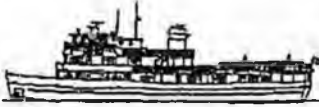


ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 00/2

10945 HOUSE LABOR & COMMERCE 229



THE BOAT COMPANY
Wilderness Adventure Tours

March 15, 2004

Testimony before House Labor and Commerce Committee Members
on
HB452, GUIDED SPORT FISHING

by Captain Joel Hanson, TBC Alaska Affairs Consultant

Dear Chairman Anderson and Committee Members,

The Boat Company is a twenty-five year old Alaska corporation providing high-quality educational cruises throughout Southeast Alaska's Inside Passages during summer and on the Pacific shores of Costa Rica and Panama during winter. We currently operate two 150 foot long vessels, each equipped to accommodate a modest compliment of 22 passengers. Both our vessels carry multiple small skiffs on deck which we regularly launch and use for shore excursions, sightseeing, sport fishing, etc. For more information on our company you may investigate our web site at www.theboatcompany.com.

We feel that HB452 as currently written will fail to legitimize, protect, or improve our sport fish guiding services, as suggested by the Sponsor Statement. In fact, this bill promises to compromise our safety measures, and will impose burdensome, redundant and expensive requirements on an operation of our modest size. Therefore, we respectfully request that you hold this bill in committee pending substantial revision by the sponsor.

Please consider the following specific comments:

New Licenses and Fees w/o New Privileges and Benefits

The licenses and fees proposed in this bill simply add to guide's regulatory obligations and costs without providing any discernible (comparable?) new benefits.

The Boat Company's guides collectively spend about \$1,600 on sport fishing licenses every year, yet they do not participate in sport fishing pastimes in the classic "recreational" sense. They purchase sport fishing licenses in order to perform their jobs as guides. With the passage of HB452, The Boat Company's guides collectively will need to spend twice the current amount (or about \$3,200) in order to perform exactly the same job as a guide. The proposed fees, therefore, constitute a doubling of the cost of guiding without any increase in benefits to the guide.

This legislation needs to make a clear distinction between the rights/obligations of sport fishermen and the rights/obligations of guides. The Boat Company recommends the following approach: A sport fishing guide license should authorize the holder to perform all the normal duties associated with guiding—such as assisting clients with gear-tying, baiting, choosing lures, briefly demonstrating casting or reeling techniques, assisting with netting or harpooning fish and dressing or processing catch—regardless of whether the guide also holds a sport fishing license.

This approach differentiates between sport fish guiding and sport fishing. It requires a guide to have a guide license but does not require a guide to have a sport fishing license *unless the guide also wants to catch fish*. Thus, guide licenses and associated fees carry distinct obligations and privileges from sport fishing licenses and associated fees.

Chain of Guilt

Section 16.40.260 (e) reads, "A person who holds a sport fishing operator license may not aid in the commission of a violation...by a sport fishing guide who is employed by the person or by a sport fisherman who is a client of the person."

We feel that this legislation needs to define what is meant by the term "aid in the commission of a violation," and it needs to specify the degree to which an operator may be subject to penalties upon conviction. Without clarification, HB452 creates an automatic chain of guilt whereby a sport fishing operator on shore becomes fully liable (punishable to the maximum extent of the law) for even minor fishing violations committed by a client under the care of a guide tens or hundreds of miles away.

Unreasonable Burden to "physically possess" Paperwork

Section 16.40.270 (e) demands that, while engaged in providing sport fishing guide services, a sport fishing guide shall "physically possess" all the current licenses, tags, and permits that are required to engage in the sport fishery for which the sport fishing guide services are being provided. Failure to do so would impose severe criminal penalties, not commensurate to the "crime".

This means that a guide operating in an open skiff must have a large stack of paperwork either in his jacket, in a zip-lock baggie under his shirt, in a zip-lock baggie in the steering console, or all of the above (actually, the amount of paperwork that would need to be shuffled depending on skiff and assigned guide may require a small filing cabinet). The required paperwork includes boat registration, copy of proof of insurance, copy of proof of employment, copy of fisheries business license, copy of guide operator license, sport fishing guide license, guide registration, copy of US Coast Guard Captain's license, picture ID, sport fishing license, a king salmon stamp if clients are fishing for kings—which a guide is not currently required to possess because a guide is prohibited from fishing for king salmon with clients!—and this section would require a guide operating in an open skiff to "physically possess" a sport fishing charter logbook, which is an item the size of an elongated telephone directory! An impediment to mobility to say the least! Any failure to "physically possess" any of these items carries Class A and B misdemeanor criminal penalties, plus monetary fines – punishments that are very severe compared to the "crime" of not physically carrying papers that are otherwise readily accessible. And, based on the strict interpretation of laws by certain zealous Fish & Game enforcement officers (see below their interpretation of "immediately"), the clarity of "physically possess" will allow an officer to fine and criminally cite guides for not having all this paperwork on his or her self. This is an unreasonable, burdensome and arbitrary requirement whose execution offers no benefit.

For the time being, Fisheries Enforcement has been gracious enough to concede that open skiffs which operate from nearby mother ships may retain the sport fishing charter logbooks on the mother ship as a reasonable and practical alternative to the

requirement for guides to "physical possess" them in an open skiff. HB452 needs to specifically enable this practice and expand it to include other required licenses and documentation which a guide cannot reasonably be expected to retain in a wallet.

Unreasonable Burden to Uphold Unreasonable Recording Requirements

When a sport fisherman catches a king salmon, regulations require the fisherman to "immediately" record the catch on the back of the sport fisherman's license. Recent legal proceedings in Juneau have demonstrated that Fisheries Enforcement personnel's strict interpretation of the term "immediately" makes it difficult for guides and guests to ever be in compliance. And, under certain circumstances, such as when guides and clients are operating in rainy weather and rough seas in open skiffs, safety is affected. Since some of this proposed legislation seems to be in response to the aforementioned legal proceedings, and since some proposed sections relate to reporting requirements, we request that the legislature impose a reasonableness requirement for rules that govern timing of recording, such as and including the "immediately" requirement.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: H.B. 452
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish & Game
 Title: Guided Sport Fishing RDU: Sport Fisheries
 Component: Sport Fisheries
 Sponsor: Representative Heinze
 Requester: House Labor and Commerce Component No. 464

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	246.8	246.8	246.8	246.8	246.8	246.8
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	65.0	65.0	65.0	65.0	65.0	65.0
Supplies	6.5	6.5	6.5	6.5	6.5	6.5
Equipment	17.3	5.0	5.0	5.0	5.0	5.0
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	345.6	333.3	333.3	333.3	333.3	333.3

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1024)	355.6	359.1	362.7	366.4	370.0	373.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Fish and Game Fund)	345.6	333.3	333.3	333.3	333.3	333.3
TOTAL	345.6	333.3	333.3	333.3	333.3	333.3

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	4	4	4	4	4	4
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The operating expenditures reflect the hiring of four new full-time employees and one new part-time employee necessary to collect and process the data generated annually from licenses sold and reporting requirements. Other expenses associated with the issuing of licenses and collection of data include office supplies, computers, and postage. We assume higher costs in the first year of implementation due to the one-time purchase of equipment such as computers.

We have assumed that the revenues generated by passage of this legislation will increase roughly 1% each year as the number of guides and operators increases from year to year.

(Continued on Page 2)

Prepared by: Kelly Hepler, Director Phone 267-2195
 Division: Sport Fish Date/Time 3/16/04 2:31 PM
 Approved by: Commissioner Kevin Duffy Date 3/16/2004
 Agency: Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. H.B. 452

ANALYSIS CONTINUATION

Revenues generated by the sale of licenses will be deposited into the Fish and Game Fund and will be used to issue licenses and collect information per the reporting requirements stipulated by the proposed law.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB452-DPS-ABWE-3-16-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Act Relating to Licensing Sport Fishing Svcs RDU Alaska State Troopers
Component Bureau of Wildlife Enforcement
Sponsor Rep. Heinze
Requester (H) Labor & Commerce Component No. 2746

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

All of the provisions of this bill pertain to AS 16.05 and AS 16.40. They are directed towards governing the sports fishing services operators and fishing guide services.

Certain provisions of the bill will allow Wildlife Enforcement Troopers to check additional documents during the course of contacts with fishing guides, but such activity will occur in the normal course of business.

There is no anticipated fiscal impact to the Alaska State Troopers as a result of passage of this bill.

Prepared by: Lt. Al Storey Phone 269-4532
Division: Alaska State Troopers Date/Time 3/16/04 9:21 AM
Approved by: Commissioner William Tandeske Date 3/16/2004
Agency: Department of Public Safety

23-LS1619D
Utermohle
2/27/04

CS FOR HOUSE BILL NO. 452()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE HEINZE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to licensing and regulation of sport fishing operators and sport fishing**
2 **guides; authorizing the Department of Fish and Game and the Alaska Commercial**
3 **Fisheries Entry Commission to release records and reports to the Department of**
4 **Natural Resources; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 16.05.340(a) is amended by adding a new paragraph to read:

- 7 (26) Fishing services licenses
- 8 (A) Sport fishing operator license \$100
- 9 (B) Sport fishing guide license 50
- 10 (C) Sport fishing operator and sport fishing
- 11 guide combined license 100

12 *** Sec. 2.** AS 16.05.815(a) is amended to read:

- 13 (a) Except as provided in (b) and (c) of this section, records required by
- 14 regulations of the department concerning the landings of fish, shellfish, or fishery

1 products, and annual statistical reports of fishermen, buyers, and processors required
2 by regulation of the department are confidential and may not be released by the
3 department or by the Alaska Commercial Fisheries Entry Commission except as set
4 out in this subsection. The department may release the records and reports set out in
5 this subsection to the Alaska Commercial Fisheries Entry Commission. The
6 department and the Alaska Commercial Fisheries Entry Commission may release the
7 records and reports set out in this subsection to the recipients identified in this
8 subsection if the recipient, other than a recipient under (5) - (9) of this subsection,
9 agrees to maintain the confidentiality of the records and reports. The department and
10 the Alaska Commercial Fisheries Entry Commission may release

11 (1) any of the records and reports to the National Marine Fisheries
12 Service and the professional staff of the North Pacific Fishery Management Council as
13 required for preparation and implementation of the fishery management plans of the
14 North Pacific Fishery Management Council within the exclusive economic zone;

15 (2) any of the records and reports to the professional staff of the
16 Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries
17 Information Network project for the purpose of exchanging information with users
18 authorized by the department;

19 (3) any of the records and reports to the Department of Revenue or the
20 Department of Natural Resources to assist the department [DEPARTMENT OF
21 REVENUE] in carrying out its statutory responsibilities;

22 (4) records or reports of the total value purchased by each buyer to a
23 municipality that levies and collects a tax on fish, shellfish, or fishery products if the
24 municipality requires records of the landings of fish, shellfish, or fishery products to
25 be submitted to it for purposes of verification of taxes payable;

26 (5) such records and reports as necessary to be in conformity with a
27 court order;

28 (6) on request, the report of a person to the person whose fishing
29 activity is the subject of the report, or to a designee of the person whose fishing
30 activity is the subject of the report;

31 (7) on request, annual statistical reports of a fisherman, buyer, or

1 processor to the fisherman, buyer, or processor whose activity is the subject of the
2 report, or to a designee of the fisherman, buyer, or processor whose activity is the
3 subject of the report;

4 (8) fish tickets, fish ticket information, saltwater charter logbooks,
5 saltwater charter logbook information, and annual statistical reports of fishermen,
6 buyers, and processors and information in those reports to the Department of Public
7 Safety;

8 (9) fish tickets, fish ticket information, and annual statistical reports of
9 fishermen, buyers, and processors and information in those reports to the law
10 enforcement personnel of the National Marine Fisheries Service and the National
11 Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in
12 waters of this state and in waters of the exclusive economic zone adjacent to this state;

13 (10) fish tickets and fish ticket information regarding halibut to the
14 International Pacific Halibut Commission; and

15 (11) any of the records and reports to the child support enforcement
16 agency created in AS 25.27.010, or the child support enforcement agency of another
17 state, for child support purposes authorized under law.

18 * **Sec. 3.** AS 16.40 is amended by adding new sections to read:

19 **Article 6. Sport Fishing Services.**

20 **Sec. 16.40.260. Sport fishing operator license.** (a) The department shall
21 issue an annual sport fishing operator license to a person who

22 (1) holds a current business license under AS 43.70 to provide services
23 to sport fishermen;

24 (2) presents proof satisfactory to the department of a general liability
25 insurance policy or marine protection and indemnity insurance policy, covering the
26 services provided by the person and person's employees to sport fishermen, that
27 provides coverage of at least \$100,000 for each incident, and \$300,000 for all
28 incidents in a year;

29 (3) pays the license fee prescribed by AS 16.05.340(a); and

30 (4) satisfies all additional requirements adopted in regulation by the
31 Board of Fisheries.

1 (b) A person may not provide sport fishing services unless the person holds a
2 current sport fishing operator license and has current insurance coverage as required in
3 (a)(2) of this section.

4 (c) A person who holds a current sport fishing operator license may contract to
5 provide sport fishing guide services to a sport fisherman through an employee who
6 holds a current sport fishing guide license under AS 16.40.270.

7 (d) A person who holds a current sport fishing operator license may not
8 directly provide sport fishing guide services to a sport fisherman unless the person also
9 holds a current sport fishing guide license under AS 16.40.270(b).

10 (e) A person who holds a sport fishing operator license may not aid in the
11 commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under
12 AS 16.05 - AS 16.40 by a sport fishing guide who is employed by the person or by a
13 sport fisherman who is a client of the person.

14 **Sec. 16.40.270. Sport fishing guide license.** (a) A natural person may obtain
15 an annual sport fishing guide license if the person

16 (1) is a citizen of the United States, Canada, or Mexico, or is a resident
17 alien;

18 (2) is certified in first aid by the American Red Cross or a similar
19 organization;

20 (3) holds a license to carry passengers for hire issued by the United
21 States Coast Guard if the person operates a vessel in the provision of sport fishing
22 guide services and the license is required by the United States Coast Guard for the area
23 in which the fishing guide provides fishing guide services;

24 (4) holds a current sport fishing license from this state;

25 (5) pays the license fee prescribed by AS 16.05.340(a); and

26 (6) satisfies all additional requirements adopted in regulation by the
27 Board of Fisheries.

28 (b) A natural person may obtain an annual sport fishing operator and sport
29 fishing guide combined license if the person satisfies the requirements for a sport
30 fishing operator license under AS 16.40.260 and for a sport fishing guide license under
31 this section and pays the license fee prescribed by AS 16.05.340(a).

1 (c) A person may not provide sport fishing guide services unless the person
2 (1) holds a current sport fishing guide license; and
3 (2) holds a current sport fishing operator license or is an employee of a
4 person who holds a current sport fishing operator license.

5 (d) A sport fishing guide may provide sport fishing guide services only to
6 persons who have engaged the services of the sport fishing operator by whom the
7 sport fishing guide is employed. A sport fishing guide may not contract directly with
8 a person to provide sport fishing guide services to a person unless the sport fishing
9 guide also holds a current sport fishing operator license.

10 (e) While engaged in providing sport fishing guide services, a sport fishing
11 guide shall physically possess

- 12 (1) a current sport fishing guide license;
13 (2) the current licenses, tags, and permits that are required to engage in
14 the sport fishery for which the sport fishing guide services are being provided;
15 (3) a driver's license or similar identification card that is issued by a
16 state or federal agency and that bears a photograph of the fishing guide;
17 (4) proof of
18 (A) employment as a sport fishing guide by a person who holds
19 a current sport fishing operator license; or
20 (B) current licensure as a sport fishing operator;
21 (5) proof of current certification in first aid by the American Red Cross
22 or a similar organization; and
23 (6) proof of licensure by the United States Coast Guard to carry
24 passengers for hire if the sport fishing guide operates a vessel in the provision of sport
25 fishing guide services and the license is required by the United States Coast Guard for
26 the area in which the sport fishing guide provides sport fishing guide services.

27 (f) A sport fishing guide may not

- 28 (1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a
29 regulation adopted under AS 16.05 - AS 16.40 by a client of the sport fishing guide; or
30 (2) permit the commission by a client of the sport fishing guide of a
31 violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40

1 that the sport fishing guide knows or reasonably believes is being or will be committed
2 without

3 (A) attempting to prevent it, short of using force; and

4 (B) reporting the violation.

5 **Sec. 16.40.280. Reports.** (a) The department shall collect information from
6 sport fishing guides, including

7 (1) the name and license number of each vessel licensed under
8 AS 16.05.490 that is used in providing sport fishing guide services;

9 (2) the amount of fishing effort, catch, and harvest by clients of a sport
10 fishing guide;

11 (3) the locations fished during the provision of sport fishing guide
12 services; and

13 (4) other information that the department or board requires by
14 regulation.

15 (b) A person who holds a license issued under AS 16.40.260 or 16.40.270
16 shall comply with the reporting requirements in this section and reporting
17 requirements adopted in regulation by the department or board.

18 (c) A person who is required to complete reports under this section may not
19 provide false information or omit material facts in a report.

20 (d) A person who is required to complete reports under this section may not be
21 issued a new license under AS 16.40.260 or 16.40.270 unless the department has
22 received all reports required under this section for the preceding year.

23 (e) Information collected under this section is confidential to the extent
24 provided under AS 16.05.815.

25 (f) The department or board may adopt regulations under AS 44.62
26 (Administrative Procedure Act) that it considers necessary to implement this section.

27 **Sec. 16.40.290. Penalty.** (a) Except as provided in (b) and (c) of this section,
28 a person who knowingly violates AS 16.40.260 - 16.40.299 or a regulation adopted
29 under AS 16.40.260 - 16.40.299 is guilty of a class A misdemeanor.

30 (b) A person who, without any culpable mental state, violates AS 16.40.270(e)
31 is guilty of a violation and upon conviction is punishable by a fine of not more than

1 \$500.

2 (c) A person who knowingly violates AS 16.40.270(e) is, for a

3 (1) first offense in a three-year period, guilty of a violation and upon
4 conviction is punishable by a fine of not more than \$500; and

5 (2) second or subsequent offense in a three-year period, guilty of a
6 class B misdemeanor.

7 (d) In addition to any other penalty provided by law, a court may revoke the
8 sport fishing guide license of a person who is convicted under (a) or (c)(2) of this
9 section.

10 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

11 **Sec. 16.40.299. Definitions.** In AS 16.40.260 - 16.40.299,

12 (1) "sport fishing guide" means a person who is licensed to provide
13 sport fishing guide services to persons who are engaged in sport fishing;

14 (2) "sport fishing guide services" means assistance, for compensation
15 or with the intent to receive compensation, to a sport fisherman to take or to attempt to
16 take fish by accompanying or physically directing the sport fisherman in sport fishing
17 activities during any part of a sport fishing trip; "sport fishing guide services" does not
18 include

19 (A) sport fishing services; or

20 (B) services provided by an assistant, deckhand, or similar
21 person who works directly under the supervision of and on the same vessel as a
22 sport fishing guide;

23 (3) "sport fishing services" means the indirect provision of assistance,
24 for compensation or with the intent to receive compensation, to a person engaged in
25 sport fishing in taking or attempting to take fish or shellfish by a business that
26 employs a sport fishing guide to provide sport fishing guide services to the person
27 during any portion of a sport fishing trip; "sport fishing services" does not include

28 (A) an activity for which a sport fishing guide license is
29 required; or

30 (B) booking and other ancillary services provided by a tour
31 broker or agent to a sport fishing services operator.

1 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITION; REGULATIONS. The Board of Fisheries and the Department of Fish
4 and Game each may proceed to adopt regulations necessary to implement the changes made
5 by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but
6 not before the effective date of the statutory changes.

7 * Sec. 5. Section 4 of this Act takes effect immediately under AS 01.10.070(c).

8 * Sec. 6. Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2005.

DEPARTMENT OF FISH AND GAME COMMENTS

ON GUIDE LICENSING BILL HB 452

Representative Heinze introduced HB 452 on February 16. This bill would require sport fishing business owners and guides to be licensed with the State. The bill is based on an earlier bill developed by a Board of Fisheries Guide Licensing Task Force in the mid-1990s and introduced by Representative Austerman in 1997.

After discussing HB 452 with department staff, fellow legislators, and hearing comments from various sport fishing charter/guide groups and individuals from around the state the Representative made several changes to the original bill. These changes were incorporated into CS (Committee Substitute) HB 452 which is dated February 27, 2004.

The four major areas affected by the language changes in CSHB 452 are:

1. The reporting provisions that required fishing guides to record the names of their clients on a daily basis, along with their sport fishing license number, the number of fish they harvested, and associated confidentiality provisions have been removed.
2. Sport fishing outfitters and transporters have been removed from the provisions of this bill. The CS language only speaks to licensing sport fishing guide businesses (lodges, charter vessel companies, etc.) and sport fishing guides that provide direct assistance and personal direction to their clients.
3. Businesses and guides that only assist personal use or subsistence fishermen in their fishing activities have been removed from the provisions of this bill. The CS language only speaks to licensing those businesses and guides that provide services of direct assistance and personal direction to sport anglers.
4. The definitions have been modified to only include sport fishing guide businesses and guides. Definitions of outfitters, transporters, and fishing clubs have been removed. A definition of a sport fishing guide was added.

The department has received a number of comments from sport fish guide groups and individuals in Southeast and Southcentral Alaska pertaining to both the original bill language and the CS language. We would like to respond to some of these comments so everyone has the same understanding on various aspects of this licensing bill.

1. Some guides believe that if the guide licensing program is administered by the Division of Sport Fish it will clearly designate the guided sport fishery as a sport fishery, not a commercial fishery.

We agree with this concept. The Board of Fisheries has received numerous proposals and testimony over the years that the guided sport fishery is a commercial fishery and should be regulated as such. Having a sport guide licensing program administered by the Division of Sport Fish will designate that these fisheries are sport fisheries.

2. Some guides believe that if this bill passes the Board of Fisheries will have to make separate allocations for all species to this new user group.

We do not agree with this idea. First of all the Board already has the authority to regulate guided sport fisheries differently than unguided sport fisheries. Secondly, this bill would not change the makeup of the various guided sport fisheries, it would only require them to be licensed and to report on their guiding activities.

3. Some guides believe that if the Division of Sport Fish administers the guide licensing program, they will become "allocative advocates" for this user group at Board of Fisheries meetings.

This is not true. Both fisheries divisions are tasked with providing the board and the public the most accurate and complete information regarding fishing issues. However, both divisions are strictly prohibited from entering into allocation discussions or debates. The Division of Sport Fish will continue to operate in this manner regardless of whether we administer the guide licensing program or not.

4. Some guides believe that the funds generated from the license fees associated with this bill will go into the General Fund or will be viewed as just another source of revenue by the Division of Sport Fish.

This is not true. All funds generated by this bill's license fees will go into the dedicated Fish and Game Fund, just like funds from the sale of sport fishing licenses and king salmon tags. These funds will be used to administer the provisions of the licensing bill including the reporting requirements.

The Division of Sport Fish is currently spending \$80,000 per year to operate the existing business and guide registration and saltwater charter vessel logbook programs, which have no fees associated with them. We estimate that this bill would generate approximately \$356,000 and we would expend \$346,000 to administer the licensing and reporting programs.

5. Some guides are requesting higher license fees for nonresident sport fishing business owners and fishing guides.

Due to a recent court ruling, the department has been advised by the Department of Law that the State must be able to prove that it is more costly to administer the licensing program for nonresident owners or guides than it is for residents before we can increase costs for nonresidents. Based on an analysis of such costs, there does not appear to be significant differences between the two groups to merit a differential fee structure.

The department welcomes any comments you may have on CSHB 452 and its provisions. Please contact:

Rob Bentz
Deputy Director
Division of Sport Fish
at: rob_bentz@fishgame.state.ak.us

**DEPARTMENT RESPONSES TO ISSUES RAISED DURING LABOR AND
COMMERCE COMMITTEE HEARING FOR HB 452 ON MARCH 17**

- 1. During public testimony several individuals stated that the proposed license fees are either too high or not necessary at all.*

The license fees proposed in HB 452 are:

- a sport fishing guide services operator license for the owner of the guiding business for \$100;
- a sport fishing guide license for the person providing direct assistance to the clients for \$50; and
- a combined operator/guide license for a person who is both the owner of the business and the guide who accompanies the clients for \$100.

Right now owners of sport fishing businesses and sport fishing guides do not pay the Department of Fish and Game anything. The current registration requirements for businesses and guides are free. The saltwater charter vessel logbook is free. The proposed license fees will cover the cost of the licensing program and reporting requirements. The department is not proposing this legislation as a revenue generating mechanism.

The proposed reporting requirements will provide the department and the Board of Fisheries with comprehensive information on the impacts of guided sport fishing activities in both saltwater and freshwater. Better information will lead to better regulations that will protect and improve the state's sport fishing resources.

We believe that these fees are a small price to pay for individuals that are making money by aiding in the harvest of public property resources owned by everyone.

- 2. Several people testifying stated that the paperwork that would be necessary according to the reporting requirements in HB 452 would be duplicative and unreasonably burdensome.*

We are assuming that the "duplicative" comments coming from saltwater charter vessel operators indicates they believe they will have to continue filling out the existing charter logbook, along with whatever reporting requirements are required within HB 452. This is not the case.

We envision that the reporting requirements within HB 452 for saltwater charter operations will be very similar to the current logbook forms. However, there will only be ONE reporting document, not two.

Freshwater guide operators, that currently have no reporting requirements other than on the Kenai River, will also have only ONE type of reporting document to complete.

We do not believe that requiring sport fishing guides to record their catch, harvest, and effort information in an accurate, timely, and enforceable manner is burdensome. We view it as an obligation for anyone involved in the harvest of public property resources.

- 3. One individual asked about how the provisions of HB 452 would be enforced?*

We envision that enforcement of the license and reporting requirements would be very similar to the existing enforcement of the sport fishing business and guide registration programs and the charter vessel logbook program. Business owners and guides would have to present their licenses to enforcement agents when contacted on the water and would have to have their reporting form filled out while the fish and clients are still on site.

- 4. Several people testified that they felt a \$500 fine for the first violation for a sport fishing guide not having all of the required documents on their physical person while guiding was too high.*

The wording in HB 452 states: "... is guilty of a violation and upon conviction is punishable by a fine of not more than \$500."

The MAXIMUM fine is \$500. A judge will decide the amount of the fine, on a case by case basis, depending on the circumstances of the case.

- 5. One person testified that they did not believe transporters of personal use fishermen should be included within the provisions of HB 452.*

The original language of HB 452 did include transporters and outfitters as well as guides who provided services to individuals engaged in subsistence, personal use, and sport fisheries.

The language of CSHB 452 (the current version before the Labor and Commerce Committee) has all references to transporters and outfitters removed. It also has no mention of subsistence or personal use fisheries. Only businesses and guides working with sport fishing clients are impacted by the provisions of CSHB 452.



SITKA'S SECRETS

March 16, 2004

Dear Labor & Commerce Committee Member,

I am *against* **HB452** because I believe the reasons for the bill, as stated in the Sponsor Statement are invalid.

- **HB452 will not aid in the regulation of the sport fish guiding industry.**
 - The sport fish guiding industry already follows regulations made by the Board of Fisheries.
 - The sport fish guiding industry already fills out logbooks, and reports where we fish, and type and quantity of fish harvested, to the Sport Fish Division.
 - The Sport Fish Division already requires the sport fish guiding industry to be registered as a guide and business.

- **HB452 will not increase the public's confidence or safety of the sport fish guiding industry.**
 - The sport fish guiding industry is already registered with the Sport Fish Division and licensed by the Department of Community and Economic Development.
 - The sport fish guiding industry is already licensed and regulated by the US Coast Guard for safety.

- **HB452 will not "legitimize" nor "protect" my business.**
 - We already have a State Business License from the DCED.
 - We already register with the Sport Fish Division as a fishing guide, and a fishing guide business.
 - We are already licensed by the US Coast Guard.
 - We already register with the City and Borough of Sitka.
 - We are already members of the Maritime Consortium for drug tests.
 - We are already members of the Sitka Convention & Visitors Bureau.
 - We are already members of the AK Tourism Industry Association.
 - We already carry a policy with Charter Lakes Marine Insurance.

As a resident and small business operator, I find HB452 costly and meaningless, and urge you to not move HB452 from this committee. Thank you very much.

Sincerely,

Beverly P. Minn Kent F. Hall

500 Lincoln Street #641 Sitka, Alaska 99835 (907) 747-5089 email: bevandkent@hotmail.com



THE BOAT COMPANY
Wilderness Adventure Tours

March 15, 2004

Testimony before House Labor and Commerce Committee Members
on
HB452, GUIDED SPORT FISHING

by Captain Joel Hanson, TBC Alaska Affairs Consultant

Dear Chairman Anderson and Committee Members,

The Boat Company is a twenty-five year old Alaska corporation providing high-quality educational cruises throughout Southeast Alaska's Inside Passages during summer and on the Pacific shores of Costa Rica and Panama during winter. We currently operate two 150 foot long vessels, each equipped to accommodate a modest compliment of 22 passengers. Both our vessels carry multiple small skiffs on deck which we regularly launch and use for shore excursions, sightseeing, sport fishing, etc. For more information on our company you may investigate our web site at www.theboatcompany.com.

We feel that HB452 as currently written will fail to legitimize, protect, or improve our sport fish guiding services, as suggested by the Sponsor Statement. In fact, this bill promises to compromise our safety measures, and will impose burdensome, redundant and expensive requirements on an operation of our modest size. Therefore, we respectfully request that you hold this bill in committee pending substantial revision by the sponsor.

Please consider the following specific comments:

New Licenses and Fees w/o New Privileges and Benefits

The licenses and fees proposed in this bill simply add to guide's regulatory obligations and costs without providing any discernible (comparable?) new benefits.

The Boat Company's guides collectively spend about \$1,600 on sport fishing licenses every year, yet they do not participate in sport fishing pastimes in the classic "recreational" sense. They purchase sport fishing licenses in order to perform their jobs as guides. With the passage of HB452, The Boat Company's guides collectively will need to spend twice the current amount (or about \$3,200) in order to perform exactly the same job as a guide. The proposed fees, therefore, constitute a doubling of the cost of guiding without any increase in benefits to the guide.

This legislation needs to make a clear distinction between the rights/obligations of sport fishermen and the rights/obligations of guides. The Boat Company recommends the following approach: A sport fishing guide license should authorize the holder to perform all the normal duties associated with guiding—such as assisting clients with gear-tying, baiting, choosing lures, briefly demonstrating casting or reeling techniques, assisting with netting or harpooning fish and dressing or processing catch—regardless of whether the guide also holds a sport fishing license.

This approach differentiates between sport fish guiding and sport fishing. It requires a guide to have a guide license but does not require a guide to have a sport fishing license *unless the guide also wants to catch fish*. Thus, guide licenses and associated fees carry distinct obligations and privileges from sport fishing licenses and associated fees.

Chain of Guilt

Section 16.40.260 (e) reads, "A person who holds a sport fishing operator license may not aid in the commission of a violation...by a sport fishing guide who is employed by the person or by a sport fisherman who is a client of the person."

We feel that this legislation needs to define what is meant by the term "aid in the commission of a violation," and it needs to specify the degree to which an operator may be subject to penalties upon conviction. Without clarification, HB452 creates an automatic chain of guilt whereby a sport fishing operator on shore becomes fully liable (punishable to the maximum extent of the law) for even minor fishing violations committed by a client under the care of a guide tens or hundreds of miles away.

Unreasonable Burden to "physically possess" Paperwork

Section 16.40.270 (e) demands that, while engaged in providing sport fishing guide services, a sport fishing guide shall "physically possess" all the current licenses, tags, and permits that are required to engage in the sport fishery for which the sport fishing guide services are being provided. Failure to do so would impose severe criminal penalties, not commensurate to the "crime".

This means that a guide operating in an open skiff must have a large stack of paperwork either in his jacket, in a zip-lock baggie under his shirt, in a zip-lock baggie in the steering console, or all of the above (actually, the amount of paperwork that would need to be shuffled depending on skiff and assigned guide may require a small filing cabinet). The required paperwork includes boat registration, copy of proof of insurance, copy of proof of employment, copy of fisheries business license, copy of guide operator license, sport fishing guide license, guide registration, copy of US Coast Guard Captain's license, picture ID, sport fishing license, a king salmon stamp if clients are fishing for kings—which a guide is not currently required to possess because a guide is prohibited from fishing for king salmon with clients!—and this section would require a guide operating in an open skiff to "physically possess" a sport fishing charter logbook, which is an item the size of an elongated telephone directory! An impediment to mobility to say the least! Any failure to "physically possess" any of these items carries Class A and B misdemeanor criminal penalties, plus monetary fines – punishments that are very severe compared to the "crime" of not physically carrying papers that are otherwise readily accessible. And, based on the strict interpretation of laws by certain zealous Fish & Game enforcement officers (see below their interpretation of "immediately"), the clarity of "physically possess" will allow an officer to fine and criminally cite guides for not having all this paperwork on his or her self. This is an unreasonable, burdensome and arbitrary requirement whose execution offers no benefit.

For the time being, Fisheries Enforcement has been gracious enough to concede that open skiffs which operate from nearby mother ships may retain the sport fishing charter logbooks on the mother ship as a reasonable and practical alternative to the

requirement for guides to "physical possess" them in an open skiff. HB452 needs to specifically enable this practice and expand it to include other required licenses and documentation which a guide cannot reasonably be expected to retain in a wallet.

