

SENATE BILL NO. 183

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR PEARCE

Introduced: 5/19/99

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the Fisheries Commission of Alaska; relating to the management
2 of fisheries; and providing for an effective date."

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

4 * **Section 1.** AS 16.05.221(a) is amended to read:

5 (a) For purposes of the conservation and development of the fishery resources
6 of the state, there is created the [BOARD OF] Fisheries Commission of Alaska. The
7 commission is an independent regulatory agency. The commission is composed
8 of five [SEVEN] members appointed by the governor, subject to confirmation by a
9 majority of the members of the legislature in joint session. The governor shall appoint
10 each member on the basis of interest in public affairs, good judgment, knowledge, and
11 ability in the field of action of the commission [BOARD], and with a view to
12 providing diversity of interest and points of view in the membership. The appointed
13 members shall be residents of the state and shall be appointed without regard to
14 political affiliation or geographical location of residence. A member of the

1 commission may not have a vested interest in an interim-use permit, entry permit,
 2 commercial fishing vessel or gear, or in any fishery resource processing or
 3 marketing business. When a vacancy occurs in the office of chair, the commission
 4 may nominate one of its members to serve as chair. When a vacancy occurs in
 5 the office of chair, the governor shall designate the chair of the commission, either
 6 by selecting the member nominated by the commission or another member. The
 7 term as chair is four years. The chair may not be appointed to successive terms
 8 as chair. [THE COMMISSIONER IS NOT A MEMBER OF THE BOARD OF
 9 FISHERIES, BUT SHALL BE EX OFFICIO SECRETARY].

10 * **Sec. 2.** AS 16.05.221(d) is amended to read:

11 (d) Members of the [BOARD OF] Fisheries Commission of Alaska serve
 12 staggered terms of six [THREE] years. The terms of members of the commission
 13 [BOARD] begin on July 1. Notwithstanding AS 39.05.080(1), by April 1 of the
 14 calendar year in which the term expires, the governor shall appoint a person to fill the
 15 vacancy that will arise on the commission [BOARD] due to expiration of the term of
 16 a member of the commission [BOARD] and submit the name of the person to the
 17 legislature for confirmation. If a vacancy arises on the commission [BOARD], the
 18 governor shall, within 30 days after the vacancy arises, appoint a person to serve the
 19 balance of the unexpired term and submit the name of the person to the legislature for
 20 confirmation. A person appointed to fill the balance of an unexpired term shall serve
 21 on the commission [BOARD] from the date of appointment until the earlier of the
 22 expiration of the term or the failure of the legislature to confirm the person under
 23 AS 39.05.080.

24 * **Sec. 3.** AS 16.05.251(a) is amended to read:

25 (a) The [BOARD OF] Fisheries Commission of Alaska may adopt regulations
 26 it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

27 (1) setting apart fish reserve areas, refuges, and sanctuaries in the
 28 waters of the state over which it has jurisdiction, subject to the approval of the
 29 legislature;

30 (2) establishing open and closed seasons and areas for the taking of
 31 fish; if consistent with resource conservation and development goals, the commission

1 [BOARD] may adopt regulations establishing restricted seasons and areas necessary
2 for persons 60 years of age and older to participate in sport, personal use, or
3 subsistence fishing;

4 (3) setting quotas, bag limits, harvest levels, and sex and size
5 limitations on the taking of fish;

6 (4) establishing the means and methods employed in the pursuit,
7 capture, and transport of fish;

8 (5) establishing marking and identification requirements for means used
9 in pursuit, capture, and transport of fish;

10 (6) classifying as commercial fish, sport fish, guided sport fish,
11 personal use fish, subsistence fish, or predators or other categories essential for
12 regulatory purposes;

13 (7) watershed and habitat improvement, and management, conservation,
14 protection, use, disposal, propagation, and stocking of fish;

15 (8) investigating and determining the extent and effect of disease,
16 predation, and competition among fish in the state, exercising control measures
17 considered necessary to the resources of the state;

