

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

9000 SENATE RESOURCES

We believe any language placing the CSB at the center of the creation of a system to allocate big game hunting opportunities among licensed guide-outfitters will give us the same complex problems that have dogged the Guide Board for so many years.

Amendment No. 4: Board Assistance

Justification for this amendment was previously discussed under Amendment No. 1 above. This new section would require specific state agencies to provide information and technical assistance to the CSB in lieu of those agencies holding seats on the Commercial Services Board itself.

Amendment No. 5: Commercial Use Permit Holders

This amendment clarifies that the class of commercial use permit holders does not include businesses providing accommodations (hotels, motels) within cities, towns and villages. Only lodges and the like situated in the "wild" are required to get a commercial use permit if they provide accommodations (or other big game commercial services) to hunters.

Amendment No. 6: Discipline of Guide-Outfitters

This amendment expands the list of persons who may file a complaint against a guide-outfitter. The present language limits complaints to those filed with the board "by a client of the licensee." By deleting that restriction, other persons may file complaints, including land owners, fish and wildlife protection officers, and any others aware of potential violations.

Amendment No. 7: Discipline of Guide-Outfitters

This amendment would add, as a ground for discipline, the unauthorized use of state, federal, or private land by a licensed guide-outfitter.

Amendment No. 8: Discipline of Guide-Outfitters

This amendment clarifies that hunting in closed areas, whether closed by state or federal regulation, is grounds for the summary suspension of a guide-outfitter license.

Amendment No. 9: Discipline of Transporters/Commercial Use Permittees

This amendment clarifies that hunting in closed areas, whether closed by state or federal regulation, is grounds for the summary suspension of a transporter license or a commercial use permit.

Amendment No. 10: Unlawful Acts

This amendment would make it unlawful for big game commercial service providers to use state, federal, or private land without authorization.

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BIG GAME COMMERCIAL SERVICES
BOARD

October 8, 1993



Audit Control Number:

08-1408-94

Division of Legislative Audit

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

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

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ALASKA STATE LEGISLATURE

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Division of Legislative Audit



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October 8, 1993

Members of the Legislative Budget
and Audit Committee:

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

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BIG GAME COMMERCIAL SERVICES BOARD

October 8, 1993

Audit Control Number

08-1408-94

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

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

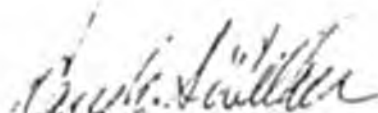

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

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

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

Objectives

Our specific audit objectives were:

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

Scope and Methodology

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

During the course of our audit, we attended a teleconference meeting of the board which focused on the requests for additional guide use areas under state regulations (12 AAC 38.820). During the meeting, we observed the proceedings of the board. We were able to see firsthand how the board operates and interacts with the public.

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

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

ORGANIZATION AND FUNCTION

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

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

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

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

CORRECTION

THE FOLLOWING DOCUMENT(S)
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- Minutes of prior board meetings.
- The director's reading files.

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

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

ORGANIZATION AND FUNCTION

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

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

**BIG GAME COMMERCIAL SERVICES BOARD
OCTOBER 1993**

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

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

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

Members serve staggered four-year terms.

BACKGROUND INFORMATION

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

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

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

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

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

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

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

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

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

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

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

Task force recommended creation of Big Game Commercial Services Board

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

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

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

Regulations for area assignments started adoption process in January 1992

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

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

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REPORT CONCLUSION

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

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

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

Under Alaska Statute [AS 08.03.01(k)(5)], the termination date for the Big Game Commercial Services Board (BGCSB) was June 30, 1993. As of the date of this report, the BGCSB is technically in its one-year "wrap-up" period. If no action is taken by the legislature, the BGCSB will be dissolved at June 30, 1994.

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

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

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

Recommendation No. 2

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

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

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

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

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

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

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

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

Recommendation No. 3

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

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

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

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

Recommendation No. 4

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

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

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

Recommendation No. 5

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

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

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

ANALYSIS OF PUBLIC NEED

Limited Analysis

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

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

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

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

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The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

See the following section.

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

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

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

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

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

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

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

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

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

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

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

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

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

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

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

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

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

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

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

The extent to which state personnel practices, including affirmative action requirements have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

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

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

See above.

APPENDIX A

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

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

Note 1

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

Note 2

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

Note 3

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

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

Application and Other Fees ²			
Type of Fee	Guide- Outfitter	Class-A Assistant and Assistant Guide- outfitters	Commercial Use Permits and Transporter Licenses
Application	\$50	\$50	\$50
Examination	50	50	N/A
Unit examination for taking initial examination, retaking examination, or adding units	50/per unit	N/A	N/A
Use area registration application for each use area	50	N/A	N/A
License Fees			
License Category	Initial	Renewal ³	
Guide-outfitter	\$200	\$200	
Class-A Assistant and Assistant Guide Outfitter	200	200	
Use area registration for each use area (The fee is due for each year of the registration)	100	N/A	
Transporter license	150	150	
Commercial Use Permit	100	100	

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

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

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

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DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P.O. BOX 110800
JUNEAU, ALASKA 99811 0800
PHONE: (907) 465 2500
FAX: (907) 463-3841

November 24, 1993

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

Dear Mr. Welker:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,


Paul Fuhs
Commissioner

PF/sh033.fuh
112493a

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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

December 16, 1993

Members of the Legislative Budget
and Audit Committee:

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

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

Sincerely,

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

Randy S. Welker, CPA
Legislative Auditor



Alaska State Legislature
HOUSE OF REPRESENTATIVES
Committee on Resources

State Capitol
Juneau, Alaska
99801

Sponsor Statement

HB 102 - Big Game Commercial Services Board

HB 102 extends the Big Game Commercial Services Board whose duties are set forth in AS 08.54.300-330.

In 1989 the Legislature passed HB 112 (Ch. 37, SLA 89), which repealed the Big Game Guide Board and replaced it with the Big Game Commercial Services Board. HB 112 was the product of work by the Legislative Task Force on Guiding and Game. The Task Force was created to address conflicts between different groups profiting from the harvest of Alaska's big game.

The primary conflicts were between guides, who were highly regulated, and outfitters, who were unregulated. HB 112 eliminated the distinction between guides and outfitters and created a new "guide-outfitter" class. Under the system created in Ch. 37, the degree to which a commercial big game services provider is regulated depends on the level of interface with consumers and the resource.

Some service providers - hunt brokers, or sporting goods stores that rent hunting gear - are required only to register with the Board. Other service providers are required to meet certain conditions before they may be licensed and receive compensation for their services.

HB 112 included language to sunset the Board in 1993, but the Legislature allowed a one-year extension last year with HB 266. Title 8, which regulates Boards & Commissions, allows the board one year after the sunset date to terminate its operation. Unless the legislature passes HB 102 this session, those who receive compensation from the commercial harvest of Alaska's big game resources will not be regulated.

Prepared by House Resources Committee Staff Jan. 95

Sponsor Statement

Article 1. Big Game Commercial Services Board.

Section	Section
200. Creation and membership of board	220. Board regulations
210. Duties and powers	230. Board assistance

Cross references. — For transitional provisions, see §§ 13 — 15, and 17, ch. 37, SLA 1989 in the Temporary and Special Acts.

Sec. 08.54.010. Guide Board. (Repealed. § 18 ch 37 SLA 1989.)

Sec. 08.54.020. Appointment and term of office. (Repealed. § 49 ch 94 SLA 1987.)

Secs. 08.54.030 — 08.54.141. Board powers and duties, etc.; licensing. (Repealed. § 18 ch 37 SLA 1989.)

Secs. 08.54.142 — 08.54.146. Transporter licensing. (Repealed. § 27 ch 71 SLA 1986.)

Secs. 08.54.150 — 08.54.190. Miscellaneous licensing provisions. (Repealed. § 18 ch 37 SLA 1989.)

Sec. 08.54.195. Additional fees. (Repealed. § 27 ch 71 SLA 1986.)

Secs. 08.54.186 — 08.54.240. Exams; restricted areas; prohibitions; general provisions. (Repealed. § 18 ch 37 SLA 1989.)

Sec. 08.54.300. Creation and membership of board. (a) For the purposes of licensing and regulating the activities of providers of commercial services to big game hunters in the interest of the state's wildlife resources there is created the Big Game Commercial Services Board. For administrative purposes, the board is in the Department of Commerce and Economic Development.

(b) The board consists of nine members:

- (1) two members who are licensed guide-outfitters;
- (2) two members who are licensed transporters, one of whom must be engaged in the business of providing air transportation services;
- (3) one member who holds a commercial use permit, but does not hold any class of guide-outfitter license or a transporter license;
- (4) one member of the Board of Game who is chosen by the Board of Game and who does not hold a commercial use permit;
- (5) one member who represents Native landholders; and
- (6) two public members. (§ 3 ch 37 SLA 1989)

Chapter 54. Guides and Related Occupations.

Article

1. Big Game Commercial Services Board § 08.54.310)
2. Licensing §§ 08.54.350 — 08.54.395)

Article 1. Big Game Commercial Services Board.

Section

310. Duties and powers

Sec. 08.54.310. Duties and powers. a) The board shall

1) prepare, grade, and administer

A) a written and oral examination of an applicant for a guide-outfitter license that requires demonstration that the applicant is qualified generally to provide guide-outfitted hunts and, in particular, to guide-outfit in each game management unit the applicant has selected; if an applicant demonstrates limited ability to read or write the English language, the entire examination shall be administered orally; and

B) in oral examination of a guide-outfitter who seeks an amendment of a game management unit certification; the examination must require demonstration that the guide-outfitter is qualified to provide guide-outfitted hunts in each new game management unit for which the guide-outfitter seeks to be certified;

2) determine qualifications of applicants for class-A assistant guide-outfitter, marine mammal guide-outfitter, and assistant guide-outfitter licenses and authorize the issuance of licenses to those who qualify;

3) establish performance standards for providers of big game commercial services and regulate the activities of these providers;

4) compile, maintain, and publish an annual register of big game commercial service providers subject to this chapter who have not been convicted of a violation of a state or federal statute or regulation relating to the provision of big game commercial services; a big game commercial services provider listed in the register whose license or permit is revoked or suspended shall be removed from the register while the provider's license or permit is revoked or suspended;

5) prohibit guide-outfitting, transporting, and other big game commercial services activities that are unsportsmanlike, unethical, unsafe, against principles of game conservation, degrading to a profession subject to this chapter, or that adversely affect natural resources;

6) after a hearing, revoke, suspend, or deny renewal of a license or permit under AS 08.54.500 — 08.54.510;

7) authorize issuance of transporter licenses;

8) authorize issuance of commercial use permits;

9) meet at least twice annually, once in Anchorage and once in another municipality;

(10) provide for registration of base camps and facilities used by persons who are licensed or who hold a permit under this chapter;

(11) require an applicant for issuance or renewal of any class of guide-outfitter license to state in a written and signed document whether the applicant's right to obtain, or exercise the privileges granted by, a sport fishing, hunting, trapping, or guide-outfitting license is revoked or suspended in another state.

b) The board may

(1) establish, subject to the prior approval of the commissioner of fish and game, a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters licensed under this chapter;

(2) establish the level of supervision that a guide-outfitter shall provide for class-A assistant guide-outfitters and assistant guide-outfitters who are employed by the guide-outfitter. (§ 3 ch 37 SLA 1989; am § 1 ch 106 SLA 1992)

Effect of amendments. — The 1992 amendment added paragraph (a)(11) and made a related stylistic change. The 1993 amendment made a related stylistic change.

Sec. 08.54.320. Board regulations. The board shall adopt procedural and substantive regulations required by this chapter or reasonably necessary for its administration. (§ 3 ch 37 SLA 1989)

Sec. 08.54.330. Board assistance. The Department of Fish and Game, Department of Natural Resources, and Department of Public Safety shall provide the board with information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of providers of commercial services to big game hunters. (§ 3 ch 37 SLA 1989)

HB

107

DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No. HB 107

Sponsor: Representative Grussendorf

Division: Commercial Fisheries Management and Development

Bill Title: Restrictions to Certain Limited Entry Permits

Department Position: Support

Background/Legislative Intent:

This legislation would allow CFEC to restrict the fishing capacity of fisheries entering into a limitation program. Limited entry was originally designed for salmon and herring fisheries where a single unit of gear, such as a seine or gillnet, is used. In crab, groundfish, and many developing fisheries, the unit of gear is variable and fishing capacity of the fleet is a function of vessel size - larger vessels carry more pots, shots of longline, or accommodate more divers. In some fisheries the fishing capacity has continued to increase following limitation due to increases in vessel size and corresponding increases in amount of gear fished. As a result, the biological and management advantages of limitation are significantly diluted.

Analysis of Bill/Program Effects:

Rational management to ensure conservation and maximize reproductive potential of a fish resource depends on: (1) effort levels that allow fisheries to be opened and managed without risk of overfishing; (2) fishing seasons of sufficient length to allow accumulation of adequate fishery performance data to validate preseason guideline harvest levels and assure that overfishing does not occur; and (3) reasonable control of gear to prevent loss. Excessive fishing capacity can lead to shortened seasons and fewer data upon which to make management decisions. Such derby style fisheries place both fishermen and resource at a higher level of risk.

Under this legislation, limitation should serve to set a ceiling on fishing capacity of a fishing fleet. It would enable CFEC to implement a program where limited entry permits would be tied to, for example, a vessel size, pot limit, or Board of Fisheries specified fixed or proportional quantity of gear.

Commissioner's Signature

Frank Rue
Frank Rue, Commissioner

Date

2/27/95

Position Paper

S.E. DUNGENESS CRAB ASSOCIATION
Box 262, Petersburg, Ak. 99833

January 26, 1995

Representative Alan Austerman
Room 434, State Capital
Juneau, Ak. 99801-1182

Dear Rep. Austerman:

I would like to provide a few comments on HB 109 and hopefully win your support on this important legislation.

When the Limited Entry Act was passed in 1974 it was designed for salmon and herring fisheries. These fisheries use one unit of gear (i.e. a seine or a gillnet) and when a particular fishery was limited all the participants were using the same type and amount of gear; neat, simple, and predictable.

