

HOUSE BILL NO. 486

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES THERRIAULT, Kelly

Introduced: 2/9/96

Referred: Resources, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the fish and game fund; amending Rules 79(b) and 82(b)(2),**
2 **Alaska Rules of Civil Procedure; and providing for an effective date."**

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

4 *** Section 1.** AS 16.05.130(a) is repealed and reenacted to read:

5 (a) Notwithstanding any other law to the contrary, except as provided in (c)
6 of this section, money accruing to the state from sport fishing, hunting, and trapping
7 licenses or tag fees shall be expended only as provided by appropriation. The
8 legislature shall make a separate appropriation for each project to be funded from
9 money subject to this subsection. Money subject to this subsection

10 (1) shall be used only for projects that provide for

11 (A) intensive management of sport fish stocks and game
12 populations for maximum sustained yield by human harvest;

13 (B) propagation, reintroduction, restocking, transplantation,
14 manipulation of habitat, predator removal, hunter education, public access to

1 sport fishing and hunting areas, or restoration of sport fish and game resources;
2 or

3 (C) direct benefits to purchasers of sport fishing, hunting, and
4 trapping licenses and tags that increase sport fish stocks and game populations,
5 increase human harvests of sport fish and game, or decrease predation upon
6 sport fish and game taken by purchasers of sport fishing, hunting, and trapping
7 licenses and tags; and

8 (2) may not be

9 (A) expended for projects in an area where consumptive uses
10 of sport fish and game are not allowed;

11 (B) expended for projects in an area, or in regard to a game
12 population, that is subject to preferences among consumptive users that are not
13 valid under the state constitution or state law;

14 (C) expended, borrowed, or otherwise used for a purpose not
15 authorized under this subsection; or

16 (D) expended for costs of personnel, administration, or
17 construction except for construction projects that are consistent with (1) of this
18 subsection and that are for

19 (i) facilities used solely for the propagation of sport fish
20 or game for restocking, enhancement, or transplantation;

21 (ii) shooting ranges; or

22 (iii) facilities to improve public access to areas where
23 consumptive uses of sport fish and game may occur.

24 * Sec. 2. AS 16.05.130(b) is amended to read:

25 (b) Money accruing to the state from waterfowl conservation tag fees from
26 hunters may not be diverted to a purpose other than (1) the [CONSERVATION AND]
27 enhancement of waterfowl; (2) the acquisition, by lease or otherwise, of wetlands that
28 are important for waterfowl and **for consumptive uses** [PUBLIC USE] of waterfowl
29 in the state; **and** (3) **projects related to consumptive uses of waterfowl**
30 [WATERFOWL RELATED PROJECTS APPROVED BY THE COMMISSIONER;
31 (4) THE ADMINISTRATION OF THE WATERFOWL CONSERVATION

1 PROGRAM; AND (5) EMERGENCIES IN THE STATE AS DETERMINED BY THE
2 GOVERNOR]. The department shall maintain a state waterfowl tag fee account within
3 the fish and game fund to permit separate accounting records for the receipt and
4 expenditure of money derived from the sale of waterfowl tags. [THE DEPARTMENT
5 SHALL PREPARE A REPORT BEFORE APRIL 15 OF EACH EVEN-NUMBERED
6 YEAR FOR THE PUBLIC AND THE LEGISLATURE ON THE USE OF MONEY
7 DERIVED FROM WATERFOWL CONSERVATION TAGS AND LIMITED
8 EDITION PRINTS. THE DEPARTMENT SHALL NOTIFY THE LEGISLATURE
9 THAT THE REPORT IS AVAILABLE.]