Unreasonable Burden to Uphold Unreasonable Recording Requirements

When a sport fisherman catches a king salmon, regulations require the fisherman to "immediately" record the catch on the back of the sport fisherman's license. Recent legal proceedings in Juneau have demonstrated that Fisheries Enforcement personnel's strict interpretation of the term "immediately" makes it difficult for guides and guests to ever be in compliance. And, under certain circumstances, such as when guides and clients are operating in rainy weather and rough seas in open skiffs, safety is affected. Since some of this proposed legislation seems to be in response to the aforementioned legal proceedings, and since some proposed sections relate to reporting requirements, we request that the legislature impose a reasonableness requirement for rules that govern timing of recording, such as and including the "immediately" requirement.

Alaska State Legislature



Representative Cheryll Heinze Sponsor Statement HB 452

“An Act relating to licensing and regulation of sport fishing operators and sport fishing guides; authorizing the Department of Fish and Game and the Alaska Commercial Fisheries Entry Commission to release records and reports to the Department of natural Resources; and providing for an effective date.”

Currently Alaska lacks a unified set of standards for sport fish guiding. This makes it difficult to protect fish habitats and ensure the maximum utilization of Alaska's resources. HB 452 is intended to legitimize and protect the sport fishing industry by establishing professional standards and ensuring accurate reporting of guiding activity throughout the state. This legislation will enhance public confidence in the guided sport fishery and the data upon which management decisions are made. HB 452 will establish licensing and reporting requirements for businesses and guides providing sport fishing guide services in fresh and salt waters of Alaska.

The bill establishes two types of licenses: a sport fishing services operator license and a fishing guide license, and establishes minimum requirements and fees for obtaining each license. Under the provisions of the bill, sport fishing service operators must meet licensing, insurance, and other requirements established by the Board of Fisheries. It requires that fishing guides operate under the authority of a sport fishing service operator license, either by holding that license themselves or by being employed by, or under contract with, a holder of a fishing service operator license. The bill also requires that the licensed guide be certified in first aid, have applicable U.S. Coast Guard vessel licenses, and meet other requirements adopted by the Board of Fisheries.

HB 452 establishes reporting requirements, including where guided sport fishing activities are conducted and the quantity of fish harvested. The bill ensures that sensitive information will be kept confidential. I urge you to support this bill.

ADF&G RESPONSES TO REP. SEATON'S QUESTIONS
REGARDING H.B. 452

1. *Who is the operator that need a sport fishing operator license in the scenario of a lodge owner who enters into a contract with a person who provides his own boat and acts as the guide on the boat for the lodge business?*

The lodge owner is required to possess a sport fishing operator license, not the person he has contracted with to provide the boat and guide services. The person who provides the actual guide services to clients on the boat would be required to possess a sport fishing guide license.

2. *Are the safety requirements in HB 452 the same as regulations for commercial fishermen?*

U.S. Coast Guard federal regulations (46 CFR 28.210) for documented vessels operating beyond the 3 nautical mile boundary line or with more than 16 people on board require one person trained in First Aid and CPR by an approved course. There are no Alaska Administrative Code regulations that require first aid or CPR training.

HB 452 requires licensed sport fishing guides to be certified by the American Red Cross or a similar organization.

3. *Are the penalties and fines in HB 452 consistent with penalties and fines for violations in other similar licensed occupations?*

There are three levels of penalties and fines within the provisions of HB 452:

- A person who violates the provisions of AS 16.40.270(e) is guilty of a violation with a fine up to \$500.
- A person who violates the provisions of AS 16.40.270(e) for a second or subsequent offense in a three year period is guilty of a class B misdemeanor with fines up to \$2,000 and 90 days in jail.
- A person who violates the remainder of the provisions within this bill (AS 16.40.260—16.40.299) is guilty of a class A misdemeanor with fines up to \$10,000 and 1 year in jail.
- In addition to any of the penalties above, a court may revoke the sport fishing guide license of a person.

Penalties and fines for violations committed by big game guides (AS 08.54.720(a)(8)) are misdemeanors with fines up to \$30,000 and 1 year in jail. Other penalties can be applied, depending on the type of misdemeanor.

Penalties and fines for violations committed by commercial fishermen

(AS 16.05.723) are misdemeanors with fines up to \$15,000 and 1 year in jail. Other penalties can be applied, depending on the type of misdemeanor.

4. *Are insurance policies available to fishing guide business owners in the amounts specified in HB 452, and what are the approximate costs?*

Staff from the Division of Insurance told us that policies that provide marine protection and indemnity insurance covering the services provided by the sport fishing guide business owner, and his employees of at least \$100,000 for each incident and \$300,000 for all incidents in a year are available. The cost of such a policy could range from \$175 to \$275 per year for the business with extra costs for ranging from \$100 to \$175 for each additional guide.

5. *Could the Commercial Fishery Entry Commission application for licensing charter vessels be included with the sport fishing guide business/guide licensing requirements so applicants could obtain two licenses from one application form?*

Mary McDowell, one of the Commissioners at the Commercial Fishery Entry Commission, is out of the office until March 17. I will contact her next week to obtain her opinion on this issue.

Alaska State Legislature

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0160
Fax: (907) 269-0177



Session:
Alaska State Capitol, Rm 1081
Juneau, AK 99801-1182

Phone: (907) 465-4930
Fax: (907) 465-3834
Toll Free: (800) 331-4930
Rep.Cheryll.Heinze@legis.state.ak.us

Representative Cheryll Heinze
District 24 - Anchorage

TO:

Representative Tom Anderson, Chairman
House Labor & Commerce Committee

DATE:

March 3rd, 2004

Enclosed find a copy of a proposed committee substitute for HB 452. This CS makes several changes to the original bill while keeping the original intent. The added subsection to AS 16.05.251 regarding the Board of Fisheries adoption of regulations regarding sport fishing services industry is removed. The added language in AS 16.05.340(a) mandating the collection of the names and license numbers of fisherman is removed and under (3) language is added to include the Department of Natural Resources.

The CS removes the terms "personal use" and "subsistence" from HB 452. The word "sport" was also added before "fishing guide services" throughout the bill. Sec. 16.40.280 is changed to exclude the names of clients, the sport fishing license or permit numbers of clients, the number of fish by species harvested and the number of rod hours. The CS replaces these categories with the name and license number of each vessel used in providing sport fishing services and the amount of fishing effort, catch and harvest by clients of a guide.

The CS adds subsection (a) to the list of penalties that result in the loss of a person's fishing guide license. Also, the definitions regarding "fishing club" and "outfitting" have been removed. The title has been altered to reflect these changes. I ask that you include the committee substitute and this summary of changes in the bill packet.

Sincerely,

Cheryll Heinze
Representative Cheryll Boren Heinze

23-LS1619D
Utermohle
2/27/04

CS FOR HOUSE BILL NO. 452()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE HEINZE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to licensing and regulation of sport fishing operators and sport fishing**
2 **guides; authorizing the Department of Fish and Game and the Alaska Commercial**
3 **Fisheries Entry Commission to release records and reports to the Department of**
4 **Natural Resources; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 16.05.340(a) is amended by adding a new paragraph to read:

- 7 (26) Fishing services licenses
- 8 (A) Sport fishing operator license \$100
- 9 (B) Sport fishing guide license 50
- 10 (C) Sport fishing operator and sport fishing
- 11 guide combined license 100

12 *** Sec. 2.** AS 16.05.815(a) is amended to read:

- 13 (a) Except as provided in (b) and (c) of this section, records required by
- 14 regulations of the department concerning the landings of fish, shellfish, or fishery

1 products, and annual statistical reports of fishermen, buyers, and processors required
2 by regulation of the department are confidential and may not be released by the
3 department or by the Alaska Commercial Fisheries Entry Commission except as set
4 out in this subsection. The department may release the records and reports set out in
5 this subsection to the Alaska Commercial Fisheries Entry Commission. The
6 department and the Alaska Commercial Fisheries Entry Commission may release the
7 records and reports set out in this subsection to the recipients identified in this
8 subsection if the recipient, other than a recipient under (5) - (9) of this subsection,
9 agrees to maintain the confidentiality of the records and reports. The department and
10 the Alaska Commercial Fisheries Entry Commission may release

11 (1) any of the records and reports to the National Marine Fisheries
12 Service and the professional staff of the North Pacific Fishery Management Council as
13 required for preparation and implementation of the fishery management plans of the
14 North Pacific Fishery Management Council within the exclusive economic zone;

15 (2) any of the records and reports to the professional staff of the
16 Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries
17 Information Network project for the purpose of exchanging information with users
18 authorized by the department;

19 (3) any of the records and reports to the Department of Revenue or the
20 Department of Natural Resources to assist the department [DEPARTMENT OF
21 REVENUE] in carrying out its statutory responsibilities;

22 (4) records or reports of the total value purchased by each buyer to a
23 municipality that levies and collects a tax on fish, shellfish, or fishery products if the
24 municipality requires records of the landings of fish, shellfish, or fishery products to
25 be submitted to it for purposes of verification of taxes payable;

26 (5) such records and reports as necessary to be in conformity with a
27 court order;

28 (6) on request, the report of a person to the person whose fishing
29 activity is the subject of the report, or to a designee of the person whose fishing
30 activity is the subject of the report;

31 (7) on request, annual statistical reports of a fisherman, buyer, or

1 processor to the fisherman, buyer, or processor whose activity is the subject of the
2 report, or to a designee of the fisherman, buyer, or processor whose activity is the
3 subject of the report;

4 (8) fish tickets, fish ticket information, saltwater charter logbooks,
5 saltwater charter logbook information, and annual statistical reports of fishermen,
6 buyers, and processors and information in those reports to the Department of Public
7 Safety;

8 (9) fish tickets, fish ticket information, and annual statistical reports of
9 fishermen, buyers, and processors and information in those reports to the law
10 enforcement personnel of the National Marine Fisheries Service and the National
11 Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in
12 waters of this state and in waters of the exclusive economic zone adjacent to this state;

13 (10) fish tickets and fish ticket information regarding halibut to the
14 International Pacific Halibut Commission; and

15 (11) any of the records and reports to the child support enforcement
16 agency created in AS 25.27.010, or the child support enforcement agency of another
17 state, for child support purposes authorized under law.

18 * **Sec. 3.** AS 16.40 is amended by adding new sections to read:

19 **Article 6. Sport Fishing Services.**

20 **Sec. 16.40.260. Sport fishing operator license.** (a) The department shall
21 issue an annual sport fishing operator license to a person who

22 (1) holds a current business license under AS 43.70 to provide services
23 to sport fishermen;

24 (2) presents proof satisfactory to the department of a general liability
25 insurance policy or marine protection and indemnity insurance policy, covering the
26 services provided by the person and person's employees to sport fishermen, that
27 provides coverage of at least \$100,000 for each incident, and \$300,000 for all
28 incidents in a year;

29 (3) pays the license fee prescribed by AS 16.05.340(a); and

30 (4) satisfies all additional requirements adopted in regulation by the
31 Board of Fisheries.

1 (b) A person may not provide sport fishing services unless the person holds a
2 current sport fishing operator license and has current insurance coverage as required in
3 (a)(2) of this section.

4 (c) A person who holds a current sport fishing operator license may contract to
5 provide sport fishing guide services to a sport fisherman through an employee who
6 holds a current sport fishing guide license under AS 16.40.270.

7 (d) A person who holds a current sport fishing operator license may not
8 directly provide sport fishing guide services to a sport fisherman unless the person also
9 holds a current sport fishing guide license under AS 16.40.270(b).

10 (e) A person who holds a sport fishing operator license may not aid in the
11 commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under
12 AS 16.05 - AS 16.40 by a sport fishing guide who is employed by the person or by a
13 sport fisherman who is a client of the person.

14 **Sec. 16.40.270. Sport fishing guide license.** (a) A natural person may obtain
15 an annual sport fishing guide license if the person

16 (1) is a citizen of the United States, Canada, or Mexico, or is a resident
17 alien;

18 (2) is certified in first aid by the American Red Cross or a similar
19 organization;

20 (3) holds a license to carry passengers for hire issued by the United
21 States Coast Guard if the person operates a vessel in the provision of sport fishing
22 guide services and the license is required by the United States Coast Guard for the area
23 in which the fishing guide provides fishing guide services;

24 (4) holds a current sport fishing license from this state;

25 (5) pays the license fee prescribed by AS 16.05.340(a); and

26 (6) satisfies all additional requirements adopted in regulation by the
27 Board of Fisheries.

28 (b) A natural person may obtain an annual sport fishing operator and sport
29 fishing guide combined license if the person satisfies the requirements for a sport
30 fishing operator license under AS 16.40.260 and for a sport fishing guide license under
31 this section and pays the license fee prescribed by AS 16.05.340(a).

1 (c) A person may not provide sport fishing guide services unless the person

2 (1) holds a current sport fishing guide license; and

3 (2) holds a current sport fishing operator license or is an employee of a
4 person who holds a current sport fishing operator license.

5 (d) A sport fishing guide may provide sport fishing guide services only to
6 persons who have engaged the services of the sport fishing operator by whom the
7 sport fishing guide is employed. A sport fishing guide may not contract directly with
8 a person to provide sport fishing guide services to a person unless the sport fishing
9 guide also holds a current sport fishing operator license.

10 (e) While engaged in providing sport fishing guide services, a sport fishing
11 guide shall physically possess

12 (1) a current sport fishing guide license;

13 (2) the current licenses, tags, and permits that are required to engage in
14 the sport fishery for which the sport fishing guide services are being provided;

15 (3) a driver's license or similar identification card that is issued by a
16 state or federal agency and that bears a photograph of the fishing guide;

17 (4) proof of

18 (A) employment as a sport fishing guide by a person who holds
19 a current sport fishing operator license; or

20 (B) current licensure as a sport fishing operator;

21 (5) proof of current certification in first aid by the American Red Cross
22 or a similar organization; and

23 (6) proof of licensure by the United States Coast Guard to carry
24 passengers for hire if the sport fishing guide operates a vessel in the provision of sport
25 fishing guide services and the license is required by the United States Coast Guard for
26 the area in which the sport fishing guide provides sport fishing guide services.

27 (f) A sport fishing guide may not

28 (1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a
29 regulation adopted under AS 16.05 - AS 16.40 by a client of the sport fishing guide; or

30 (2) permit the commission by a client of the sport fishing guide of a
31 violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40

1 that the sport fishing guide knows or reasonably believes is being or will be committed
2 without

3 (A) attempting to prevent it, short of using force; and

4 (B) reporting the violation.

5 **Sec. 16.40.280. Reports.** (a) The department shall collect information from
6 sport fishing guides, including

7 (1) the name and license number of each vessel licensed under
8 AS 16.05.490 that is used in providing sport fishing guide services;

9 (2) the amount of fishing effort, catch, and harvest by clients of a sport
10 fishing guide;

11 (3) the locations fished during the provision of sport fishing guide
12 services; and

13 (4) other information that the department or board requires by
14 regulation.

15 (b) A person who holds a license issued under AS 16.40.260 or 16.40.270
16 shall comply with the reporting requirements in this section and reporting
17 requirements adopted in regulation by the department or board.

18 (c) A person who is required to complete reports under this section may not
19 provide false information or omit material facts in a report.

20 (d) A person who is required to complete reports under this section may not be
21 issued a new license under AS 16.40.260 or 16.40.270 unless the department has
22 received all reports required under this section for the preceding year.

23 (e) Information collected under this section is confidential to the extent
24 provided under AS 16.05.815.

25 (f) The department or board may adopt regulations under AS 44.62
26 (Administrative Procedure Act) that it considers necessary to implement this section.

27 **Sec. 16.40.290. Penalty.** (a) Except as provided in (b) and (c) of this section,
28 a person who knowingly violates AS 16.40.260 - 16.40.299 or a regulation adopted
29 under AS 16.40.260 - 16.40.299 is guilty of a class A misdemeanor.

30 (b) A person who, without any culpable mental state, violates AS 16.40.270(e)
31 is guilty of a violation and upon conviction is punishable by a fine of not more than

1 \$500.

2 (c) A person who knowingly violates AS 16.40.270(e) is, for a

3 (1) first offense in a three-year period, guilty of a violation and upon
4 conviction is punishable by a fine of not more than \$500; and

5 (2) second or subsequent offense in a three-year period, guilty of a
6 class B misdemeanor.

7 (d) In addition to any other penalty provided by law, a court may revoke the
8 sport fishing guide license of a person who is convicted under (a) or (c)(2) of this
9 section.

10 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

11 **Sec. 16.40.299. Definitions.** In AS 16.40.260 - 16.40.299,

12 (1) "sport fishing guide" means a person who is licensed to provide
13 sport fishing guide services to persons who are engaged in sport fishing;

14 (2) "sport fishing guide services" means assistance, for compensation
15 or with the intent to receive compensation, to a sport fisherman to take or to attempt to
16 take fish by accompanying or physically directing the sport fisherman in sport fishing
17 activities during any part of a sport fishing trip; "sport fishing guide services" does not
18 include

19 (A) sport fishing services; or

20 (B) services provided by an assistant, deckhand, or similar
21 person who works directly under the supervision of and on the same vessel as a
22 sport fishing guide;

23 (3) "sport fishing services" means the indirect provision of assistance,
24 for compensation or with the intent to receive compensation, to a person engaged in
25 sport fishing in taking or attempting to take fish or shellfish by a business that
26 employs a sport fishing guide to provide sport fishing guide services to the person
27 during any portion of a sport fishing trip; "sport fishing services" does not include

28 (A) an activity for which a sport fishing guide license is
29 required; or

30 (B) booking and other ancillary services provided by a tour
31 broker or agent to a sport fishing services operator.

1 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITION; REGULATIONS. The Board of Fisheries and the Department of Fish
4 and Game each may proceed to adopt regulations necessary to implement the changes made
5 by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but
6 not before the effective date of the statutory changes.

7 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2005.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 27, 2004

SUBJECT: Draft CSHB 452(), relating to licensing and regulation of sport fishing businesses and sport fishing guides (Work Order No. 23-LS1619\D)

TO: Representative Cheryll Heinze
Attn: Jon Bittner

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is the draft of CSHB 452() that you requested. The draft CS contains most of the changes that were requested. Please review the bill, especially the definition section (Sec. 4, Sec. 16.40.299), to confirm that the bill achieves your purpose.

As per your request, the draft CS does not contain the definitions of "fishing club" and "outfitting." However, the CS still contains a definition of "sport fishing services." As long as the bill provides for the licensing of sport fishing operators under Sec. 4, Sec. 16.40.260 of the bill, it will be necessary to define what services the sport fishing operator is to provide. The CS provides that sport fishing operators are to provide sport fishing services and that sport fishing guides provide sport fishing guide services. In order to distinguish between the services to be provided by the operators and the guides, the services that each is authorized to provide must be defined in the CS. Thus, it is necessary to include a definition of "sport fishing services" in the CS. The definition of "sport fishing services" is substantially similar to the definition given to that term in 5 AAC 75.995(43). In the CS, sport fishing guides must be employees of the sport fishing operator so there is no mention of contracts between guides and operators in the definition of "sport fishing services."

The title of the bill has been altered to reflect the changes to the descriptions of sport fishing operators and sport fishing guides that have been made in the text of the CS. A more significant change to the title has been made to reflect the change to AS 16.05.815(a) that you requested. In order to describe the effect of the change to AS 16.05.815(a), the title of the bill now contains the phrase "authorizing the Department of Fish and Game and the Alaska Commercial Fisheries Entry Commission to provide records and reports to the Department of Natural Resources." This change in the title is necessary to reflect that the amendment to AS 16.05.815(a) authorizes the Department of Fish and Game and the Alaska Commercial Fisheries Entry Commission to release any records and reports to the Department of Natural Resources that the department may

Representative Cheryll Heinze

February 27, 2004

Page 2

require to carry out its statutory duties, not just records and reports regarding sport fishing guides and sport fishermen.

If I may be of further assistance, please advise.

GU:med

04-238.med

Enclosure

Alaska State Legislature



Representative Cheryll Heinze Sponsor Statement HB 452

“An Act relating to licensing and regulation of sport fishing services operators and fishing guides; and providing for an effective date.”

Currently Alaska lacks a unified set of standards for sport fish guiding. This makes it difficult to regulate the industry in regards to protecting fish habitats and ensuring the maximum utilization of Alaska’s resources. HB 452 is intended to legitimize and protect the sport fishing industry by establishing professional standards and ensuring accurate reporting of guiding activity throughout the state. This legislation will enhance public confidence in the guided sport fishery and the data upon which management decisions are made. HB 452 will establish licensing and reporting requirements for businesses and guides providing sport fishing guide services in fresh and salt waters of Alaska. The bill also authorizes the Board of Fisheries to regulate the sport fishing services industry for the conservation, development, and utilization of fishery resources, and the safety of the industry’s clients.

The bill establishes two types of licenses: a sport fishing services operator license and a fishing guide license, and establishes minimum requirements and fees for obtaining each license. Under the provisions of the bill, sport fishing service operators must meet licensing, insurance, and other requirements established by the Board of Fisheries. It requires that fishing guides operate under the authority of a sport fishing service operator license, either by holding that license themselves or by being employed by, or under contract with, a holder of a fishing service operator license. The bill also requires that the licensed guide be certified in first aid, have applicable U.S. Coast Guard vessel licenses, and meet other requirements adopted by the Board of Fisheries.

HB 452 establishes reporting requirements, including where guided sport fishing activities are conducted and the type and quantity of fish harvested. In order to ensure the verifiability of the information submitted, it also requires the confidential reporting of names and license numbers of clients. The bill ensures that sensitive information will be kept confidential. I urge you to support this bill.

HB 452 TALKING POINTS
(as of 2-19-04)

This bill is intended to legitimize and protect the sport fishing industry by establishing professional standards and ensuring accurate reporting of guiding activity throughout the state.

This legislation will enhance public confidence in the guided sport fishery and the data upon which management decisions are made.

The bill establishes two types of licenses; a sport fishing services operator license and a fishing guide license; and establishes minimum requirements and fees for obtaining each license.

The number of guide businesses has remained nearly constant. The average number of registered guide businesses from 1998 through 2003 is 2,135 and has ranged from 2,065 to 2,242.

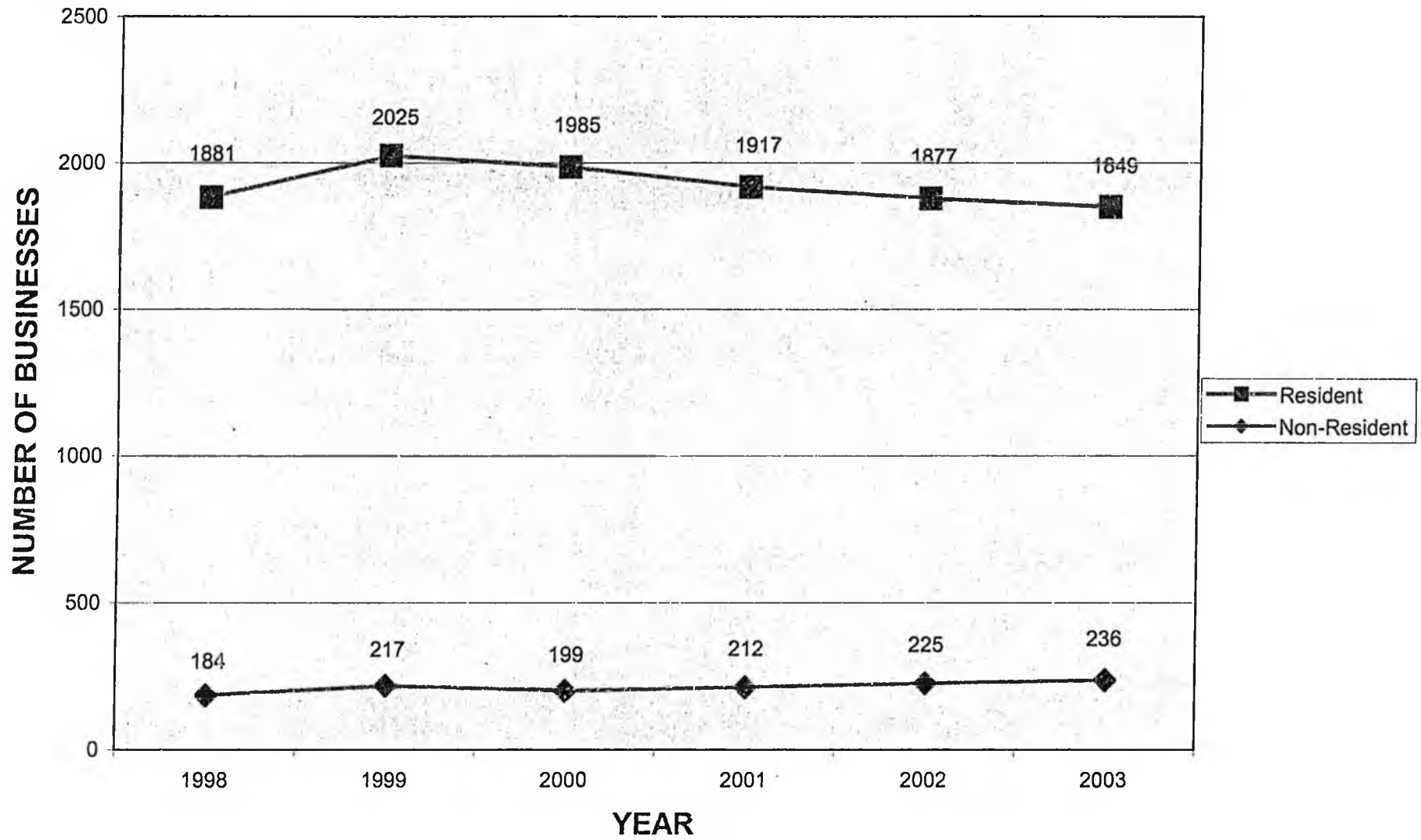
The number of fishing guides is increasing. The average number of registered guides from 1998 through 2003 is 4,559 and has ranged from 3,823 to 4,826.

The average percentage of guide businesses owned by Alaska residents from 1998 through 2003 is 90% and has ranged from 89% to 91%.

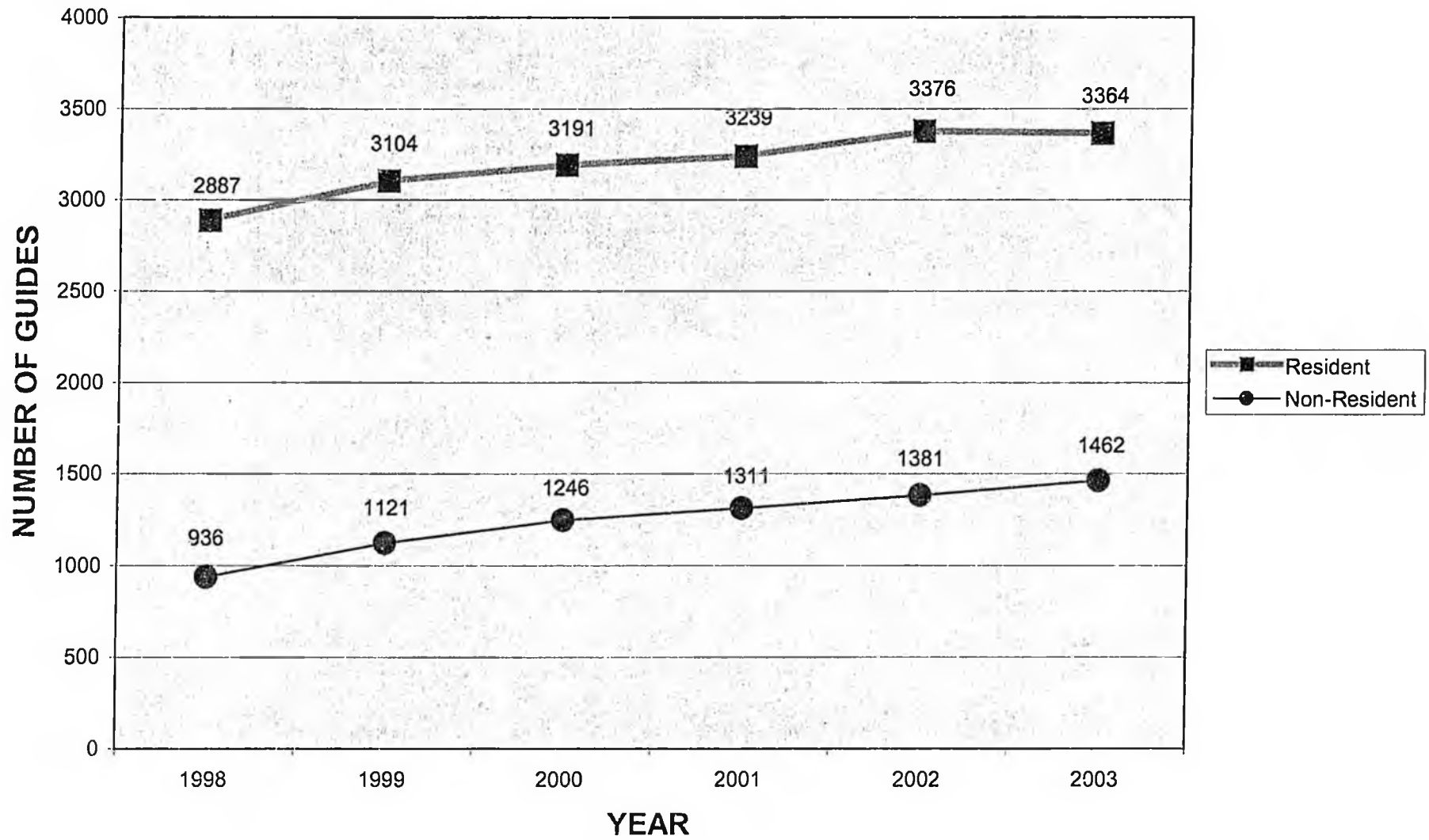
The percentage of nonresident fishing guides is increasing. The average percentage of guides who are Alaska residents from 1998 through 2003 is 72% and has ranged from 70% to 76%.

This bill establishes mandatory reporting requirements for all sport fishing businesses and sets license fees that cover the cost of the licensing program and reporting requirements.

UNIQUE SPORTFISHING BUSINESSES BY RESIDENCY
1998 - 2003



UNIQUE SPORTFISHING GUIDES BY RESIDENCY
1998 - 2003



Draft -- FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

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

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Sport Fish Guide Licensing and Repor RDU Sport Fish
Component Sport Fisheries
Sponsor _____
Requester _____ Component No. 464

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	246.8	246.8	246.8	246.8	246.8	246.8
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	65.0	65.0	65.0	65.0	65.0	65.0
Supplies	6.5	6.5	6.5	6.5	6.5	6.5
Equipment	17.3	5.0	5.0	5.0	5.0	5.0
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	345.6	333.3	333.3	333.3	333.3	333.3

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	355.6	359.1	362.7	366.4	370.0	373.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Fish and Game Fund)	355.6	359.1	362.7	366.4	370.0	373.7
TOTAL	355.6	359.1	362.7	366.4	370.0	373.7

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	4	4	4	4	4	4
Part-time	2	2	2	2	2	2
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Revenues generated by the sale of licenses will be used to issue licenses and collect information per the reporting requirements stipulated by the proposed law. Reporting will be generated annually on licenses sold and on reported data. No new positions will be created. Existing positions associated with guide registration and salt water reporting will be re-programmed into these functions.

Prepared by: Kelly Hepler
Division: Sport Fish
Approved by: _____
Agency: _____

Phone 465-6184
Date/Time 1/28/04 3:01 PM
Date 1/28/2004

Alaska State House of Representatives
Labor and Commerce Committee
Representative Tom Anderson, Chair

Dear Representative,

I respectfully submit these comments regarding HB 452. My family and I own and operate a small, four guest sport fishing lodge on Shelter Island near Juneau. My wife, my son and I bought the land, cleared it, and built our home and lodge over the last eighteen years. Every dollar of every permanent fund dividend check we received is invested in our family business.

When we are not fishing with our guests we are finding them. We spend our own money marketing our lodge to out of state clients. We convince them to spend their dollars to visit Alaska. They buy airline tickets, stay at local hotels, pay for fish processing and take gifts back to their loved ones. The food they eat, the gas I burn, my tackle, lodge and boat maintenance, nearly every dollar we generate finds its way back into the local economy.

We love our work and we believe we conduct our business with the highest integrity in regard to the State of Alaska and the Department of Fish and Game. Although we would not trade our way of life, our income level falls well below the poverty level for Alaska and the nation. We see the implications of this Bill as threatening to our home and business. Please take a moment to review our concerns.

Among other things this Bill will:

1. Officially recognize the Guided Sport Industry as separate from other sport fish users and place them under the authority of Sport Fish Division.
2. Require that we pay 100.00 for a guide business license and 50.00 per guide.
3. Require that we report the names and address and license numbers of our clients to the Department every month.

These are some of the implications I see regarding this new regulation.

Separate Guided Sport Fish Designation

As a recognized user group under this new law, what would we be allowed to catch? King salmon are allocated to commercial fish and sport fish. Currently there is no category for *guided sport fish*. How will the allocation be cut for us? I am sure that the Trollers aren't going to want to give us any of theirs.

This bill may not be a big issue for the halibut boats or river lodges up north but it has huge implications for us in Southeast who have to live with treaty fish and salmon allocations. When resources become limited who do you think will be shut down first? The Alaska Constitution has provisions set forth in the event of a shortage and they don't include a separate "guided sport fish" provision. It would require a constitutional amendment for the guided sport fishery even be recognized in that pecking order.

Under this new law the guided sport fishing industry will have to go to the Board of Fish for allocation. It will require we start from scratch against what many of us consider to be a stacked Board to get any King Salmon at all. Our advocate before the board, Sport Fish Division, is mandated to look out for the interests of the unguided fishers first. I would feel more comfortable under Commercial Fisheries than Sport Fish. The best we will ever be under Sport Fish is the ugly stepsister of their real duty.

Special designation will make it easy to make special closures--divide and conquer. This legislation sounds like it originated in the halls of the Alaska Trollers Association. In Southeast we have fought this battle many times over the last two decades. Always it has been considered wiser to keep guided and Non-guided sport fisheries as one.

Sport Fish Division will be forced to make choices between guided and non-guided users. You don't have to be a psychic to guess where they are going to line up. It is true they have to make these choices now but with separate designations the deck is clearly stacked against us. I can hear them now, "I'm sorry, but it's out of our hands." And like the log book enforcement

issue it will be. They will be forced to follow guidelines already set out in the Constitution and other state laws that currently do not even take the guided sport fishery into account.

This change is so fundamental it would require an entire rewrite of Alaska public resource law for the guided sport fishery to be put on an equal playing field with the other fisheries.

Fees

My business license fees increased 400 percent this year, Juneau Harbors is going to charge me to pick up passengers at Auke Bay, fuel prices are rising, State Sales Tax looms in the near future, a local vessel tax is on the burner, where will it end. Every time a bureaucrat feels anxiety over his retirement benefits I have to pay more money. Already my family has no health insurance and no retirement benefits.

Government is there to serve the people not the other way around. Show me a compelling public need for this fee and I will pay it. Without public need this as theft. I work hard for my money. I don't see the Department of Fish and Game swabbing my deck or cleaning my fish, they aren't my business partners why should they share in the spoils of what has always been a very meager living. Rather than helping me, I see them throwing another stumbling block in my path.

Mailing list

Why do they want the names of our clients? They already have a system of checks and balances in place through our license data, our log books, a blind survey sent randomly to our clients, the creel census data collected at the docks and regular enforcement checks on the water by the Troopers, The Park Service, The Forest Service, NIMFS enforcement, and the Coast Guard. If they really need to know whom exactly we took out on exactly what date they can call licensing and obtain that information from the license report we submit monthly already.

Do they want to call our clients and question them about us? Perhaps they want to check our guest's memory against our logs. I write my log as I go and complete it each day before the clients or the fish leave the boat (or I

get a \$200.00 fine, no excuses). It is double checked by creel data that is collected at the dock and we have regular boardings by enforcement on the water. Why do they need more than that?

I guess it boils down to trust. They don't believe us. When Sport Fish first started the log book program we recorded our halibut data and the stats came in higher than they thought. The Department, in a public document to the North Pacific Halibut Commission announced that the discrepancy existed because we lied. They flat declared that we over reported our halibut. Do they think we are criminals? Believe me, criminals make a lot more money and do a lot less work.

I don't want them calling my guests and interrogating them. I log their catch on the spot under threat of fine. That is more accurate than what somebody remembers who stayed with me 5 days two months ago. And if there is a discrepancy—then what, I get fined on my client's words? My client is forced to testify against me. What kind of relationship does that encourage when every guest is a potential witness against me, wittingly, willingly or not.

What other questions are they going to ask about me? Did I wait three minutes before reminding them to log their king on their license? Enforcement changes their minds on what they consider a violation regularly. One year they say the captain can set the hook and pass the rod to the client. The next year they are handing out tickets for it. As hard as we honestly try, if held under a microscope, or several different microscopes, none of us are perfect.

Let the state hold us to the same standards they use upon themselves—no more no less. This is reminiscent of the stories I heard in grade school about how the Communist Russians asked school children what their parents talked about at home so they could haul the parents away to concentration camps if they criticized the state.

I see no good in this "Fish Inquisition". A lot of my guests are old and have no idea of the devious designs of Enforcement. They will not like the inquiries. It is bad press for the whole industry and the state has other tools, mentioned above, to secure the public interest it is charged with. The

only use for a mailing list of my clients is to specifically target my guests for questioning. Even the IRS can't use these tactics. Ironically it is called a "fishing expedition" when a government agency indiscriminately digs in your records to see if there "might" be a violation.

Like the log book fines, innocent mistakes will undoubtedly be the most frequent "crime" that will come of it. I have no reason to lie on my logs. You can't automatically punish everybody because someone might cheat, this is America not Iran.

Many of us in Juneau can remember in 1998 a Charter Boat Owners meeting with Mark Schwan, Rocky Holms and Rob Bentz of Sport Fish Division and a representative from enforcement. They promised us, assured us, and insisted that the log books would NEVER become an enforcement issue. They stood before us and said they wanted the data only; they weren't going to ticket us for small infractions it would only be enforced if one of us were really behind. "Like a week or so."

As we all know now that the slightest infraction of the log book is enforced like the Old Testament. You could be out of town dealing with a family death (this has happened) and what do they say? The department says, "Sorry, it's out of our hands." Enforcement says "It's the law."

The sad part is they don't even use the data to calculate rod hours (something we could benefit by). While we are fined for being late in submitting our logs they let the log sheets pile up in the harbormaster's office week after week to the point the Auke Bay Harbormaster kicked Sport Fish out of the office. They made them put a box outside the office for the logs.

Show me one state employee who will work under the same standard they hold us to. One pencil stroke wrong or one day late and they get a \$200.00 fine, no excuses. The unions would not allow it. Not one judge or policeman, not one legislator works under these draconian penalties. The very people who hold our feet to the coals are not required to adhere to the same standards themselves.

I see this legislation is a noose around my neck. I stand to gain NOTHING and lose my license and my livelihood for a minor infraction. I see no underlying public interest in it. I see no gain for the average sport fisher and I surely see no benefit for me as a guided sport fishing business owner.

The bill was introduced late in the session with little time to consider the consequences. I strongly urge that a working group comprised of the guided sport fishing industry and Sport Fish Division be formed to review the implications and intentions of this bill and that a more well thought out version be considered for next session. Our future hangs in the balance.

Thank you for your time and consideration in this matter.

Sincerely,

Rick Bierman
Karen Bierman
Jessey Bierman

Owners,
Whales Eye Lodge

HB

453

Position Paper Regulatory Commission of Alaska

HB 453 – “An Act exempting from regulation under the Alaska Public Utilities Regulatory Act wholesale agreements for the sale of power by joint action agencies and contracts related to those agreement, and joint action agencies composed of public utilities of political subdivisions and utilities organized under the Electric and Telephone Cooperative Act.”

The Regulatory Commission of Alaska is opposed to HB 453. This legislation holds the potential to exempt from regulatory oversight most new electrical generation in the Railbelt in future years. The only effect of HB 453 is to provide an exemption from all forms of regulatory oversight – this legislation does nothing to otherwise enhance the functioning of joint action agencies or define their operations. From the perspective of the RCA, HB 453 provides no tangible or measurable benefits to the consuming public while at the same time creates significant potential for the abuse of monopoly power in Alaska’s most capital intensive industry.

The principal joint action agency under Alaska law is the entity created to manage the “four-dam pool” assets which were built with direct state appropriations in the 1980’s. This agency has functioned reasonably well, but this has been the case because of the unique circumstances which caused its formation. Underpinning the formation of the four-dam pool joint action agency was the fact that all of the assets which were and are subject to agency management were *already constructed* and that agreements were *already in place* for the purchase and sale of wholesale power from those projects. In summary, the State, with heavy Legislative involvement, determined that these investments were appropriate and that management under the joint action agency concept was the preferred course for the administration of these facilities. AS 42.05.431 (c) grants an exemption to the four-dam pool agency from RCA jurisdiction but that exemption is of limited duration.

In stark contrast, the exemption proposed in HB 453 would extend to an unknown number of new joint action agencies for an undefined number of projects which have not yet been planned, constructed, financed or operated. Further, the exemption would be of unlimited duration.

If exempt from RCA jurisdiction, new electrical generation facilities in the Railbelt constructed under the auspices of one or more new joint action agencies would not be subject to ANY independent review as to (1) their necessity or prudence; (2) the reasonableness of their operating expenses; or (3) the rates to be charged for power produced from these facilities. The RCA believes that a grant of such sweeping authority would be unprecedented in Alaska’s history.

A variety of problems could arise under this legislation which would be very difficult to correct once significant resources had been invested in a particular project. One area lies in the scope of projects which might be undertaken. For example, the potential exists that a self-governed, unregulated joint action agency could determine that the provision of generation or transmission facilities might include the construction of extensive private roadways, pipelines or even railroads. No independent mechanism would exist to control or question such decisions or investments. Similarly, no direct mechanism would exist to control or question the sizing of proposed plant investments or their fuel sources.

In the arena of operations and maintenance, no agency could review the reasonableness or prudence of expenses of joint action agency facilities. Any and all expenses would be included in the wholesale rates to be charged to power distributors on a "take it or leave it" basis.

The Legislature should understand that while joint action agencies are identified in the final report of the Energy Policy Task Force as a method for unified system operation, the Task Force Report does *not* mention or endorse the exemption of such agencies from RCA regulation. The RCA agrees with the Energy Policy Task Force recommendations that joint action agencies can play a useful role in the planning, construction and operation of new generation and transmission facilities. In the view of the RCA, constructive use of the joint action agency concept must include statutory provisions as to the scope, governance and operation of such agencies. The complete exemption of such agencies from RCA jurisdiction does not solve any identifiable problem except to satisfy a general desire for the lessening of regulatory burdens.

The Legislature should understand that regional interests of one utility could induce generation and transmission decisions which, while favorable to one utility, are not in the overall public interest. The State needs to retain oversight of major infrastructure decisions, and continued rate-making jurisdiction. Decisions on major infrastructure projects are best reviewed either by the Legislature or through an agency charged with siting and cost analysis that embraces the Railbelt as a whole. This will ensure major infrastructure decisions are made in the public interest.

Multiple and serious costs to the consuming public would arise from the blanket exemption proposed in HB 453. HB 453 should not be enacted by the Legislature.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 455-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 23, 2004

SUBJECT: Joint Action Agencies, CS for HB 453(L&C)
(Work Order No. 23-LS1601\H)

TO: Representative Tom Anderson
Attn: Josh Applebee

FROM: Barbara R. Craver *BRC*
Legislative Counsel

Enclosed is CS for HB 453(L&C). I want to point out that the second amendment made to HB 453 is problematic. I do not see how anything in AS 42.05.431 can modify the general exemption provided in AS 42.05.711(o). Amended by the committee, section 2 of the bill now reads:

* **Sec. 2.** AS 42.05.711(o) is amended to read:

(o) A joint action agency established under AS 42.45.310 is exempt from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under AS 42.05.221, for the operation of, sale of power from, and other activities related to the power project the joint action agency purchases from the Alaska Energy Authority until the wholesale agreement and any related contract assigned by the authority becomes subject to review or approval by the commission under AS 42.05.431. The exemption provided by this subsection extends to repairs and improvements to the power project the joint action agency purchases from the authority but does not extend to any other power project or other activity of the joint action agency. A joint action agency established under AS 42.45.300 that is formed by public utilities owned by a political subdivision of the state, by cooperatives organized under AS 10.25, or by a combination of the two is exempt from regulation under this chapter as specified in AS 42.05.431, including the requirement to obtain a certificate of public convenience and necessity under AS 42.05.221.

(italics added to indicate amendment #2 changes)

The language added by the amendment refers to AS 42.05.431 which concerns the power of the Regulatory Commission of Alaska to fix rates. I do not understand how "is exempt

Representative Tom Anderson
March 23, 2004
Page 2

from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under AS 42.05.221" can be modified by "as specified in AS 42.05.431."

There is an earlier reference to AS 42.05.431 in the first sentence of AS 42.05.711(o):

A joint action agency established under AS 42.45.310 is exempt from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under AS 42.05.221, for the operation of, sale of power from, and other activities related to the power project the joint action agency purchases from the Alaska Energy Authority *until the wholesale agreement and any related contract assigned by the authority becomes subject to review or approval by the commission under AS 42.05.431.*

(italics added). The reference to AS 42.05.431 here operates as a condition that will terminate the exemption from rate regulation when the events described in AS 42.05.431(c) occur. AS 42.05.431(c) applies only to certain wholesale power agreements "entered into between the Alaska Energy Authority and one or more other public utilities or among the utilities after October 31, 1987, and before January 1, 1988." These specific contracts as assigned and amended are the subject of AS 42.05.431(c) which allows those contract prices to be exempt from rate regulation "until all long-term debt incurred to pay the purchase price to the Alaska Energy Authority is retired."

Section 2 of CSHB 453(L&C), as currently drafted with the second amendment to HB 453, does not make sense. You may wish to forward this memo along to the next committee of referral so that committee can consider the issue discussed in this memorandum.

If I may be of further assistance, please advise.

BRC:med
04-312.med

Enclosure

CITY OF SEWARD
P.O. BOX 167
SEWARD, ALASKA 99664-0167



- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- City Clerk (907) 224-4046
- Engineering (907) 224-4049
- Utilities (907) 224-4050
- Fax (907) 224-4038

March 8, 2004

Representative Tom Anderson, Chair
House Labor and Commerce
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: House Bill 453

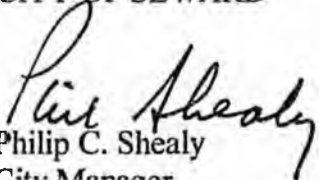
Dear Representative Anderson;

Please accept this letter of opposition to House Bill 453 from the City of Seward, Alaska for the following reasons;

1. We have no objection and will encourage wherever we can the formation of joint action agencies (JAA's) to construct new generation;
2. We are definitely opposed to exempting JAA from RCA regulations. We've been told such action would have no effect on retail rates, but if wholesale rates (contracts) are unregulated, the JAA can charge what they wish and the rate to the purchasers will go up, forcing us to raise retail rates. We are certainly willing to pay a fair price, but not at the expense of supporting retail customers of the JAA;
3. If the City of Seward is not a member and participant of the JAA, then regulation by RCA is a necessity.

Thank you for considering our concerns regarding House Bill 453. If you have any further questions, please contact either myself and or Dave Calvert, Manager of the Seward Electric Utilities for further information.

Sincerely,
CITY OF SEWARD


Philip C. Shealy
City Manager

cc: Mayor and City Council, Kent Dawson, Dave Calvert.

42.05.431: Powers of the Commission to fix Rates

(b) A wholesale power agreement between public utilities is subject to advance approval of the commission. After a wholesale power agreement is in effect, the commission may not invalidate any purchase or sale obligation under the agreement. However, if the commission finds that rates set in accordance with the agreement are not just and reasonable, the commission may order the parties to negotiate an amendment to the agreement and if the parties fail to agree, to use the dispute resolution procedures contained in the contract.

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SEATTLE-NORTHWEST
SECURITIES CORPORATION

1420 Fifth Avenue
Seattle, WA 98101
208/628-2876 Fax: 208/3432103
425/391-8900 Fax: 425/391-1060

March 22, 2004

TO: Representative Cheryll Boren Heinze
907/269-0177
465-383f

FROM: Christine Hein Pihl

PAGES: 10, including cover

Attached are copies of the inserts from my remarks. I will send you complete copies of these reports in the next few days (if you need them sooner, please let me know).

Good luck today!

C

(A)

STANDARD & POOR'S	RATINGS DIRECT

Research:

Public Finance Report Card: Public Power

Publication date: 21-Jan-2004

Credit Analyst: Peter V Murphy, New York (1) 212-438-2065; David Bodek, New York (1) 212-438-7869

Return to Regular Format

Rating trends for the public power sector remain stable despite the increased risk and uncertainty in the overall U.S. power industry. Standard & Poor's Ratings Services has 235 ratings in the public power sector, with the overwhelming majority carrying investment-grade ratings, and only five ratings below investment-grade. Of the five ratings below investment-grade, four are California irrigation districts and water agencies whose bonds are rated 'B+' based on contracts with Pacific Gas and Electric Co. for the output of a specific power project. The other non-investment-grade-rated credit is Guam Power Authority, rated 'BB+/CreditWatch Negative'. The overall credit strength of the public power is further demonstrated by the rating distribution, with about 80% of credits rated at least 'A-' and 21% of ratings reaching the 'AA' category. The public power sector includes municipally owned electric utilities and combined, or multi-segment, utilities, as well as joint action agencies consisting of two or more participating utilities. Ratings are as of Jan. 20, 2004.

Since the last report card ("Public Finance Report Card: Public Power and Cooperatives", RatingsDirect, May 27, 2003), the sector has continued to experience overall credit stability, with only a handful of rating changes, despite ongoing industry turmoil on the investor-owned and merchant sectors. Aside from the sector's traditional strengths, the stability of the sector in the past year resulted from relatively low volatility in commodity prices for both fuel and power as compared with the prior three years, and from improved hedging activity that mitigated the impact of price swings. Rising power and fuel prices had resulted in weakening coverage and liquidity, and consequently, slight rating deterioration, in 2001 and 2002.

(A)

Traditional strengths of the sector that provide a solid credit foundation include the autonomy of public utilities' governing bodies in rate-setting and recovering costs (although there are exceptions, such as the requirement that Tennessee Valley Authority (TVA) distributors gain approval of TVA for rate increases above 2% and the state of Wisconsin, whose municipal electric utilities must file rate cases); the focus on core businesses and core mission to serve their customers; and for the most part, the absence of direct competition for retail customers. The absence of state or federal rate regulation enables these utilities to enact and implement rate increases or rate cuts quickly and as necessary in response to a changing cost or competitive structures, provided the willingness to do so exists. This is not often not the case for their investor-owned counterparts. Most public power utilities continue to operate as vertically integrated utilities and either own or have secured, through long-term contracts, sufficient generation to meet native-load demand, which is generally their main focus.

(A)

With regard to retail competition, where deregulation of the retail electric industry has moved forward, the enabling legislation has not required municipally owned utilities to compete directly for their native customers. Rather, these public utilities may choose open their service territories, a rare occurrence. As a result, the customer bases in the public sector have remained intact, which is very supportive of credit quality. However, in cases where public utilities' service territories have historically been multiply certified, the importance of being able to compete on price and on other measures has become heightened. Notable in this regard is Lubbock Power and Light (LP&L), the electric utility owned by the city of Lubbock, Texas. For over 80 years, LP&L has competed directly with an investor-owned utility (Southwest Public Service, or SPS, a unit of Xcel Energy Inc.) and typically held a strong market share. In the past year, however, due to an uncompetitive cost structure and competitive pressures that affected rate-making decisions, LP&L experienced operating losses and greatly reduced liquidity, and saw more than 5% of its customers switch to its direct competitor. Consequently, the rating was lowered to 'BBB-' from 'A+'. In contrast, Cleveland, Ohio also competes directly with an investor-owned utility but retains a rate advantage and has posted net gains in the number of meters. Cleveland's electric revenue bonds are rated 'A-'.

Publication date: 08-May-2003
Reprinted from RatingsDirect

Survey of State Regulators Reveals Focus on U.S. Utilities' Financial Strength

Credit Analyst: Richard W. Cortright, Jr., New York (1) 212-438-7865

(B1) A recently completed survey of state regulators, by RKS Research & Consulting on behalf of Standard & Poor's Ratings Services, revealed significant shifts in regulator priorities since the previous survey of January 2001. The feedback from the interviews, which polled 47 different jurisdictions, placed financial issues as the most important consideration for regulators, followed by federal-state jurisdictional disputes, and generation and transmission resource adequacy. Other topics included reliability and power quality issues, service obligations, and subsidization of affiliate transactions. Regarding concerns over the next five to 10 years, respondents focused on jurisdictional clarity and resource adequacy, which would indicate that financial concerns are expected to dissipate in this timeframe. Two years ago, the primary issues noted by regulators were considerably different: the development of distributed generation and service reliability led the list, followed by transmission issues.

(B2) The responses indicate that utilities' financial profiles matter greatly to state regulators, at least in the short term. Regulators overwhelmingly stated that utilities need to maintain strong financial profiles. In fact, regulators highlighting this concern increased threefold and more than a third expressed extreme concern for utilities' financial health, compared with less than 10% in 2001. Along with this position was the view by almost half of the respondents that utilities had weakened during the past three years, particularly those in the Midwest and the West. Reasons cited for this included the economic downturn, bad investment decisions, holding company/affiliate transactions, and the fallout from the California and Enron Corp. crisis. However, about half of the Northeastern state regulators believe that utilities have actually strengthened, reflecting the conversion of many utilities to basically lower-risk transmission and distribution companies. Not surprisingly, only half of all commissioners said they had as much confidence in the integrity of utility financial statements compared with a few years ago. Interestingly, a measurable number--17%--indicated a higher confidence level in financial statement quality; 26% have less confidence.

State regulators clearly expect to be more involved in monitoring utilities in their jurisdictions. However, while utilities' financial conditions and more specifically, their insulation from nonregulated activities, ranked first among the most pressing issues, opinion is evenly divided regarding whether current laws provide the appropriate enabling authority for regulators to ensure that utilities are not adversely affected by unregulated affiliates.

Other issues of note include:

- Deep jurisdictional disputes with the FERC over Standard Market Design (SMD). The majority consider SMD fatally flawed and that it will lead to wide inequities between high- and low-cost electricity regions. Respondents highlighted inflexibility, cost-shifting among states, and whether any compelling

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Return to Regular Format

Research: Chugach Electric Association, AK Underlying Rating Placed on Watch Negative

Publication date: 28-Feb-2003

Credit Analyst: Leo Carrillo, San Francisco (1) 415-371-5077; Kathryn Mock Musterson, San Francisco (1) 415-371-5009

SAN FRANCISCO (Standard & Poor's) Feb. 28, 2003--Standard & Poor's Ratings Services said today it placed its 'A' underlying rating (SPU) on Chugach Electric Association, Alaska's, approximately \$394 million in bonds outstanding on CreditWatch with negative implications partially due to the latest rate order from the Regulatory Commission of Alaska (RCA). The insured ratings on the bonds remain unaffected by the CreditWatch listing.

The latest RCA rate order is expected to reduce debt service coverage and could trigger a violation of Chugach's rate covenants. Standard & Poor's had already expressed concern that Chugach's coverage of interest was relatively weak for a utility with mostly non-amortizing debt and that lower coverage margins could result in lower ratings," said Leo Carrillo, credit analyst with Standard & Poor's. "In addition to substantially weakening debt service coverage, the RCA's rate order signals heightened regulatory and refinancing risk for the utility."

Chugach has petitioned the commission to reconsider its decision, which the RCA has partially granted. A final determination may come as early as the end of March 2003. If a sufficiently favorable order is not forthcoming, Standard & Poor's expects that it will downgrade the utility.

Chugach is an electric cooperative serving two-thirds of Alaska's population. It faces no competition from investor-owned utilities; its only meaningful competition is the municipal utility serving Anchorage, Anchorage Municipal Light & Power.

Complete ratings information is available to subscribers of RatingsDirect, Standard & Poor's Web-based credit analysis system, at www.ratingsdirect.com. All ratings affected by this rating action can be found on Standard & Poor's public Web site at www.standardandpoors.com under Fixed Income in the left navigation bar, select Credit Ratings Actions.

Chugach has approximately \$394 million in bonds outstanding as of Dec. 31, 2002. The bonds are unsecured obligations of Chugach, supported by revenues from its wholesale and retail power sales operations. Permissive legal provisions exempt Chugach from maintaining a debt service reserve account on any of its unsecured debt.

Chugach's business profile score is a '4' on Standard & Poor's 10-point scale, with "1" being the highest score. Chugach is Alaska's largest electric utility, with 61,000 retail customers and approximately 50% of the state's total generating capacity in a region with no outside transmission access. Chugach serves a moderately urban and growing service territory, with retail sales accounting for 64.8% of revenues in 2001 and residential customers accounting for 32.9% of revenues. Chugach faces no competition from investor-owned utilities, and its only meaningful competition is the municipal utility serving Anchorage, Anchorage Municipal Light & Power (MLP). Although Chugach's rates, at 4.9 cents per kWh, are only slightly above the regional average, contentious relations with the utility's two largest wholesale customers continue to distract management. The two wholesale customers have a history of pursuing regulatory and legal action in an effort to suppress Chugach's wholesale rates.

Financial performance was weak in 2002, with margin for interest coverage based on audited financials of less than 1.1x. Financial margins and interest coverage have diminished over the past two years, relative to historical levels. MFI coverage averaged 1.3x from 1996 to 2000, before falling to 1.2x or less in 2001 and 2002. Net operating margins (after interest) averaged \$7.3 million from 1996 to 2000, versus only \$3.6 million in 2002.

D3

The recent decline in financial margins and the relaxing by regulators of Chugach's coverage target raises concern regarding regulatory support for the maintenance of Chugach's historically strong financial profile. In January 2003, the RCA issued a rate order that reduced Chugach's target times interest earned ratio (TIER) coverage level to 1.30x from 1.35x, requiring a rate refund for overcollection in 2000 and 2001. Following an appeal by the utility, the RCA revised its rate order, reducing the cost of the rate refund from an estimated \$7.1 million to \$1.6 million. Chugach is absorbing the cost of the refund through its cash reserves, which exceeded \$7 million as of Dec. 31, 2002.

Chugach expects to achieve MFI coverage of around 1.2x in 2003. Beyond 2003, MFI coverage remains above 1.3x, based on assumptions of 3% rate increases in 2004 and 2006. The projections also assume that the RCA will pass through to customers any increase in interest cost associated with Chugach's variable interest rate debt. Standard & Poor's continues to regard the forecasted interest coverage as thin for a utility with mostly non-amortizing debt.

Debt is high, but manageable, with a total debt-to-capital ratio of 76% as of Dec. 31, 2002, although Standard & Poor's considers the debt structure itself to be aggressive. Chugach's heavy reliance on non-amortizing debt introduces a significant level of refinancing risk to an otherwise moderate debt profile. The use of variable rate debt contributes to interest rate risk, especially given the utility's dependence on regulatory approval for recovery of rising interest rate costs. Chugach's \$80 million in variable-rate debt represents 15% of its overall debt burden. With increased refinancing and interest rate risk inherent in its new debt structure, Chugach's need for financial flexibility has increased.

Overall liquidity is adequate, but cash reserves remain low, given the utility's relatively aggressive financial profile. Total liquidity, including unrestricted cash and undrawn credit lines, amounted to \$77.3 million, or 214 days' cash, as of Dec. 31, 2002. Chugach maintains over \$70 million in lines of credit with CoBank and National Rural Utilities Co-op Finance Corp, against which over \$50 million remained untapped as of fiscal year end 2002. Cash reserves have remained flat at historical levels, with unrestricted cash reserves of around \$7.3 million, or 22 days of operating expense at fiscal year's end. Chugach does not maintain a debt service reserve fund, and has no plans to develop a sinking fund with which to prepay principal payments on its non-amortizing debt. Interest earnings from \$7 million in cash reserves will do little to dampen rising interest rate costs on the utility's \$60 million in variable-rate debt.

■ Outlook

The negative outlook reflects Standard and Poor's concern regarding Chugach's ability to achieve sound financial margins going forward. Rating stability will hinge on Chugach's future financial performance and evidence of a clear strategy for managing risks associated with the utility's non-

servicing Anchorage, Anchorage Municipal Light & Power (ML&P).

Chugach is unlike other G&T cooperatives Standard & Poor's rates in both its unique strengths and the challenges it faces. Chugach differs in that half of its sales are to retail residential meters, whereas most G&Ts are wholesalers only. Standard & Poor's views this as a credit strength, as the margins from serving these customers can be greater than those derived from wholesale or commercial industrial services. Furthermore, in the event of retail choice (which does not appear imminent in Alaska), residential customers are less likely to choose an alternate provider than industrial and commercial customers. Retail customers in 2001 consisted of 47% residential and 53% commercial and industrial. Distribution cooperatives, mainly Matanuska Electric Association (MEA) and Homer Electric Association (HEA), take the other half of Chugach's power.

Chugach differs further from other G&Ts in that it has only one all-requirements contract: it is with MEA and ends in 2014. Most other G&Ts sell their wholesale power through all-requirements contracts extending for the life of outstanding debt. MEA purchased about 52% of Chugach's wholesale power in 2001. The contract with HEA is a take-or-pay contract of 73MW and 1,000 megawatt-hours (MWh) annually (42% of the wholesale energy sold in 2001).

Chugach's relationship with MEA is strained as it is in litigation with MEA in rate cases and the courts. The Superior Court of Alaska recently granted summary judgment to Chugach on several claims MEA filed, though MEA intends to appeal these to the state's supreme court later in 2002. While these issues may be small in terms of potential monetary damages to Chugach, they serve to highlight the adversarial nature of the relationship and the potential for further acrimony in the years ahead, both of which serve to distract management focus.

Chugach's rates are set not by it but by the RCA, whereas many other G&Ts set their own. This distinction leads to the concern that regulators could set Chugach's rates such that its financial covenants are met and no more, though experience to date suggests that regulators are generally supportive of credit quality. ~~Including past resolutions to efforts by MEA to reduce Chugach's rates to the minimum covenant requirement of 1.20x the MFI requirement.~~

The series 2002A term bond, like series 2001, is non-amortizing debt. Approximately 70% of Chugach's outstanding principal will mature in 2011 and 2012. Bullet maturities also expose bondholders to refinancing risk, which many other cooperatives do not face because of their amortizing debt.

Chugach's finances are distinguished by high MFI, debt service coverage, and equity ratios. These ratios are estimated (through November 2001) at 1.20 times (x), 1.73x, and 26% respectively, down slightly from 1.35x, 1.73x, and 29% in 2000. The drop can be attributed to a warm first quarter in 2001, a delay in getting a rate increase from the RCA, increased labor rates, and the 2001 refinancing. Projections forecast continued high debt service coverage over the next five years, but mainly because most of the outstanding principal comes due in 2011 and 2012. Standard & Poor's will expect continued strong coverage ratios; Chugach's coverage of interest is actually somewhat thin for a utility with mostly non-amortizing debt. Therefore, degradation of coverage margins, even by small amounts, could result in lower ratings.

Chugach's business position is a '4' on a scale of 1-10, with '1' being the strongest. The score reflects the cooperative's operational, managerial, and financial strength, but also reflects the difficult relations with MEA and the legal difficulties in which it is embroiled.

■ Outlook

The stable outlook reflects expectations that Chugach will continue to receive regulatory support for an MFI ratio consistent with an 'A' rating for a utility with non-amortizing debt, and that current litigation will not harm the cooperative's financial health. The outlook also reflects expectations that Chugach will manage the now-substantial refinancing risk it faces through market purchases of outstanding debt, accumulation of funds, maintenance of strong liquidity, or some combination of the above.

■ Management

A seven-member board elected at large from Chugach's retail membership oversees the cooperative.

(G)

Chubb 206-343-2103

Position Paper Regulatory Commission of Alaska

HB 453 - "An Act exempting from regulation under the Alaska Public Utilities Regulatory Act wholesale agreements for the sale of power by joint action agencies and contracts related to those agreement, and joint action agencies composed of public utilities of political subdivisions and utilities organized under the Electric and Telephone Cooperative Act."

The Regulatory Commission of Alaska is opposed to HB 453. This legislation holds the potential to exempt from regulatory oversight most new electrical generation in the Railbelt in future years. The only effect of HB 453 is to provide an exemption from all forms of regulatory oversight - this legislation does nothing to otherwise enhance the functioning of joint action agencies or define their operations. From the perspective of the RCA, HB 453 provides no tangible or measurable benefits to the consuming public while at the same time creates significant potential for the abuse of monopoly power in Alaska's most capital intensive industry.

(G)

why does that matter?

The principal joint action agency under Alaska law is the entity created to manage the "four-dam pool" assets which were built with direct state appropriations in the 1980's. This agency has functioned reasonably well, but this has been the case because of the unique circumstances which caused its formation. Underpinning the formation of the four-dam pool joint action agency was the fact that all of the assets which were and are subject to agency management were already constructed and that agreements were already in place for the purchase and sale of wholesale power from those projects. In summary, the State, with heavy Legislative involvement, determined that these investments were appropriate and that management under the joint action agency concept was the preferred course for the administration of these facilities. AS 42.05.431 (c) grants an exemption to the four-dam pool agency from RCA jurisdiction but that exemption is of limited duration.

In stark contrast, the exemption proposed in HB 453 would extend to an unknown number of new joint action agencies for an undefined number of projects which have not yet been planned, constructed, financed or operated. Further, the exemption would be of unlimited duration.

If exempt from RCA jurisdiction, new electrical generation facilities in the Railbelt constructed under the auspices of one or more new joint action agencies would not be subject to ANY independent review as to (1) their necessity or prudence; (2) the reasonableness of their operating expenses; or (3) the rates to be charged for power produced from those facilities. The RCA believes that a grant of such sweeping authority would be unprecedented in Alaska's history.

what if they maintain a credit rating?

(H)

Chris Pehl 206-
343-2103**Fitch Downgrades Chugach Elec Assoc Bonds to 'A'; Credit Watch Neg**

Fitch—NY—October 30, 2003: Fitch Ratings has downgraded Chugach Electric

Association, Inc.'s (Chugach) \$330 million in outstanding senior unsecured bonds from

'A+' to 'A', and placed the debt on Credit Watch Negative. The rating represents an underlying rating as the bonds are insured by MBIA Assurance Corp., whose financial strength is rated 'AAA' by Fitch. The downgrade reflects a more negative position on

the part of the Regulatory Commission of Alaska (RCA) with regard to its regulatory oversight of Chugach, and the likely tighter projected financial protection measures as a result. Fitch expects to resolve the Credit Watch status over the next 6-8 weeks, pending

a meeting with Chugach management to review in greater detail projected impacts of the RCA's 2003 rate orders.