Other fisheries often use multiple units of gear (i.e. longline/skates, shrimp/pots, crab/pots) and in these fisheries the Limited Entry Act has posed problems.

In the S.E. dungeness crab fishery growth in the late 1980's created enough concern for the crab resource to prompt the Commercial Fisheries Entry Commission to study limited entry possibilities. The CFEC found that the fleet consisted of a large proportion of part-time fishermen (because of the passive nature of the fishery) who fished considerably less than the 300 pot limit and while qualifying for a limited entry permit would potentially increase the actual gear fishing over pre-limited entry levels. While seeing a real need for participant limitation CFEC could not grant limited entry because of this problem. The Board of Fish also cannot adequately address this situation. The fleet of 325 averages less than 150 pots with approximately 30-40,000 actual pots in the water. Even with a severe cut in pot limits of 50% to 150 pots there is potential to increase effort significantly as well as penalizing those

Support Letters

who do use this fishery as their main source of income. Instead, industry, ADF&G, and the CFEC worked with the 1991 Legislature to pass/create a moratorium for the S.E. dungeness crab fishery in order to study the possibilities of managing this resource.

In the fall of 1994 meetings were held in Juneau, Ketchikan, Sitka, Petersburg, and Wrangell and the overwhelming consensus was to try a tiered approach where fishermen would be given permits tied to gear levels consistent with their past participation. All agreed that this idea was fair because of its inclusive nature and yet provided a solid control for a multi-gear fishery.

This approach can be applied to many fishery resources and gear types as yet uncontrolled but in real need of conservation. The CFEC will be able to design specific limited entry programs that will solve many of the problems of fishery resource conservation as well as provide fair levels of participation.

We urge you to support this amendment and thank you for your time.

Sincerely,

William Flor, SEDCA

SOUTHEAST DUNGENESS CRAB ASSOCIATION

P.O. BOX 262

PETERSBURG, ALASKA 99833

907-772-9248

December 22, 1994

Dear Representative Grussendorf:

It's been almost four years since we passed the moratorium legislation which placed our S.E. Dungeness fishery in it's current moratorium status. This will expire Jan. 2, 1996.

At the request of the S.E. crab fleet the Commercial Fisheries Entry Commission held hearings this fall to try and work out a solution for a more permanent limited access scheme. Four main ideas were discussed: traditional limited entry, IFQ, tiered pot system, and fractional licensing. CFEC is reluctant to impose a traditional limited entry because of a possible increase in effort. (We currently fish a 300 pot limit but average 150 pots, hence the possibility to double the gear in the water.)

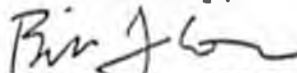
The other three ideas discussed required some type of legislative work. Both IFQ and fractional licensing were seen as too contentious and complicated with little possibility of success.

The tiered pot system was embraced by CFEC and the fleet both for it's fairness and possibility of achievement. Simply stated it places a crabber within a gear strata (i.e.300/200/100) depending upon past effort. The fairness of this idea lies in that no one is excluded. There are many variations but our hope is that a sufficiently simple bill can be worked out that could achieve passage.

We have contacted CFEC to draft a proposed tiered system bill which we hope you would introduce and support.

Timing is critical. Our moratorium expires after this year and without further protection the S.E. Dungeness fishery will be in serious trouble (Ca., Or., and Wa. limited their dungeness fisheries this year.) We're counting on you to continue your support and looking forward to working with you.

Sincerely,


Bill Flot, SEDCA

c.c. Senator Robin Taylor,
C.F.E.C.

SOUTHEAST DUNGENESS CRAB ASSOCIATION
P.O. Box 262
Petersburg, Alaska 99833
907-772-9248



December 21, 1994

Commercial Fisheries Entry Commission

Dear Mr. Twomley and staff:

Enclosed is a copy of our letter requesting Rep. Grussendorf and Senator Taylor to introduce and support a tiered pot system bill. As we talked this fall we are counting upon you to draft a bill which will include the major ideas discussed in your hearings and embrace a sufficient simplicity so as to increase our chances of passage.

Our financial status this time around is such that we won't be able to hire a lobbyist to track the bill, therefore, we are also counting heavily upon your help in this area.

We are optimistic about this effort but hope you realize that if it fails a traditional limited access, even if it requires serious pot reductions, must be imposed before the moratorium expires as this fishery will never be able to withstand the certain flood of new participants.

Looking forward to hearing from you!

Sincerely,

Bill Flor, SEDCA

PETERSBURG FISHERIES

Division of
ICICLE SEAFOODS, INC.
PO BOX 1147
PETERSBURG, ALASKA 99833
907-772-4294
FAX 907-772-4473



February 11, 1995

House Fisheries Committee
Alan Austerman, Chairman
Carl Moses
Kim Elton
Scott Ogan
Gary Davis

Dear House Fisheries Committee:

After having the opportunity to further review and asses new information presented to me regarding HB107, I would like to lend my support to the Bill at this time.

However, I would like to emphasize my belief that the C.F.E.C. should allow for a competitive fishery equitable to the investments of both large and small operators, with regard to their "grandfathered" participation.

It is important that the act allow for further restrictions on fishing capacity (ie. quantity of gear) should the stocks become stressed. In attempting to relieve this stress on the stocks I would hope that the C.F.E.C. would seriously consider the limitations put on the smaller capacities when establishing criteria in an effort to maintain economic viability for all harvesting participants.

Sincerely,

A handwritten signature in cursive script that reads "John G. Baird".

John G. Baird
S.E. Fleet Manager

cc: CFEC
Senate Resource Committee

SENATE COMMITTEE REPORT

DATE: 3/9/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 4-24-95

Resources Committee considered CS FOR HOUSE BILL NO. 107(FSH)

"An Act relating to restrictions attached to certain commercial fisheries limited entry permits."

and recommends:

- be replaced with S ^{CS} CS/HB 107 (RES)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical change
 new: SCR _____
SCR coming

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Chris L. Taylor</i>	✓	<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
CHAIR: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>FISH + GAME / COM FISH</i>	<i>2/10</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

**SENATE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE RESOURCES COMMITTEE

Introduced:

Referred:

A RESOLUTION

1 Suspending Uniform Rules 24(c), 35, 41(b), and 42(e) of the Alaska State
2 Legislature concerning House Bill No. 107, relating to restrictions attached to
3 certain commercial fisheries limited entry permits.

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the
6 provisions of Rules 24(c), 35, 41(b), and 42(e) of the Uniform Rules, regarding changes to the
7 title of a bill, are suspended in consideration of House Bill No. 107, relating to restrictions
8 attached to certain commercial fisheries limited entry permits.

9-LS1113A
Utermohle
4/24/95

**SENATE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE RESOURCES COMMITTEE

Introduced:

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8 attached to certain commercial fisheries limited entry permits.

WORK ORDER REQUEST FORM

W.O. [19] LS-1113

KEYWORDS: UNIFORM RULES ASSIGNED: Utermohle

REQUEST FOR: Resolution TAKEN BY: Utermohle

SUBJECT: Suspend UN RLS; Title Change for HB 107

REQUESTED FOR: SC SRES BY: Annette Kreitzer PHONE: 465-4907

DELIVER TO: Sen. Loman, Attn: Annette, Cap. 113

INSTRUCTIONS: Prepare "title change resolution" for HB 107.