10 * **Sec. 3.** AS 16.05.130 is amended by adding new subsections to read:

11 (e) Except as otherwise required by federal law, federal funds received by the
12 state through the federal aid to fish restoration program or the federal aid in wildlife
13 restoration program may not be expended except as provided by appropriation. Funds
14 subject to this subsection

15 (1) shall be used only for projects that provide for

16 (A) intensive management of fish stocks and game populations
17 for maximum sustained yield for human harvest;

18 (B) propagation, reintroduction, restocking, transplantation,
19 manipulation of habitat, predator removal, hunter education, public access to
20 sport fishing and hunting areas, or restoration of sport fish and game resources;
21 or

22 (C) direct benefits to purchasers of sport fishing and hunting
23 licenses and tags by increasing sport fish stocks and game populations,
24 increasing human harvests of sport fish and game, or decreasing predation upon
25 sport fish and game taken by purchasers of sport fishing and hunting licenses
26 and tags; and

27 (2) may not be

28 (A) expended for projects in an area where consumptive uses
29 of sport fish and game are not allowed except for construction projects that are
30 consistent with (1) of this subsection and that are for

31 (i) facilities used solely for the propagation of sport fish

1 or game for restocking, enhancement, or transplantation;

2 (ii) shooting ranges; or

3 (iii) facilities to improve public access to areas where
4 consumptive uses of sport fish and game may occur;

5 (B) expended, borrowed, or otherwise used for a purpose not
6 authorized under this subsection; and

7 (C) expended for costs of personnel, administration, or
8 construction except for construction projects that are consistent with (1) of this
9 subsection and that are for

10 (i) facilities used solely for the propagation of sport fish
11 or game for restocking, enhancement, or transplantation;

12 (ii) shooting ranges; or

13 (iii) facilities to improve public access to areas where
14 consumptive uses of sport fish and game may occur.

15 (f) The department shall prepare an annual report of expenditures from the fish
16 and game fund and provide the report to each member of the legislature. The report
17 must contain a detailed accounting of expenditures and a description of the proportion
18 of the fund expended for each project and of the benefits of each project to purchasers
19 of hunting, trapping, and sport fishing licenses.

20 (g) A person may bring a civil action in a court of competent jurisdiction
21 against a state agency or public official for an injunction to compel compliance with
22 this section or to compel remedial action to correct the consequences of a violation of
23 this section. A public official is not immune from suit under this section.

24 (h) A person who brings an action under (g) of this section and who prevails
25 in the action is entitled to recover the full, true, and actual costs of litigation, including
26 100 percent of actual attorney fees.

27 (i) In this section,

28 (1) "harvestable surplus" means the estimated number of animals that
29 is equal to the number of offspring born in a population during a year less the number
30 of animals in the population that die during the year from all causes other than
31 predation or human harvest;

1 (2) "high level of human harvest" means the harvest of one-third or
2 more of the harvestable surplus of an animal population by humans;

3 (3) "intensive management" means management, in accordance with the
4 sustained yield principle, of an identified big game prey population or fish stock to
5 enhance, extend, and develop the population or stock to maintain high levels or
6 provide for higher levels of human harvest, including control of predation and
7 prescribed or planned use of fire and other habitat improvement techniques, but not
8 including restrictions on methods or means of taking fish or game, access to fish or
9 game, or human harvest of fish or game;

10 (4) "maximum sustained yield" means the achievement and
11 maintenance in perpetuity of a high level of human harvest on an annual basis of
12 game, other than mammalian predators, and of fish.

13 * **Sec. 4.** AS 16.05.340(a)(17)(B) is amended to read:

14 (B) The Board of Game shall by regulation exempt the
15 requirement of a waterfowl conservation tag for waterfowl hunting in areas of
16 the state not likely to benefit from programs described in **AS 16.05.130(b)(2)**
17 **and (3)** [AS 16.05.130(b)(2) - (4)].

18 * **Sec. 5.** AS 16.05.130(d) is repealed.

19 * **Sec. 6.** AS 16.05.130(h), added by sec. 3 of this Act, has the effect of amending Rules
20 79(b) and 82(b)(2), Alaska Rules of Civil Procedure, by providing that a person who prevails
21 in an action under AS 16.05.130(g) is entitled to recover the full, true, and actual costs of
22 bringing and prosecuting the action, including 100 percent of actual attorney fees.

23 * **Sec. 7.** AS 16.05.130(h), added by sec. 3 of this Act, providing for the recovery of the
24 full, true, and actual costs of litigation, including 100 percent of actual attorney fees by a
25 prevailing plaintiff in an action brought under AS 16.05.130(g), takes effect only if sec. 6 of
26 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
27 Constitution of the State of Alaska.

28 * **Sec. 8.** This Act takes effect July 1, 1996.