Historically, Chugach has benefited from consistently solid financial performance, competitive electric retail rates, diversified customer base, and a favorable regulatory framework. In addition, long-term, firm natural gas supply contracts have helped support good operating generation assets and, along with two hydroelectric power purchase contracts, have met the needs of a moderately growing service territory. Financial performance had been very stable through 2001, with debt service coverage ranging from 1.50x-1.85x, and times interest earned ratio (TIER) at 1.35x or higher. Chugach's balance sheet was similarly solid, with equity-to-total capitalization in the 24%-26% range since 1997. Chugach's key concern had been the ongoing discontent among its wholesale customers, but their attempts to change Chugach's operations and/or acquire the utility have consistently failed.

(P)

Fitch Downgrades Chugach Elec Assoc Bonds to 'A-' Stable Outlook

12 Dec 2003 4:23 PM (EST)

Fitch Ratings-New York-December 12, 2003: Fitch Ratings has downgraded Chugach Electric Association, Inc.'s (Chugach) \$330 million in outstanding senior unsecured bonds to 'A-' from 'A', and has removed the Negative Rating Watch. Fitch has assigned a Stable Rating Outlook. The rating represents an underlying rating as the bonds are insured by Mutual Assurance Corp., whose financial strength is rated 'AAA' by Fitch. The downgrade reflects a negative stance taken by the Regulatory Commission of Alaska (RCA) toward Chugach in 2003 and tighter projected financial protection measures as a result. The rating downgrade and removal from Negative Rating Watch follows a recent meeting with management updating Chugach's financial projections and management's prospective business and rate strategy.

I1

I2

Historically, Chugach has benefited from consistently solid financial performance, competitive electric retail rates, diversified customer base, and a supportive regulatory framework. In addition, long-term, firm natural gas supply contracts have helped support solid operating generation assets and, along with two hydroelectric power purchase contracts, have met the needs of a moderately growing service territory. Financial performance had been very stable through 2001, with debt service coverage ranging from 1.50-1.85 times (x), and times interest earned ratio (TIER) at 1.35x or higher. Chugach's balance sheet was similarly solid, with equity-to-total capitalization in the 25%-29% range since 1996. Chugach's key concern had been the ongoing discontent among its wholesale customers, but their attempts to change Chugach's operations and/or acquire the utility have not been successful. Beginning in early 2003, a series of RCA rate orders ensued which were uncharacteristically negative for Chugach and eventually led to the credit rating downgrade. On July 10, 2001, Chugach filed a general rate case with the RCA seeking a 6.5% rate increase, or net margins of \$11.9 million. The additional revenues were needed to help fund capital expenditures, meet rising operating expenses, and build equity to 30%. Chugach was also requesting an interim rate increase of 4%. After rendering two rate decisions, the RCA eventually approved an interim rate increase of 3.97% (effective Nov. 1, 2001), but the RCA's decisions quickly deteriorated for Chugach thereafter.

Following an updated rate case filing by Chugach on April 16, 2002, to reflect lower interests costs for refinancing, whereby Chugach requested a lower base rate increase (5.7%) than originally filed, the RCA rendered its initial decision (Rate Order No. 26). RCA Order No. 26 resolved certain issues in Chugach's favor, but the financial adjustments were by and large more heavily weighted against Chugach including: (1) reduction in overall TIER from 1.35x to 1.30x (a loss in margins of about \$1.3 million), (2) requiring that capitalized interest be offset against interest expense includable in the revenue requirement, (3) lowering recoverable interest expense on variable rate securities, and (4) shifting a larger portion of margin burden on retail users by reducing the allowable TIER for wholesale customers to 1.10x from 1.15x. In addition, Chugach would have to refund the interim rate increase collected since implementation (approximately \$1.8 million for 2001 and 2002).

Pursuant to Order No. 26, Chugach's financial performance fell below the 1.10x TIER requirement and resulted in a net loss of \$2 million for 2002. If the Order remained as is, Chugach would not meet the 2003 TIER requirement as well. Chugach subsequently filed a motion to stay the Order (Feb. 13, 2003), which the RCA granted in part, and also filed a Petition for Reconsideration on Feb. 28, 2003. Several RCA orders followed which reversed and/or clarified Rate Order No. 26. Key changes to Order No. 26, which were generally positive for Chugach, included: recoverable variable rate debt interest expense was returned to 3.8% level, recovery of certain legal expenses was allowed, and approved retail rate increase of 3.5% and wholesale rate decrease of 7.9% (+0.8 million annually, in aggregate). Conversely, the RCA did not alter the lowering of overall TIER to 1.30x, the lowering of wholesale customers' TIER to 1.10x, and the requirement that capitalized interest be offset against interest expense includable

SHP

group defaulted payments from nondefaulting members. This can be accomplished through intrayear budget adjustments.

Despite the budgetary and ratemaking tools that are generally available to co-ops, as fuel and electricity prices rose sharply in recent years, net revenues coverage of debt obligations slipped at several G&T co-ops that were reluctant to adjust wholesale rates to preserve the financial cushion associated with excess margins. In turn, the degradation of the cushion eroded bondholder and lender protection at these co-ops. Affected co-ops included Hoosier Energy and Seminole Electric, whose 'A' ratings were assigned negative ratings outlooks. Hoosier later implemented a power-cost tracker to reduce its market exposure. Alabama Electric's rating was lowered to 'BBB+' as a result of degraded coverage margins that reflected increased costs and the burdens created by its investment in a propane business. Self-regulation and the ability to adjust rates can only provide value that translates into creditor protection if a utility's board demonstrates the will to exercise that authority by adjusting rates to preserve sound credit quality.

S&P Feb 2004

(I)

In some cases, ratemaking flexibility has been constrained by outsiders. Regulatory oversight of ratemaking has proved to be a challenge for several rated and unrated co-ops. Over time, the inability of some G&T co-ops to fully recover costs through rates because of regulatory barriers has led to bankruptcies of G&T and distribution co-ops like Wabash Valley, Cajun Electric, and Vermont Electric Co-op. Regulation does not necessarily lead to such drastic results and many regulators have been supportive of the co-ops that are under their jurisdiction. Nevertheless, there is sufficient evidence of cases where regulation has had credit implications. For example, Chugach Electric's rating was lowered and the outlook remains negative following the regulator's reduction of the permitted margins for interest coverage that the utility could earn on its debt.

Questions often arise as to how to best measure a co-op's financial performance. The highly leveraged capital structures of G&T co-ops reflect their inability to access capital markets for equity. This makes it difficult to draw comparisons between a cooperative's financial metrics and the metrics used to gauge the performance of investor-owned utilities. Comparability with investor-owned utility metrics is further obscured by the predominant use of amortizing debt within the co-op sector, as compared with investor-owned utilities use of nonamortizing debt. Consequently, the financial analysis of co-op utilities largely tracks the rating methodology employed for municipal utilities and public power joint-action agencies that also rely on amortizing debt and lack access to equity capital markets. The analysis of a co-op such as Chugach Electric that heavily relies on nonamortizing debt with bullet maturities requires a hybrid analysis that incorporates elements derived from the rating methodology for both public power and investor-owned utilities. To achieve a given rating, Standard & Poor's expects a utility that uses a meaningful amount of nonamortizing debt to exhibit considerably stronger coverage of annual debt service than would be expected of a utility whose debt amortizes like a mortgage. Refinancing risk and capital market access are also factored into the analysis of utilities that use nonamortizing debt.

The amortizing debt of many co-ops is governed by mortgage indentures fashioned by the Rural Utilities Service of the U.S. Department of Agriculture. Under these indentures, the principal measure of financial performance is frequently a "margins-for-interest" (MFI) or "times-interest-earned" (TIER) ratio. It is Standard & Poor's view that these ratios do not adequately reflect a utility's financial capacity to cover amortizing principal and interest payments and do not paint a full picture of financial capacity and creditor protection. Consequently, Standard & Poor's does not limit its analysis to the MFI and TIER metrics.

Irrespective of whether a utility is legally bound to satisfy the requirements of an all-in-debt-service coverage test, Standard & Poor's examines each utility's financial capacity to produce excess coverage of principal and interest. Although the MFI and TIER tests are calculated with reference to a utility's income statement, Standard & Poor's analysis focuses on the income statement and the statement of cash flows. In calculating debt-service coverage, consideration is also given to fixed obligations that are not necessarily reflected on the balance sheet, including those related to capacity payments required under purchased-power agreements and long-term lease payments. However, payments that must be made pursuant to defeased lease agreements are viewed as mitigated by amounts held in escrow accounts dedicated to the payment of lease transaction obligations. Wabash Valley provides an example of a utility whose financial metrics were adjusted to impute debt and debt service as part of the analysis. Its income statement, cash flows, balance sheet, and financial ratios were adjusted to reflect the substantial fixed obligations that it has incurred under purchased-power agreements.

INFRASTRUCTURE

5.1) A Resolution Supporting the Authorization of a JAA for State Electric Infrastructure Assets

The Alaska Industrial Development and Export Authority/Alaska Energy Authority is the owner of the Bradley Lake Hydroelectric Project and Alaskan Intertie. These assets are currently managed and funded by the Railbelt utilities through the Intertie Operating Committee and the Bradley Lake Project Management Committee, respectively. The Railbelt utilities are made up of a combination of cooperatives and municipalities.

AIDEA has expressed an interest in divesting itself of these electrical projects to interested utilities in the Railbelt. It would be in the best interest of the Railbelt utilities to have common ownership of these electrical projects that will provide a funding mechanism for necessary maintenance, capital improvements and repair of these projects. The Joint Action Agency is a formal organization recognized by the State of Alaska that is particularly useful for organizations that include municipalities and cooperatives. Alaska Power Association strongly supports the authorization of a Joint Action Agency as a new entity to share ownership and manage assets that may be transferred from AIDEA/AEA.

5.2) A Resolution Urging Support for Development of Regional Electric Energy Projects

A stable and affordable electric infrastructure is vital to the economic stability of Alaska's communities and to their abilities to compete economically in national markets. The development of large projects, such as regional transmission interties and capital intensive power projects that allow communities to realize economy of scale from such projects, are well beyond the financial capability of individual utilities and their ratepayers. In addition, many rural communities have no foreseeable opportunities to interconnect to a transmission system that will allow them to significantly lower electric rates. The economic health of these communities is very dependent on the rate relief that Power Cost Equalization helps to provide.

The State of Alaska has established a comprehensive Electric Energy Task Force to develop Railbelt and Rural Electric Energy Plans. Alaska Power Association (APA) strongly endorses this action by the State, and looks to the Governor and Legislature to provide the requisite appropriations needed to implement the regional infrastructure elements of the plan and to continue full funding of PCE.

ASSOCIATION

6.1) A Resolution Honoring the Memory of Representative Ramona Barnes

Ramona Barnes served 10 years in the Alaska State Legislature, representing the citizens of District 22 in Anchorage. During that time, she became familiar with the challenges of the electric utility industry and evolved into a staunch supporter of rural electric utilities in their overriding goal of supplying affordable, reliable electric power to their owner-members.

The Alaska Power Association Board of Directors and members will deeply miss Representative Barnes--her staunch support for the Railbelt energy fund, her compassionate support for the Power Cost Equalization fund for rural Alaska, and her tenacious dedication to her constituents throughout the entire state. She was the first female Speaker of the House; the first female to have held every leadership position in the Alaska Legislature, and the longest serving woman legislator in state history. Alaska Power Association expresses its deepest condolences to the family of Ms. Barnes and it remembers the legacy this great legislator left for all Alaskans.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 453
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Joint Action Agencies RDU Regulatory Commission of Alaska (399)
 Component Regulatory Commission of Alaska
 Sponsor Representative Heinze
 Requester House Labor & Commerce Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 - RCA Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

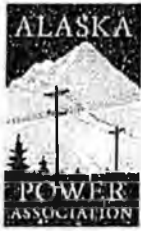
Full-time	0	0	0	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no direct fiscal impact on the RCA in the immediate future, although it likely would require long-term adjustments to agency operations in later years.

Prepared by: Mark K. Johnson, Commissioner, Chair
 Division: Regulatory Commission of Alaska
 Approved by: Edgar Blatchford, Commissioner
 Agency: Department of Community & Economic Development

Phone (907) 276-6222
 Date/Time 2/27/04 2:38 PM
 Date 2/27/2004



Alaska Power Association
703 West Tudor Road, Suite 200
Anchorage, Alaska 99503
Ph: 907-561-6103, Toll-free: 1-877-992-7322
Fax: 907-561-5547, URL: www.areca.org

February 27, 2004

Representative Tom Anderson, Chairman
House Labor and Commerce Committee
Capitol Building, Room 432
Juneau, Alaska 99801

Subject: Alaska Power Association's Support of Joint Action Agencies

Dear Members of the Labor and Commerce Committee:

Alaska Power Association strongly supports the creation of a joint action agency as a new entity to share the ownership and management of the Bradley Lake Hydroelectric project and Alaska Intertie assets that could be transferred from the Alaska Industrial Development and Export Authority and Alaska Energy Authority.

The Bradley Lake Hydroelectric project and the Alaska Intertie are currently managed and funded by the Railbelt utilities, a combination of cooperatives and municipalities, through the Intertie Operating Committee and the Bradley Lake Project Management Committee, respectively. AIDEA has expressed an interest in divesting itself of these electrical projects to interested utilities in the Railbelt. Chugach Electric Association, Anchorage Municipal Light & Power and Golden Valley Electric Association believe that it is in the best interest of the Railbelt utilities to have common ownership of these projects, thereby providing a funding mechanism for the necessary maintenance, capital improvements and repair of these projects.

Attached is the APA resolution supporting authorization of a joint action agency for state electric infrastructure assets.

Sincerely,

Eric P. Yould
Executive Director



Alaska Power Association Resolutions 2004

INFRASTRUCTURE

5.1) A Resolution Supporting the Authorization of a JAA for State Electric Infrastructure Assets

The Alaska Industrial Development and Export Authority/Alaska Energy Authority is the owner of the Bradley Lake Hydroelectric Project and Alaskan Intertie. These assets are currently managed and funded by the Railbelt utilities through the Intertie Operating Committee and the Bradley Lake Project Management Committee, respectively. The Railbelt utilities are made up of a combination of cooperatives and municipalities.

AIDEA has expressed an interest in divesting itself of these electrical projects to interested utilities in the Railbelt. It would be in the best interest of the Railbelt utilities to have common ownership of these electrical projects that will provide a funding mechanism for necessary maintenance, capital improvements and repair of these projects. The Joint Action Agency is a formal organization recognized by the State of Alaska that is particularly useful for organizations that include municipalities and cooperatives. Alaska Power Association strongly supports the authorization of a Joint Action Agency as a new entity to share ownership and manage assets that may be transferred from AIDEA/AEA.

ALASKA STATE HOUSE OF REPRESENTATIVES

716 W. 4th Ave
Anchorage, AK 99501
Room 610



Phone (907)-269-0265
Fax# (907)-269-0264

Representative Tom Anderson

FACSIMILE

To: Legislative Legal Fax: 2029
From: Josh Applebee Date: 3/23/2004
Re: HB 453
CC:

Urgent For Review Please Comment Please Reply Please Recycle

Good morning,

Attached please find the adopted amendments to HB 453 from the House Labor & Commerce Committee. There are 2 amendments and both are straightforward and specific as to the changes required. Please provide the final version to Room 432.

Thanks in advance for your help and please call if you have questions.