<p>OBTAIN</p>	<p>SPECIAL DRAFTING INSTRUCTIONS ATTACHED () AUTHORIZED TO CONFER WITH _____ _____ RETURN _____ _____ TO REQUESTOR APPROVED: <u> X </u> DIRECTOR, LEGAL SERVICES</p>
<p>REVIEWED _____ IN <u>04/24/95</u> DUE _____ TYPED: Draft _____ Date _____ Final _____ Date _____ PROOFED _____ DELIVERED _____</p>	<p>SPECIAL INSTRUCTIONS to TYPING/PROOFING _____ _____ Request for DRAFT</p>



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

MEMO

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

TO: George Utermohle, Attorney
Legal Services
via fax: 2029 3 pages (AM F.1)

FROM: Annette E. Kreitzer, Aide to
Senate Resources Committee

DATE: April 23, 1995

RE: Committee Substitute and Concurrent Resolution for HB 107

The amendment LS0409F.1 was adopted in the Senate Resources Committee to be incorporated into a final Resources Committee Substitute for CSHB 107(FSH).

As I understand it, this would require the preparation of a concurrent resolution to allow the title change. Please prepare the concurrent resolution even though HB 107 has a further referral to the Senate Finance Committee where further amendments may be made.

AMENDMENT #1

*Amendment
no objection*

OFFERED IN THE SENATE
TO: CSHB 107(FSH)

BY SENATOR TAYLOR

1 Page 1, line 1:

2 Delete "restrictions attached to certain"

3 Page 2, after line 4.

4 Insert a new bill section to read:

5 ** Sec. 2. AS 16.43.140(c) is amended to read:

6 (c) A person may hold more than one interim-use or entry permit issued or
7 transferred under this chapter only for the following purposes:

8 (1) fishing more than one type of gear;

9 (2) fishing in more than one administrative area;

10 (3) harvesting particular species for which separate interim-use or entry
11 permits are issued;

12 (4) if authorized by regulations of the commission, fishing an entire
13 unit of gear in a fishery in which the commission has issued entry permits for
14 less than a unit of gear under AS 16.43.270(d); under this paragraph, a person
15 may hold two or more entry permits for a fishery, however, the person may not

16 (A) fish more than one unit of gear in the fishery; or

17 (B) acquire an additional entry permit for the fishery after
18 the person has acquired entry permits that cumulatively authorize the use
19 of one or more units of gear in the fishery."

20 Renumber the following bill section accordingly.

21 Page 2, line 24:

22 Insert a new bill section to read:

1 ** Sec. 4. AS 16.43.990(9) is amended to read:

2 (9) "unit of gear" means the maximum amount of a specific type of
3 gear that [WHICH] can be fished by a person under [A SINGLE GEAR LICENSE
4 SUBJECT TO] regulations established by the Board of Fisheries defining the legal
5 requirements for that type of gear."

Amendment to HB 107

This amendment (version 9LS0409\F.1) dated 3/23/95 would authorize the Commercial Fisheries Entry Commission to allow a commercial fisherman to hold and fish a group of gear permits for a specific fishery not to exceed the maximum number of pots (units of gear) authorized by the Board of Fisheries.

The amendment's purpose is to provide more flexibility for fishermen to enter and exit the fishery by allowing the purchase and sale of smaller increments of gear.

For example, if the maximum hypothetical number of pots authorized by the Board of Fisheries in the dungeness fishery was 300 and a fisherman held a 100 pot entry permit, that fisherman could purchase a 200 or 300 pot permit or two 100 pot permits or more, but could not fish more than the maximum number of pots authorized.

Under this amendment, imited entry permits of any numerical value cannot be legally consolidated, but could be sold individually or collectively at market value.

March 20, 1995

Senate Resources Committee

Dear Senator:

Regards to: HB 107;SB 42

A fishing permit in the State of Alaska, constitutes a privilege to fish. One person should not be more privileged than another, just because of his level of fishing during a selected couple years.

The privilege should create an equal opportunity for all those participating, and future participants.

House Bill 107 and Senate Bill 42 is addressed to allow a select group of fishermen to participate at maximum historic levels of the past, while saddling the remaining group of those participating in the same fishery with the burden of resource conservation through reduced levels of effort and competition.

The State, when constructing a new type of limited entry program, should avoid repeating the malady and inequity created by the Federal IFQ program for longline fisheries, which benefitted and tremendously rewarded so few, and left the majority of others with very little or nothing.

This legislation, in regards to the S.E. Dungeness Crab Fishery, might not be necessary through the use of existing management tools. The current Limited Entry Program could be used, and action by the Board of Fish and Game, reducing the maximum allowable pots fished per permit, would contain the level of effort, protect the resource, and maintain a viable and equitable fishery.

Another option that addresses the needs of the S.E. Dungeness Crab Fishery would require amending the current bills or adopting new ones to conform to the "Fractional Licensing Limited Entry Proposal", as outlined in the attached CFEC document.

Thank you,

Dennis K. Rogers
P.O. Box 542
Petersburg, Ak 99833

Alternative Limited Entry Programs Suggested By Fishermen

2. Fractional Licensing Limited Entry Proposal

Fractional licensing ideas have recently been discussed in the economics literature and in NPFMC documents. Again, there could be many different versions of such a proposal.

Under a version of a fractional licensing proposal described to CFEC, the commission would initially issue permits for the same number of pots. For example, the commission might decide that everyone who receives a limited entry permit would receive a permit that would allow them to fish up to 150 pots.

This proposal would also allow for "stacking" of permits. For example, if a person with a 150 pot permit wanted to fish 300 pots, the person would have to purchase another permit and then have the commission combine them into a single permit for 300 pots. The "stacking provision" in this fractional licensing proposal could lead to a reduction in the number of operations after limited entry through voluntary contracting among fishermen.

Again, any Board of Fisheries regulations on the maximum number of pots which could be utilized also would need to be followed. This proposal would also require substantial changes to the limited entry law.

Pros:

- Might better control the growth in fishing capacity after limited entry than would the current LE program. To the extent the program is enforceable, the number of pots fished would not increase after initial allocation.
- Would provide a natural market mechanism for fleet reductions.

Cons:

- Would need changes in the limited entry law to allow for program
- Pot limits per permit may be difficult to enforce
- Some persons would initially be forced to take a reduction in the number of pots which they could fish.

Senators:

I have been a full time resident and commercial fisherman in Alaska for 22 years, and will continue to be so into the future.

Having been involved with several of the limited entry fisheries, I have found the current system to be a viable and equitable management tool for the most part.

I am opposed to HB 107, as it will create unequal opportunities for fisherman, and as applied to the S.E. Dungeness crab fishery is unnecessary. There are other methods to contain this fishery under the existing management options that are fair to everyone involved and future participants.

Lets not promote a resource grab similar to the Federal IFQ program.

Thank you.

Dennis K. Rogers.

