- o Be based on the best scientific information available and be calculated to achieve conservation of the resource addressed,
- o Be designed to achieve fair and reasonable opportunities for the taking of fishery resources by user groups identified in the plan or regulation, be based on the best social and economic information available, and be consistent with sustained yield management and subsistence priorities as established by the legislature. Such plans and regulations should take into consideration natural fluctuations in resource standing stock and should be reasonably enforceable.

If the Board of Fisheries determines that it is necessary to restrict opportunities for the taking of fisheries resources, decisions should be based upon the following factors as appropriate to each particular decision:

(a) Ecological considerations, including:

- o The biological stock description of the resource addressed and,
- o Factors affecting the carrying capacity of the region or area for the resource addressed.

(b) Economic impact, including:

- o Losses or benefits which may accrue to relevant user groups,
- o An assessment of the dependency of affected users on the resource for their livelihood,
- o Alternative fishery resources available to affected users, and the cost to the affected user for switching to the alternative resource,
- o The importance of the affected fishery to state, local and regional economies.

(c) Social impact, including:

- o The history of the affected fishery and historic levels of utilization by various user groups,

- 3. The capacity of the area in terms of physical facilities available to resource users,
- 4. The importance of the fishery for personal use by local residents,
- 5. The importance and capacity of the affected fishery for providing recreational opportunities to residents and non-residents.

3.9 Future Actions:

(a) The committee recommends that the governor continue this evaluation process, either through this committee or a new committee. It is particularly important that representatives of Local Advisory Committees, Regional Councils, and the Board of Fisheries be included in such further evaluation in order to better define the role and responsibility of the advisory committees and regional councils in the regulatory process.

(b) Some of the preceding recommendations of the committee will require legislative action. Members of the committee could be available to assist in the drafting and review of such legislative proposals.

4. DISCUSSION

The following discussion relates by topic to recommendations presented earlier in this report.

4.1 Policy:

The committee agreed that a major problem in arriving at either conservation or allocation decisions derives from the fact that the state has no well-defined and comprehensive fisheries policy in place and that resource assessment documents (RADs) and area management plans (MPs) are often deficient or non-existent. The committee strongly recommends that the board, the department, the administration, and the legislature make every effort to develop a coherent statewide fisheries policy as soon as possible in order to provide structure and guidelines for the formulation and submittal of management plans and proposals, and to provide focus and direction to the board.

It is the committee's recommendation that the board be provided with adequate staff, independent of the department, in order to effectively review and summarize for the board relevant information received from the department and other sources, to work with the department in the formulation of RAD's and MP's, and to inform the department as to informational needs of the board. The board should, with the help of its staff and the department, construct over time a record of stock statuses for all major species, and should work with the department to summarize RAD's and MP's on file for use by the board, the advisory committees, and the regional councils. Whenever lacking, the board and the department should cooperate in formulating RAD's and MP's as consistent with the priorities of state fisheries policy, and should establish better sustainable yield estimates, with confidence limits, for major stocks and species whenever possible.

It is also the recommendation of the committee that the board and the department interact closely with each other and with the local advisory committees and regional councils as appropriate for formulation of resource assessment documents (RADs), area management plans (MP's) and regulations. In this regard it is recommended that representatives of the department and the board attend and participate in meetings of advisory committees and regional councils whenever possible and appropriate. The department should also make sure that RAD's and MP's are made available to the board, advisory committees, and regional councils for use in evaluation and deliberation of regulatory proposals.

4.2 Regulatory Process: