

CS FOR SENATE BILL NO. 247(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/4/96
Referred: Rules

Sponsor(s): SENATORS TAYLOR, Sharp, Miller

A BILL

FOR AN ACT ENTITLED

1 "An Act restricting the use of certain funds deposited in the fish and game
2 fund; amending Rules 79(b) and 82(b)(2), Alaska Rules of Civil Procedure, and
3 relating to the powers and duties of the commissioner of fish and game; and
4 providing for an effective date."

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

6 * **Section 1.** AS 16.05.050 is amended by adding a new paragraph to read:

7 (20) to cooperate with sportsmen's organizations and other
8 organizations to increase game populations in the state and to introduce new
9 populations into suitable habitat.

10 * **Sec. 2.** AS 16.05.130(a) is repealed and reenacted to read:

11 (a) Notwithstanding any other law to the contrary, except as provided in (c)
12 of this section, money accruing to the state from sport fishing, hunting, and trapping
13 licenses or tag fees shall be expended only as provided by appropriation. The
14 legislature shall make a separate appropriation for each project to be funded from

1 money subject to this subsection. Money subject to this subsection

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

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

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

8 (C) direct benefits to purchasers of sport fishing, hunting, and
9 trapping licenses and tags that increase sport fish stocks and game populations,
10 increase human harvests of sport fish and game, or decrease predation upon
11 sport fish and game taken by purchasers of sport fishing, hunting, and trapping
12 licenses and tags; or

13 (D) construction and preservation of shooting ranges; and

14 (2) may not be

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

17 (B) expended, borrowed, or otherwise used for a purpose not
18 authorized under this subsection;

19 (C) expended for costs of personnel or administration, other
20 than costs of personnel or administration directly incurred in conjunction with
21 projects allowed under this subsection; or

22 (D) expended for costs of construction, other than costs of
23 construction projects that are consistent with (1) of this subsection and that are
24 for

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

27 (ii) shooting ranges; or

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

30 * **Sec. 3.** AS 16.05.130(b) is amended to read:

31 (b) Money accruing to the state from waterfowl conservation tag fees from

1 hunters may not be diverted to a purpose other than (1) the [CONSERVATION AND]
2 enhancement of waterfowl; (2) the acquisition, by lease or otherwise, of wetlands that
3 are important for waterfowl and for consumptive uses [PUBLIC USE] of waterfowl
4 in the state; and (3) projects related to consumptive uses of waterfowl
5 [WATERFOWL RELATED PROJECTS APPROVED BY THE COMMISSIONER;
6 (4) THE ADMINISTRATION OF THE WATERFOWL CONSERVATION
7 PROGRAM; AND (5) EMERGENCIES IN THE STATE AS DETERMINED BY THE
8 GOVERNOR]. The department shall maintain a state waterfowl tag fee account within
9 the fish and game fund to permit separate accounting records for the receipt and
10 expenditure of money derived from the sale of waterfowl tags. [THE DEPARTMENT
11 SHALL PREPARE A REPORT BEFORE APRIL 15 OF EACH EVEN-NUMBERED
12 YEAR FOR THE PUBLIC AND THE LEGISLATURE ON THE USE OF MONEY
13 DERIVED FROM WATERFOWL CONSERVATION TAGS AND LIMITED
14 EDITION PRINTS. THE DEPARTMENT SHALL NOTIFY THE LEGISLATURE
15 THAT THE REPORT IS AVAILABLE.]

16 * **Sec. 4.** AS 16.05.130 is amended by adding new subsections to read:

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

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

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

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

27 (C) direct benefits to purchasers of sport fishing and hunting
28 licenses and tags by increasing sport fish stocks and game populations,
29 increasing human harvests of sport fish and game, or decreasing predation upon
30 sport fish and game taken by purchasers of sport fishing and hunting licenses
31 and tags; or

1 (D) construction and preservation of shooting ranges; and

2 (2) may not be

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

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

8 (ii) shooting ranges; or

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

11 (B) expended, borrowed, or otherwise used for a purpose not
12 authorized under this subsection;

13 (C) expended for costs of personnel or administration, other
14 than costs of personnel or administration directly incurred in conjunction with
15 projects allowed under this subsection; or

16 (D) expended for costs of construction, other than costs of
17 construction projects that are consistent with (1) of this subsection and that are
18 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 (f) The department shall prepare an annual report of expenditures from the fish
25 and game fund and provide the report to each member of the legislature. The report
26 must contain a detailed accounting of expenditures and a description of the proportion
27 of the fund expended for each project and of the benefits of each project to purchasers
28 of hunting, trapping, and sport fishing licenses.

29 (g) A person may bring a civil action in a court of competent jurisdiction
30 against a state agency or public official for an injunction to compel compliance with
31 this section or to compel remedial action to correct the consequences of a violation of

1 this section. A public official is not immune from suit under this section.

2 (h) A person who brings an action under (g) of this section and who prevails
3 in the action is entitled to recover the full, true, and actual costs of litigation, including
4 100 percent of actual attorney fees.

5 (i) In this section,

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

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

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

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

22 * **Sec. 5.** AS 16.05.340(a)(17)(B) is amended to read:

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

27 * **Sec. 6.** AS 16.05.130(d) is repealed.

28 * **Sec. 7.** AS 16.05.130(h), added by sec. 4 of this Act, has the effect of amending Rules
29 79(b) and 82(b)(2), Alaska Rules of Civil Procedure, by providing that a person who prevails
30 in an action under AS 16.05.130(g) is entitled to recover the full, true, and actual costs of
31 bringing and prosecuting the action, including 100 percent of actual attorney fees.

1 * **Sec. 8.** AS 16.05.130(h), added by sec. 4 of this Act, providing for the recovery of the
2 full, true, and actual costs of litigation, including 100 percent of actual attorney fees by a
3 prevailing plaintiff in an action brought under AS 16.05.130(g), takes effect only if sec. 7 of
4 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
5 Constitution of the State of Alaska.

6 * **Sec. 9.** This Act takes effect July 1, 1996.