Senate Resource Committee
Senator Lehman, Chairman

I will not be able to attend the teleconference this afternoon and have prepared the following statement as my testimony in regards to H.B. 107.

Thank you in advance for presenting this to the members of the Resource Committee

Sincerely,

Demetrius K. Rogers

Petersburg

Senate Resource Committee

APR 20 1995

State Capitol

Juneau, Ak. 99801

Dear Senators,

I support legislation to allow C.F.E.C. to adopt and implement a tiered pot system for the Dungeness crab fishery in Southeast. We are currently under a moratorium which ends in January '96. If the fishery goes back to open access or if CFEC imposes limited entry in the traditional form, effort will undoubtedly increase dramatically. In either case ADF&G will no-doubt decrease the pot limit. This would make dungeness a sideline instead of a mainstay fishery. A tiered form of limited entry will keep it basically as it is now, where the 40 or so people who produce, and many more who supplement other fisheries or business's with dungeness, can continue. It also wouldn't exclude anyone in the fishery, just keep them at current levels.

I am not alone in my views, there are quite a few dungeness fishermen in Gustavus, I just wish more would express themselves.

Thank You.



Tom Traibush

Dear fellow crabbers,

We are now faced with the problem of how and/or what to do, if anything, about limited entry. I attended the meeting CFEC held in Juneau in late September. It is clear to me that we must try to find our own solutions, and CFEC is open to and encouraging our suggestions.

I feel it is essential to come up with a plan that is acceptable to, not only us, but CFEC and Fish and Game as well. It is my opinion that both agencies think that there is too much gear on the grounds already. If we choose to go back to "open access" ADF&G will propose and get a pot limit reduction from the Board of Fish. I do not like this option. I'm not against some form of an IFQ program. The problem I see is that ADF&G can't figure out what the quota will be from year to year. They don't get any money for research or biomass studies. It doesn't matter that this isn't right, the fact is the biologists don't get out in the field, and therefore can't come up with a quota. This leaves us with some kind of limited entry.

My ideas are as follows;

A tiered pot system with three tiers, 300 pots, 200 pots, and 100 pots, issued by CFEC on the basis of past history and production. It is quite clear that most of the crabs are caught by a few fishermen. The catch rates vary from year to year but about 20% of the fishermen catch about 75% of the crabs each year. This shows that we have a core group of around 50 individuals. These people own 300 pots. The next group might be people that have just gotten into the fishery. They produce, but don't have the history. Or they may be long time crabbers who just don't produce that much. They get a 200 pot limit. The largest group in the dungie fishery is the group that lands under 10,000 lbs. They receive a 100 pot limit.

History tells us that when limited entry is imposed, effort immediately increases, dramatically. To offset this, the three tiers will all have 100 of their pot limit non-transferable. This will reduce an already capped limit of effort. When a person with a 300 pot limit decides to retire, he/she can sell or transfer only 200 pots. The other 100 pots cease to be allowed in the fishery. Of a 200 pot limit only 100 are transferable and those with 100 pots none may be transferred. This will allow everyone who qualified in the moratorium to fish, while at the same time, not rewarding people who don't put much effort into it. This system basically starts everyone at the same level they are currently at. The full-time crabbers with a history have much more invested than the newcomers of the late 80's and 90, 91.

(2)

The reduction of pots when transferred may be the single most important aspect of any kind of limited entry we come up with. If we don't have a tiered system of some kind, and give all, approximately 327 qualified entrants, a 300 pot limit, ADF&G, CFEC and the Board of Fish will reduce us to 100 or 150 pot limit. At 150 pots x 327 entrants = 49050 pots. The Dungeness fishery averages 2.8 million lbs. (1982/83 -1991/92 seasons) This averages #57 per/pot x 150 pots = 8550 lbs. Most of us can't support much on this, certainly not a family. You can bet that if we do have a system like this, 95% if not 100% of the permits will wind up fishing a full string! This proposed tiered system starts with a maximum of around 50,000 pots. 50 x 300 pots + 100 x 200 pots + 150 x 100 pots. I seriously doubt that much gear would ever be set. Remember, over 50% of the permits fished land less than 10,000 lbs. In 1993 of 209 permits that landed crab 34 were less than 1000 lbs. 51 less than 5000, and 35 less than 10,000. 120 of 209 don't participate much now. Most of these are people who got in just to have a permit. If they have a 100 pot limit and can't transfer them, most will faze out or acquire more pots. In either case the number of pots allowed in the fishery is reduced. If a guy with 100 pots buys 100 pots from two people, (both have 200 pot limits, of which 100 pots are transferable) 500 maximum total pots, between three people, is reduced to 300. And still only 200 of those are transferable. For round numbers, 50 individuals/300 pots, 100/200 pots, 150/100 pots, will give us 20,000 transferable pots. This means that after one full cycle of transfers, the maximum no. of pots is 35,000 (50 x 200 + 100 x 100 + 150 x 100 = 35,000), with a potential to reduce to 20,000 pots over the long haul. Again, most of the original 150 x 100 pot individuals will faze themselves out. I see this system reducing the effort to 25-30,000 pots in the first few years, and stabilizing around 20,000 pots in 7-10 years.

This approach should satisfy CFEC, along with those who truly have a stake in, and care about the future of the Dungeness fishery. It is CFEC's job and function to approve, adapt, implement, etc. a system that takes into account the past history, level of participation, economic dependency, and investment, (time, money, knowledge etc.) of those qualified for the fishery.

I feel this is a simple, practical, fair, and enforceable solution. As it stands now we don't have much enforcement. We can develop a buoy sticker system that will help, example; A blue triangle for the 100 pot limit entrants, a green circle/200 pot group, and a red square/300 pot group. ADF&G can do this about like the Tanner crab, pot/ring-net stickers. They can also issue a list of the fishermen, their ADF&G number, pot limits and type of sticker to be displayed, to all the participants. This will help the fleet police itself.

(3)

There are many options we can take on this type system. I favor a transferable/ non-transferable, much like the troll fleet, both power and hand troll have transferable / non-transferable permits. Whatever system we opt for, it should best represent the historic producers and keep the integrity of the dungie fleet as it was before the moratorium. I look forward to hearing your ideas and comments.

Thank you,

Tom Traibush
Box 88
Gustavus, Ak. 99826

P.S.

I urge you to write CFEC with your views on this. They need to hear from YOU!

CFEC
8800 Glacier Hiway
Suite 101
Juneau, Ak. 99801

FAX TRANSMISSION

To: Senate Resources Committee

Fax: 465-3810

Date: 3-9-95

Message: 2 page letter to follow

A fishing permit in the State of Alaska, is a privilege to fish. I don't believe one person should be more privileged than another, just because of his level of fishing during a selected couple of years.

The privilege should be equal to all those participating, and in the future, ~~who~~ those who wish to participate.

We need to avoid repeating the malady and inequity constructed by the Federal IFQ program, which benefited and tremendously rewarded so few, and left the majority of the others with very little or nothing. I would hope that the Federal IFQ program would be an example of what to avoid rather than use it as a precedent!

It is my suggestion that those fortunate enough to have qualified for a permit under the moratorium, be given an equal share of the Dept. of Fish and Games recommendation of the optimum amount of pots for the S.E. Pungeness Fishery, and allow a person to purchase and "stack" the permit for a unit of gear, within the individual ceiling. Thereby allowing a person to fish at whatever level he desires, as has been the nature of fishery in the past.

Senate Bill 42 and House Bill 101 00

not address the resource problem, it addresses allowing a select few to participate at maximum historic levels of the past, and eliminating competition and future competition.

The problem that needs to be addressed is pot reduction, for the protection of the resource.

I am very adamantly opposed to the current Senate and House bill or any thing that resembles a resource grab by a few individuals, as happened in the Federal longline fisheries.

Legislation allowing the "stacking" of units of gear in this fishery, along with a Board of Fish and Game measure allowing the Entry commission to adjust the allowable pot limit, to conform to ADF and G recommendation would most benefit the resource, and create a viable and equitable fishery for all of the participants and future participants.

The urgency to develop a plan is well realized by all of us. But, lets not rush into a misdirected program we will regret in the future!

Thank You

Dennis K. Rogers

P.O. Box 542

Petersburg, AK 99833

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 107

Revision Date: 1/30/95 Dept. Affected: Fish and Game
 Title: Relating to limited entry permits BRU: Commercial Fisheries (Limited) Entry Commission
 Component: Limited Entry Program Administration
 Sponsor: Rep. Grussendorf
 Requester: Rep. Grussendorf COMPONENT SERIAL NO. 0471

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	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Roger Kolden Phone: 789-6160
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 1/30/95

Approved by Commissioner: Frank Homan 
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 1/30/95

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DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No. HB 107

Sponsor: Representative Grussendorf

Division: Commercial Fisheries Management and Development

Bill Title: Restrictions to Certain Limited Entry Permits

Department Position: Support

Background/Legislative Intent:

This legislation would allow CFEC to restrict the fishing capacity of fisheries entering into a limitation program. Limited entry was originally designed for salmon and herring fisheries where a single unit of gear, such as a seine or gillnet, is used. In crab, groundfish, and many developing fisheries, the unit of gear is variable and fishing capacity of the fleet is a function of vessel size - larger vessels carry more pots, shots of longline, or accommodate more divers. In some fisheries the fishing capacity has continued to increase following limitation due to increases in vessel size and corresponding increases in amount of gear fished. As a result, the biological and management advantages of limitation are significantly diluted.

Analysis of Bill/Program Effects:

Rational management to ensure conservation and maximize reproductive potential of a fish resource depends on: (1) effort levels that allow fisheries to be opened and managed without risk of overfishing; (2) fishing seasons of sufficient length to allow accumulation of adequate fishery performance data to validate preseason guideline harvest levels and assure that overfishing does not occur; and (3) reasonable control of gear to prevent loss. Excessive fishing capacity can lead to shortened seasons and fewer data upon which to make management decisions. Such derby style fisheries place both fishermen and resource at a higher level of risk.

Under this legislation, limitation should serve to set a ceiling on fishing capacity of a fishing fleet. It would enable CFEC to implement a program where limited entry permits would be tied to, for example, a vessel size, pot limit, or Board of Fisheries specified fixed or proportional quantity of gear.

Commissioner's Signature Frank Rue
Frank Rue, Commissioner

Date 2/27/95

MEMORANDUM

STATE OF ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION

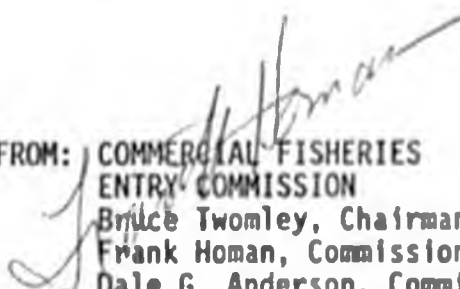
TO: Senator Loren Leman
Chair
Senate Resources Committee

DATE: April 19, 1995

FAX NO: 789-6170

TELEPHONE NO: 789-6160

SUBJECT: Position Statement for
CSHB107(FSH)


FROM: COMMERCIAL FISHERIES
ENTRY COMMISSION
Bruce Twomley, Chairman
Frank Homan, Commissioner
Dale G. Anderson, Commissioner

CFEC POSITION STATEMENT

CFEC supports CSHB107(FSH). Under Alaska's current limited entry program, CFEC can limit the number of persons (permit holders) in a fishery but does not have the explicit authority to limit the fishing capacity of similarly situated classes of entry permit holders within a fishery. The legislation is forward oriented and only applies to fisheries limited in the future after completion of the public hearing process. It will have no impact on established limited fisheries. This legislation does not alter or limit the powers of the Board of Fisheries to impose additional restrictions of fishing capacity. CSHB 107 would provide CFEC with improved resource conservation tools.

The impetus for this legislation was generated by the Southeast Alaska Dungeness crab fishers after public hearings and research during the current moratorium. The need for immediate action is in the impending expiration of the CFEC moratorium on new entrants into the fishery. By law (AS 16.43.227), this moratorium will expire on January 2, 1996. A majority of participants at the public hearings favored a limited entry program for this fishery. If CFEC does not move to limit the fishery before January 2, 1996 it will return to open access.

The current limited entry program has proven effective in limiting the growth in fishing capacity and effort when administered in salmon and herring fisheries when utilization is already maximized. However, the existing program thwarts the Commission's efforts to achieve effective resource conservation goals in Alaska's fisheries that employ a broad spectrum of vessel size and quantity of gear. Simply limiting the number of participants will fail to contain growth in fishing capacity and effort.

In such fisheries, smaller more part-time operations would tend to sell out to larger more full-time operations after limited entry. For example, this is true of the Southeast Alaska Dungeness crab fishery where many small boat participants currently fish a small number of pots on a part-time basis. This is also true in many of the state's other crab fisheries and state managed groundfish fisheries. By setting the fishing capacity of entry permits roughly at pre-limitation levels, entry limitation would do a better job of resource conservation by controlling the growth of excessive fishing capacity and effort.

This legislation would also help preserve the diverse nature of the fleet in such fisheries and help ensure that some of the entry permits in limited fisheries will be available and more affordable to smaller part-time and entry level operations.

Many of Alaska's valuable fisheries that coastal communities depend on may soon be facing an influx of new fishermen because of recent limitation programs and closures in other jurisdictions. In some of these fisheries, access restrictions may be needed in the near future to help conserve stocks and preserve the benefits of development for Alaska. This legislation would allow limitation programs better designed to fit the diverse nature of Alaska's fisheries.

Alaska State Legislature

REPRESENTATIVE
BEN GRUSSENDORF
1851 HALIBUT POINT ROAD
SITKA, ALASKA 99833
(907) 747-8455

FINANCE COMMITTEE

DISTRICT 2
KUPREANOF
PETERSBURG
SITKA
WRANGELL



WHILE IN JUNEAU
STATE CAPITOL
JUNEAU, ALASKA 99801-1108
(907) 485-1824

House of Representatives

SPONSOR STATEMENT

HOUSE BILL 107

"An Act relating to restrictions attached to certain commercial fisheries limited entry permits."