-Josh Applebee
x4954

Passed up
C

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Craver
3/2/04

AMENDMENT #1

OFFERED IN THE HOUSE
TO: HB 453

GATTO
BY REPRESENTATIVE ANDERSON

1 Page 1, line 2, following "**agencies**":

2 Insert "**to public utilities that are parties to the agency agreement, including**
3 **certain electric cooperatives,**"

4

5 Page 2, line 8, following "**utilities**":

6 Insert "**or electric cooperatives, each of whom is a party to the agency agreement**"

passed v/c

Amendment #2

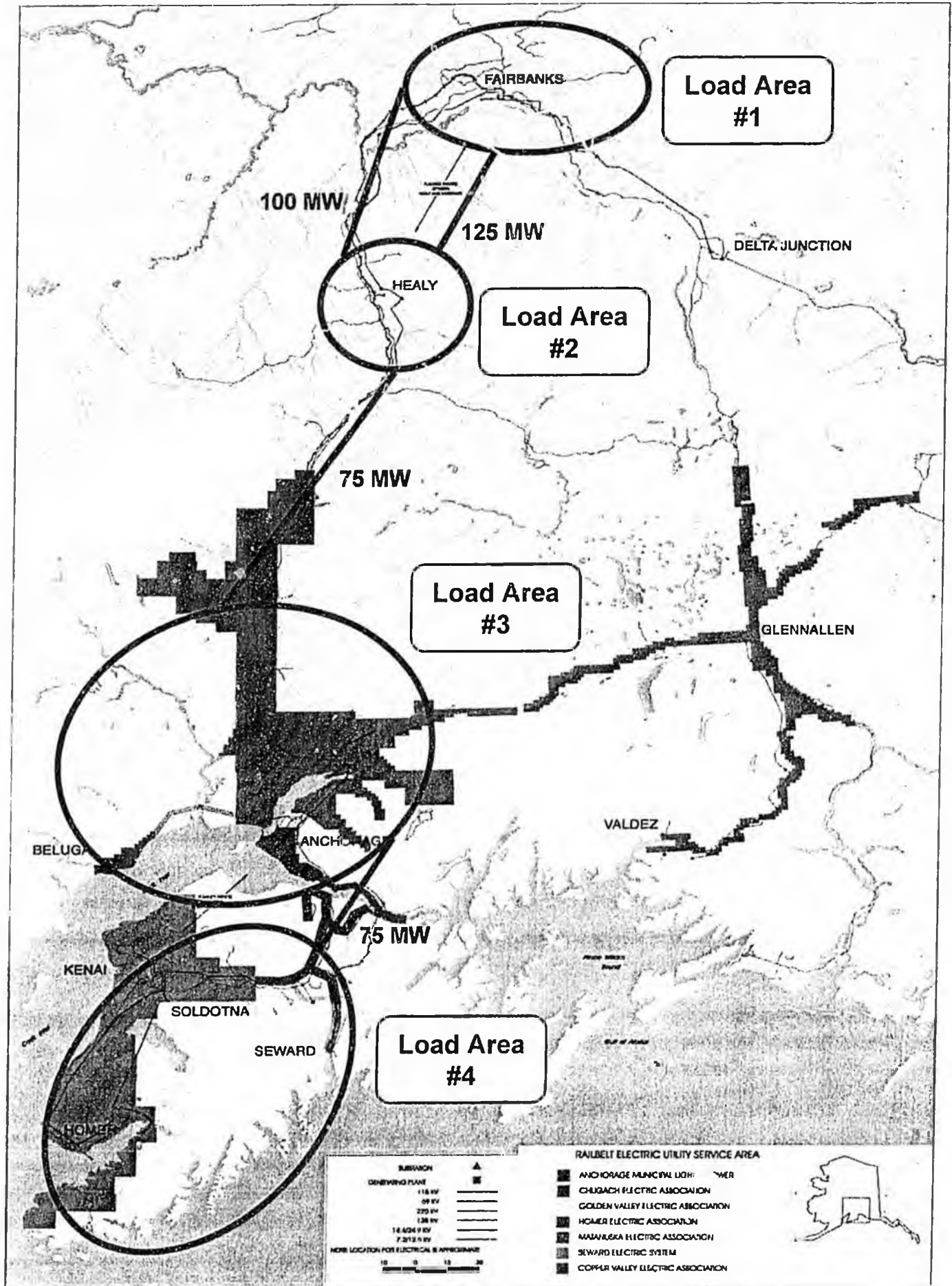
GATTO

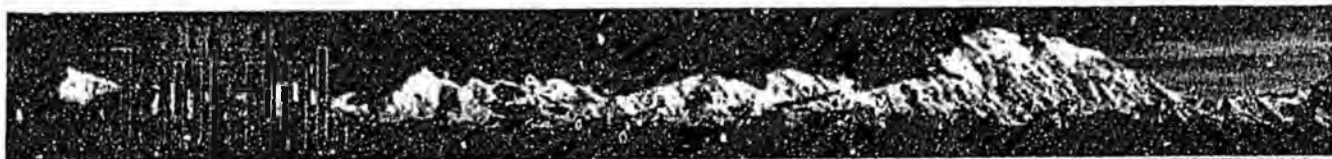
To page #3 Line 1

After "this chapter"

Insert "as specified in AS 42.05.431"

Railbelt Energy Study





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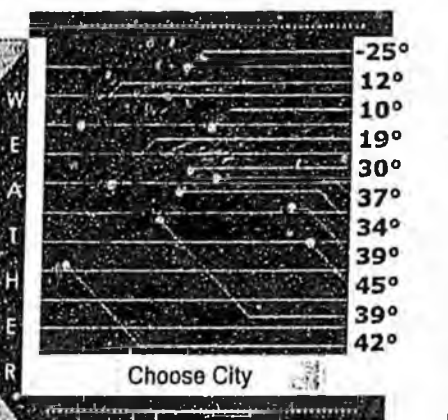
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Business Calendar Monday, February 23, 2004

F	M	T	W	T	F	S	S
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in this issue

Web posted Monday, February 23, 2004

Energy group suggests single Railbelt operator

By **Tim Bradner**
Alaska Journal of Commerce

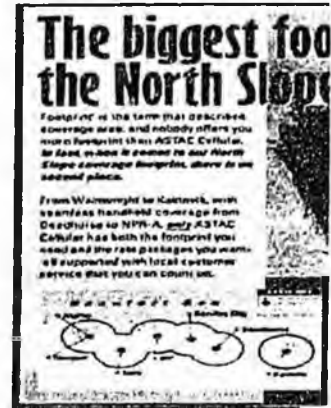
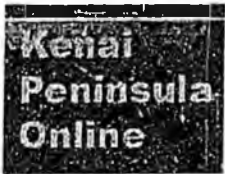
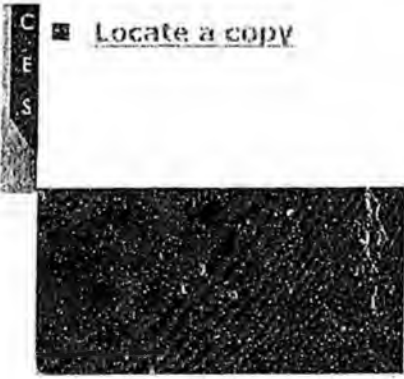
A state task force assigned to tackle a broad range of electric power generation issues in Alaska has issued its first report to the Legislature and is hard at work on a second report due in March.

Anchorage businessman Mike Barry, who chairs the Alaska Energy Policy Task Force, told the House Special Committee on Economic Development that the group reached consensus on a number of long-term issues affecting the Southcentral-Interior Alaska "Railbelt" power grid, but avoided several contentious short-term issues.

Eight representatives of Alaska power utilities, including several from the Railbelt, were named to the task force last year by Gov. Frank Murkowski along with Barry, who is also chairman of the state's Alaska Energy Authority.

Barry told legislators that the major long-term recommendation on which the group reached consensus in the first report was that a single operating entity should be formed among the Railbelt utilities to operate the grid as a single system.

an ad hoc arrangement for cooperation that exists now among the different utilities and the state. The Alaska Energy Authority owns



electric power assets like the Bradley Lake hydroelectric plant near Kachemak Bay and the aging electric intertie which transfers power from Southcentral to Interior Alaska.

Another recommendation by the task force is that the state and the Railbelt utilities address replacement of aging power generation and transmission facilities, some of which are nearing 50 years of age, Barry told the House committee.

The task force also urged the state to assist the utilities in renewing their aging skilled workforce by investing more funds in technical education and training. Many skilled workers in the electric power industry are nearing retirement and there are not enough young people entering training to replace them.

However, the task force avoided one pending power generation issue because there would be disagreement. That is what to do with the mothballed 50 Megawatt Healy Clean Coal Project, a new-technology coal power plant at Healy that is owned by the state.

The plant has been idle since late 1999 because of an ongoing disagreement between the state and Golden Valley Electric Association, the Interior Alaska utility which had agreed to operate and buy power from the plant.

Barry told the House committee that a single operating entity for the Railbelt grid could take responsibility for the system as a whole. The different utilities, such as GVEA in the Interior and Chugach Electric Association in the Southcentral region, now have responsibility for their own areas.

There are a number of cooperative agreements for power sharing among the utilities but the contracts differ, which is an inefficient arrangement.

"This is one power grid and we have to make sure it works," he said. "We need to have a centralized system, so that every time we have to finance a replacement or repair we don't get into a complex renegotiating of amendments to existing contracts."

"When that happens the utilities are tempted to try to gain advantages over each other, and the state may not have the expertise to broker these disputes," Barry said.

The utilities have the expertise to operate the grid on a day-to-day basis but it should be done by one entity, he said. A single operator organization could be done in several ways, but the utilities also have sharp differences among themselves over different ways of doing it.

Barry urged the Legislature to let the utilities work out the disagreement among themselves and make a recommendation for a single operator arrangement to the state because it will require legislation.

Some Railbelt utilities are now lobbying legislators to adopt their favored versions of single operator arrangements, but on behalf of the task force Barry warned against the Legislature imposing one or another type of single operator arrangement on the Railbelt utilities.

The task force is now working on a set of recommendations on power generation issues outside the Railbelt, including rural Alaska. That is due in March.

Rep. Cheryll Heinze, R-Anchorage, chairman of the House special committee, told Barry the task force should also consider sources of energy in its discussions, including the pending shortage of natural gas in Southcentral Alaska.

Another member of the committee, Rep. Harry Crawford, D-Anchorage, said he would like to see more discussion of renewable energy.

Barry said the task force will have more information on renewable energy in its second report in March. Renewable energy is important for several rural Alaska utilities, he said.

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Final Report

Railbelt Energy Study

Ater Wynne LLP

January 15, 2004



EXECUTIVE SUMMARY

During June 2003, five of the six Railbelt utilities¹ agreed to jointly undertake a Railbelt Energy Study (RES). At the request of the utilities, the law firm Ater Wynne LLP contracted with the economic/engineering consulting firm R. W. Beck in August 2003 to perform the study. This report is a summary of the activities completed during the study, and the results of these activities.

Background and Objective

The participating utilities have several motives for conducting the RES:

- All of the thermal generating capacity in the Railbelt is more than 20 years old, and much of it is more than 30 years old. The utilities need to determine during the next several years whether to retire these units or make the investments in them required to extend their lives. If they decide to retire the units, they also need to decide what new generating capacity, if any, they should build to replace the units.
- During the next few years, several of the utilities may need to build new capacity to satisfy load growth.
- ■ The utilities recognize that it may be both less costly and less risky to develop and operate new generating units jointly or collectively than to undertake these efforts separately.
- The utilities have several opportunities, such as restarting the Healy Clean Coal Project, constructing the Southern Intertie, and developing the Emma Creek Coal Project, that would provide benefits to (and impose costs on) more than one utility. As a result, the utilities recognize that decisions about these opportunities should reflect the joint or collective interests of the Railbelt utilities.

The objective of the RES is to identify the combination of generation and transmission (G&T) capital investments in the Railbelt through 2033 that 1) minimize future power supply costs and 2) maintain current levels of power supply reliability. The investments are to be identified taking into account uncertainty about future loads, fuel prices, and resource options, and assuming that the six Railbelt utilities act collectively. There are three important points to make about this objective:

- The RES is a *study*, not an Integrated Resource Plan (IRP). Each utility will still need to perform an IRP or Power Supply Plan, in order to identify appropriate

¹ The five participating utilities are Anchorage Municipal Light & Power (ML&P), Chugach Electric Association (Chugach), Golden Valley Electric Association (GVEA), Homer Electric Association (HEA), and Seward Electric System (SES). Matanuska Electric Association (MEA) was invited to participate but declined. Although MEA did not participate in the study, data for it has been included in the study, and the identified G&T capital investments reflect the need to serve its load.

The Alaska Energy Policy Task Force

Created by the 23rd Alaska Legislature

Legislative Resolve No. 24, 2003

Task Force Members

Mike Barry, Chair

AIDEA/Alaska Energy Authority
Chairman of the Board

H.A. Red Boucher

Vice Chair
Alaska Wireless Technology
Chugach Electric Association
Board Member

Tom Boutin

Alaska Department of Revenue
Deputy Commissioner

Dave Carlson

Southeast Conference
Intertic Coordinator

Wayne Carmony

Matanuska Electric Association
General Manager

Rick Eckert

Homer Electric Association
Interim General Manager

Steve Haagenson

Golden Valley Electric Association
President/Chief Executive Officer

Meera Kohler

Alaska Village Electric Cooperative
President/Chief Executive Officer

Robert Wilkinson

Copper Valley Electric Association
Chief Executive Officer

Staff Coordinators

Becky Gay, Legislative Staff
Speaker of the House Pete Kott
Senate President Gene Therriault
269-3024 bgay@aidea.org

Bernie Smith

AIDEA/Alaska Energy Authority
269-4643 bsmith@aidea.org



Photo by Yutaka Suzuki, AK Division of Tourism

Headquartered at AIDEA/Alaska Energy Authority
813 W. Northern Lights
Anchorage, AK 99503
907-269-3000
Fax: 269-3044

<http://www.aidea.org/EnergyTaskForce.htm>

In State toll free: 1-888-300-8534

Utilize Alaska's abundant renewable resources in the production of hydrogen.

Executive:

Convene a workshop to discuss the potential for Alaska's leadership in hydrogen production. Such a workshop could serve as an educational tool and a platform for discussion between public, university research and private sector individuals and organizations.

Direct the University of Alaska and executive agencies to inventory ideal locations for future renewable energy generation sites that could be used as a source of hydrogen for in-state use and export.

3. Energy Infrastructure

The Task Force's goals and strategies focused on matters including, but not limited to: (1) infrastructure; (2) transmission and distribution; and (3) economic efficiency. As the electrical system ages, increased concerns about reliability and stability and needs for technology-driven system improvements will be required. In addition, the long-range need for a hydrogen-based infrastructure to support fuel cell technologies provides yet another opportunity for expansion in energy infrastructure. There must exist within the State the capacity to deliver resources and energy to end-users, whether within or outside of the State's boundaries.

→ Stimulate private-sector participation in its energy infrastructure to allow greater energy export capability to meet state, regional, and national energy demands.

Executive:

Provide tax-exempt bonding to fund projects, much like the Bradley Lake Hydroelectric financing model, with the State retaining only the obligations that cannot be transferred to the participating utilities.

Through AIDEA/AEA, support and encourage the formation of a Railbelt unified operations model that would operate in a consolidated manner and allow the most Alaskans to benefit from projects funded through the use of tax exempt financing.

Work with Alaska's Congressional delegation to provide financing or economic incentives to promote energy infrastructure development.

Encourage Railbelt utilities to establish a unified system by providing incentives such as conduit financing for Railbelt infrastructure.

Encourage adequate transmission infrastructure to increase economic development activity.

Conduct an assessment to identify the State's energy infrastructure security needs.

Executive:

The RCA should include in their deliberations the issue of cyber-security.

Private Sector:

Continue in the joint planning process to identify the State's energy infrastructure needs.

Encourage adequate and secure transmission infrastructure to increase economic development activity.

Continue to promote adequate fuel delivery infrastructure.

Assess the potential for the development of a locality into a sustainable energy community that utilizes novel distributed and/or renewable energy systems for residences and commercial enterprises.

Executive:

Examine the potential for the development of an Alaska locality into a sustainable energy community.

Legislative:

Examine opportunities to provide support for the development of such a community.

Alaska regional transmission planners should work to become leaders in energy infrastructure development.

Private sector:

Establish energy infrastructure development projects that will promote the reliable transportation of electricity throughout Central and Interior Alaska, both on and off the Railbelt system, that meets the State's energy, environmental and economic needs.

Define and establish a unified system operator for the Railbelt.

4. Regulatory

Streamline all licensing, permitting, and regulatory processes of energy projects.

Executive:

Review agency practices regarding the licensing, permitting, and regulatory processes of energy projects. These agencies could also review the licensing, permitting, and regulatory processes of energy projects in other states so as to develop a study of best practices regarding these issues.

Establish and maintain regulatory processes that are consistent and have defined processing timelines and encourage utilities to maintain long-term financial health.

Legislative:

Enact appropriate legislation for the implementation of best practices regarding the licensing, permitting, and regulatory processes of energy projects.

Private sector:

Provide input to the Executive and Legislative Branches to implement best practices regarding licensing, permitting, and regulatory processes of energy projects.



→ C. Long-term Energy Needs

Findings

The Task Force adopted the definition of long-term as 20 years or more. The energy requirements of the Railbelt are expected to increase 39% over that time. Certain needs emerged from Task Force discussions and public testimony. Within the next 20 years, it was determined that Alaska needs to:

- **Create secure and reliable transmission between load centers**
- **Provide energy infrastructure for economic development**
- **Identify and evaluate long-term fuel sources**
- **Establish a unified system operation**
- **Connect new areas to the Railbelt grid**
- **Replace aging generation**
- **Replace an aging workforce**

D. Recommendations

Specific recommendations of how to fulfill future needs were as follows:

-
- Structure implementation of a unified Railbelt system operator.
 - Support increased vocational trade schools, higher education and training of technical and professional utility career staff and management.
 - State grants or financing should give priority to unified Railbelt system operation and expanding the grid along the road system, i.e., the "Roadbelt."
 - Where common projects are identified as the most cost effective energy solutions, encourage financial risk sharing among utilities through a model similar to the Bradley Lake Project agreement.
 - Increase the proportion of renewables in long-term fuel sources. Renewables include hydroelectric generation.
 - Loop the existing Railbelt energy grid to improve system reliability and serve new markets. See map for details.
 - Advance the physical and cyber security of the critical electrical infrastructure in Alaska.
 - Strive to have nationally competitive electrical rates.

E. Long-term Railbelt Projects

For details see Appendix D.