In 1994 the Commercial Fisheries Entry Commission held meetings, at the request of the Southeast Crab Fleet, to come to agreement on a management plan for Dungeness crab. The meetings were held in Juneau, Ketchikan, Sitka, Petersburg, and Wrangell. This bill allows the Commercial Fisheries Entry Commission to implement the consensus reached at those meetings.

This bill does not alter or limit any powers of the Board of Fisheries. Under section 3 of the bill, the Commercial Fisheries Entry Commission is given the authority, if it chooses to exercise it, to implement the tiered pot system that was determined to be the fairest solution to the limited entry problem.

The pot limit must be based on the past participation in the fishery. It has the benefit of limiting the pressure on the resource. The present maximum limit is 300 pots. Since the 1980's catches averaged 2.5 million pounds. Last year dungeness crab was worth \$4.5 million dollars to fishermen in Yakutat, Kodiak and Southeast Alaska. Without establishing the tiered pot limit for entry permits, the effect of limited entry could actually increase the pressure on this valuable economic resource.

HB 107 will allow the Commercial Fisheries Entry Commission to manage a natural resource and to preserve an economically viable industry. I respectfully request your support.

Sponsor Statement

1

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2103

MEMORANDUM

February 9, 1995

SUBJECT: Sectional Summary of CSHB 107 (FSH); An Act relating to restrictions attached to certain commercial fisheries limited entry permits.

TO: Representative Ben Grussendorf

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of CSHB 107 (FSH); An Act relating to restrictions attached to certain commercial fisheries limited entry permits.

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 sets out the findings of the Legislature regarding the need to restrict fishing capacity associated with entry permits in certain fisheries.

Section 2 of the bill amends AS 16.43.150(a) to conform with AS 16.43.270(d), as added by sec. 3 of the bill.

Section 3 of the bill adds a new subsection to AS 16.43.270 in order to authorize the Alaska Commercial Fisheries Entry Commission to restrict the fishing capacity that may be employed under certain kinds of entry permits. The commission determines the manner in which fishing capacity is to be limited. The maximum fishing capacity that may be allowed under an entry permit issued under this provision is based on the past fishing practices of the person who initially receives the permit. The restriction on fishing capacity that is attached to the permit may not be exceeded by the permit holder or the permit holder's transferees. This provision may be applied only to fisheries that are subjected to limited entry after this bill takes effect.

If I may be of further assistance, please advise.

GEM:klb
95-056.klb

Sectional Analysis

Alaska State Legislature

REPRESENTATIVE
BEN GRUSSENDORF
1891 HALIBUT POINT ROAD
SITKA, ALASKA 99838
(907) 747-8458

FINANCE COMMITTEE

DISTRICT 9
RUPRECHT
PETERSBURG
SITKA
WRANGELL



WILEY H. JENSEN
STATE CAPITOL
JUNEAU, ALASKA 99901-1188
(907) 486-5874

House of Representatives

MEMORANDUM

TO: Senator Loren Leman
Chair
Senate Resources Committee

FROM: Representative Ben Grussendorf

DATE: April 20, 1995

RE: CSHB 107, "An Act relating to restrictions attached to certain commercial fisheries limited entry permits."

HB 107 was introduced in response to concerns expressed by the Southeast Dungeness Crab Association and other southeast crabbers for the management of the dungeness crab fishery. The current 300 pot limit set by the Board of Fisheries allows any limited entry management of the crab fishery to actually increase the number of pots fished.

The only change made in the House Special Committee on Fisheries deleted the sentence on page 2 lines 22-23 of the original bill: "The fishing capacity allowed under an entry permit may not be changed after the permit is issued." The Department of Law suggested the amendment, it only clarifies that nothing in this bill shall limit the powers of the Board of Fisheries. Until this change SB 42, which was introduced by Senator Taylor, and HB 107 were identical bills.

I appreciate your consideration in scheduling a hearing for this bill in your committee.

Thank you.

HB

119

FISCAL NOTE

N 1
 Bill Version: HB 119
 (H) Publish Date: 5/7/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act exempting schools from certain fees
 Sponsor: Representative Kubina
 Requestor: Representative Kubina

Department Affected: Environmental Conservation
 BRU: Environmental Health
 Component: Seafood/Sanitation

COMPONENT SERIAL NO. 1936

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	25.0	25.0	25.0	25.0	25.0	25.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	25.0	25.0	25.0	25.0	25.0	25.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	25.0	25.0	25.0	25.0	25.0	25.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	25.0	25.0	25.0	25.0	25.0	25.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 25.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

HB119 exempts public and private schools for school age children from Department of Environmental Conservation user fees. Currently schools are being assessed fees for food service permits in schools. The fee includes issuance of a permit, routine and spot check inspections, technical assistance, plan review and training. The current fee structure pays a portion of the actual program costs. Providing an exemption from fees will result in a loss of Sanitation General Fund Program Receipts in the amount of approximately \$25,000. These program receipts are reflected in the FY95 budget and are necessary for the full conduct and meeting of statutory requirements in the inspection program.

Prepared by: Kit Ballentine
 Division: Acting Director, Environmental Health

Phone: 465-5280
 Date: 2/16/95

Approved by Commissioner: *Laurenne Jones*
 Agency: Department of Environmental Conservation

Date: 2/16/95

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SENATE COMMITTEE REPORT

DATE: 5/8/95

FURTHER:

DATE TURNED INTO OFFICE: 5-10-95

Resources Committee considered HOUSE BILL NO. 119

Exempting schools from certain fees charged by the Department of Environmental Conservation; efd.

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR^o _____

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

DPT	5-7		1250

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HOUSE BILL NO. 119
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KUBINA, Davies

Introduced: 1/25/95

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting schools from certain fees charged by the Department of
2 Environmental Conservation; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 44.46.025 is amended by adding a new subsection to read:

5 (d) Notwithstanding (a) of this section, the department may not charge a fee
6 for inspection, permit preparation and administration, plan review and approval, or
7 other services provided by the department under AS 03.05 or AS 44.46.020(5) to a
8 school. In this section, "school" means a public school or private school for children
9 of school age, as defined in AS 14.03.070.

10 * Sec. 2. This Act takes effect July 1, 1995.



Alaska State Legislature
Representative Eugene Kubina
Minority Whip

During Session
Alaska State Capitol
Juneau, Alaska 99801-1182
907 465-4859
Fax 907 465-3799

During Interim
PO Box 2463
Valdez, Alaska 99686
907 835-2111
Fax 907 835-2097

Sponsor Statement

HB 119 Exempting Schools from DEC Health Inspection Fees

AS 44.46.025 authorizes the Alaska Department of Environmental Conservation to charge user fees to help defray the costs of its inspections of public kitchens where food is prepared. This authority was granted to DEC in 1993, and the first user fees were assessed that year.

For the first two years, FY93 and 94, DEC did not charge schools for the inspections of their kitchens and food preparation facilities. It did not want to burden schools, already suffering under tight budgets, with an additional expense. In 1994, legal counsel informed DEC that it could not arbitrarily charge some facilities and not others. Consequently, in FY '95 DEC began charging for its annual inspections.

The charges are determined by the number of cafeteria (or equivalent) seats per school. For small school districts the total charge could be less than a hundred dollars, but for larger districts, it could be more than a thousand. These fees are an unfunded mandate to the schools. The legislature mandated the fees, but did not provide any additional funds to the schools with which to pay them.

It is important to note that the legislature did exempt charitable organizations (those with an IRS tax status of 501(c)(3)) from DEC user fees. Although our schools are not 501(c)(3) organizations, they certainly meet the intent of the exemption. School lunch programs provide a valuable service to many children who often could not otherwise afford a hot lunch. School lunches are often served at below a school's cost of production, even when aided by Federal Child Nutrition Programs.

HB 119, by relieving schools of DEC user fees, would ensure that more of their limited budgets would be devoted to improving our children's education.

Your support is appreciated.

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 25, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 5/6/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 119

HOUSE BILL NO. 119

EXEMPT SCHOOLS FROM CERTAIN DEC FEES

"An Act exempting schools from certain fees charged by the Department of Environmental Conservation; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) DEC

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DMP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Signature]

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Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

House HESS
5-2-95 2:04pm
HB 119

Mary Pagenkopf

APR 18 1995



FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

520 Fifth Avenue

Fairbanks, Alaska 99701-4756

(907) 452-2000

Food and Nutritional Services

Rep. Gene Kubina
State Capitol
Juneau, AK 99801

April 11, 1995

Dear Representative Kubina:

I am writing to inform you that this department believes there has been an error in billing the Fairbanks North Star Borough School Lunch Program for Food Service permits from the Department of Environmental Conservation.

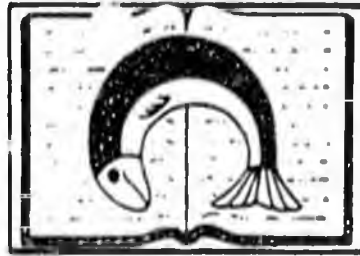
We are a non-profit program and this is required by USDA Federal Regulations Title 7:210.14. It would appear to me that our department meets the intent of the exemption. Although not truly a "charitable institution", over 68% of the meals that we served during the past school year were served to free and reduced price eligible children.

I am requesting exemption of our National School Lunch and Breakfast programs from the cost of these permits. We are operating on a very tight budget and are required by this district to break even with no assistance. This unbudgeted expense would cause a hardship for this department and would require adjustments to existing programs.

I want to thank you for introducing House Bill 119 and to let you know that we support all components of this proposed legislation.

Sincerely;

Lynn C. Tompkins
Food Service Supervisor
Fairbanks North Star Borough School District
520 5th Ave, Fairbanks, AK 99701-4756



Lower Kuskokwim School District

Sue C. Hare
Superintendent

P.O. Box 305 • Bethel, Alaska 99559
907 543-4800 Ext. 810, 811

March 8, 1995

Representative Gene Kubina
State Capitol
Juneau AK 99801

RE: House Bill No. 119 exempting schools from DEC fees

Dear Representative Kubina:

I am writing to express my support for House Bill No. 119 exempting schools from DEC fees. I was very surprised to receive invoices for food service permits at all of our schools late last fall. We serve meals at 25 locations and the total of these invoices was nearly \$2000.

Our district is located in western Alaska, which is a rural part of the state with very high food and shipping costs. Currently the district subsidizes the school food service program in excess of \$400,000 per year in order to serve nutritious meals to our students. We simply cannot squeeze any more money out of our general education fund without seriously jeopardizing student instruction.

I urge you and your colleagues to pass this legislation. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Sue C. Hare". The signature is written in dark ink and is positioned above the printed name and title.

Sue C. Hare
Superintendent

cc: Senator Lyman Hoffman
Representative Ivan M. Ivan



KENAI PENINSULA BOROUGH SCHOOL DISTRICT

139 East Park Avenue • Soldotna, Alaska 99669-7553 • Food and Nutrition Services (907) 262-9367
FAX (907) 262-7165

March 1, 1995

Representative Gene Kubina
State Capitol
Juneau, AK 99801

Dear Representative Kubina:

Thank you for introducing House Bill 119, exempting schools from the Department of Environmental Conservation's "operator user fees".

This new billing procedure, which came into effect and to my attention during December 1994, did not allow my district to properly budget for this additional expense for the 94/95 school year or 95/96 school year. As you know most school districts are suffering from increased enrollment and less funding. If these fees are implemented they will cost the Kenai Peninsula Borough School District an additional \$6,000 dollars a year (approximately).

School food service does not function to make a profit and should be treated as a non-profit entity. As stated in the Code of Federal Regulations, chapter II, 210.14, "School food authorities shall maintain a non-profit school food service. Revenues received by non-profit school food service are to be used only for the operation or improvement of such food service."

Thank you for your concern and efforts in this matter.

Sincerely,

Michael Lenzenfelder
Food and Nutrition Services Administrator

bjg

VALDEZ CITY SCHOOLS
BUSINESS OFFICE
P. O. Box 398
Valdez, Alaska 99686
(907) 835-4968 / Fax: (907) 835-4964

February 14, 1995

The Honorable Eugene G. Kubina
State Capitol
Juneau, Alaska 99801

Dear Mr. Kubina,

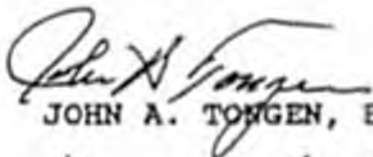
This letter is in support of House Bill No. 119 which would exempt schools from the D.E.C. charges for Food Service Permits.

These permit charges are ludicrous! There is no justification for one state agency (Department of Environmental Conservation) billing another state entity (school district). School kitchens should be exempt from the Food Service Permit charges. They are not operated "for profit" as are cafes or other public eating establishments.

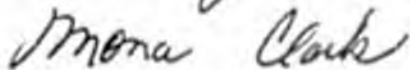
School budgets were established long before these charges appeared. We had no warnings that these were due; it was with great financial distress that we paid the charges. School districts should not have to budget for unreasonable charges so D.E.C. can profit.

House Bill No. 119 is logical, timely and necessary. Valdez City School District fully supports this measure.

Sincerely,



JOHN A. TONGEN, BUSINESS MANAGER



MONA CLARK, ACCOUNTING

FEB 21 1995



ST. MARY'S SCHOOL DISTRICT

P.O. Box 171 St. Mary's, Alaska 99658
(907) 438-2311 or (907) 438-2834

Accredited by Northwest Accreditation Association



16, February 1995

Representative Gene Kubina
Capitol, Room 406
Juneau, Alaska 99801

Dear Representative Kubina,

Thank you for support of House Bill # 119. It is refreshing to see that some one is trying to put a stop to the never ending billing of schools for one thing or another. The impression the public has of the schools is "they always pay their bills" otherwise known as the deep pocket theory.

I hope to see you in a week or so.

Sincerely,

Gary C. Greseth

cc:

Eileen MacLean
Irene Nicholia
Jerry Mackie
Carl Moses
Jerry Sanders
Cynthia Toohy
Bill Williams
Al Vezey
Terry Martin
Con Bunde
Richard Foster
Pete Kelly
Ivan Ivan
Joe Green
Gene Terriault
Scott Ogan
Vic Kohring

OGG/pmj