18 (9) prohibiting and regulating the live capture, possession, transport, or
19 release of native or exotic fish or their eggs;

20 (10) establishing seasons, areas, quotas, and methods of harvest for
21 aquatic plants;

22 (11) establishing the times and dates during which the issuance of
23 fishing licenses, permits, and registrations and the transfer of permits and registrations
24 between registration areas is allowed; however, this paragraph does not apply to
25 permits issued or transferred under AS 16.43;

26 (12) regulating commercial, sport, guided sport, subsistence, and
27 personal use fishing as needed for the conservation, development, and utilization of
28 fisheries;

29 (13) requiring, in a fishery, observers on board fishing vessels, as
30 defined in AS 16.05.475(d), that are registered under the laws of the state, as defined
31 in AS 16.05.475(c), after making a written determination that an on-board observer

1 program

2 (A) is the only practical data-gathering or enforcement
3 mechanism for that fishery;

4 (B) will not unduly disrupt the fishery;

5 (C) can be conducted at a reasonable cost; and

6 (D) can be coordinated with observer programs of other
7 agencies, including the National Marine Fisheries Service, North Pacific
8 Fishery Management Council, and the International Pacific Halibut
9 Commission;

10 (14) establishing nonexclusive, exclusive, and superexclusive
11 registration and use areas for regulating commercial fishing;

12 (15) regulating resident or nonresident sport fishermen as needed for
13 the conservation, development, and utilization of fishery resources;

14 (16) requiring unlicensed fishing vessels present in or transiting the
15 waters of the state to report to the department the quantity, species, and origin of fish
16 on board; in this paragraph, "unlicensed fishing vessel" means a fishing vessel that is
17 not licensed under AS 16.05.490 - 16.05.530.

18 * **Sec. 4.** AS 16.05.251(c) is amended to read:

19 (c) If the [BOARD OF] Fisheries **Commission of Alaska** denies a petition or
20 proposal to amend, adopt, or repeal a regulation, the **commission** [BOARD], upon
21 receiving a written request from the sponsor of the petition or proposal, shall in
22 addition to the requirements of AS 44.62.230 provide a written explanation for the
23 denial to the sponsor not later than 30 days after the **commission** [BOARD] has
24 officially met and denied the sponsor's petition or proposal, or 30 days after receiving
25 the request for an explanation, whichever is later.

26 * **Sec. 5.** AS 16.05.251(e) is amended to read:

27 (e) The [BOARD OF] Fisheries **Commission of Alaska** may allocate fishery
28 resources among personal use, sport, guided sport, and commercial fisheries. The
29 **commission** [BOARD] shall adopt criteria for the allocation of fishery resources and
30 shall use the criteria as appropriate to particular allocation decisions. The criteria may
31 include factors such as

1 (1) the history of each personal use, sport, guided sport, and
2 commercial fishery;

3 (2) the number of residents and nonresidents who have participated in
4 each fishery in the past and the number of residents and nonresidents who can
5 reasonably be expected to participate in the future;

6 (3) the importance of each fishery for providing residents the
7 opportunity to obtain fish for personal and family consumption;

8 (4) the availability of alternative fisheries resources;

9 (5) the importance of each fishery to the economy of the state;

10 (6) the importance of each fishery to the economy of the region and
11 local area in which the fishery is located;

12 (7) the importance of each fishery in providing recreational
13 opportunities for residents and nonresidents.

14 * **Sec. 6.** AS 16.05.251(f) is amended to read:

15 (f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the
16 [BOARD OF] Fisheries **Commission of Alaska** may not adopt regulations or take
17 action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100
18 or 16.40.120, the construction or operation of a farm or hatchery required to have a
19 permit under AS 16.40.100, or a harvest with a permit issued under AS 16.40.120.

20 * **Sec. 7.** AS 16.05.251(g) is amended to read:

21 (g) The [BOARD OF] Fisheries **Commission of Alaska** shall consider a
22 request of the commissioner for approval of a petition to the Alaska Commercial
23 Fisheries Entry Commission to establish a moratorium on new entrants into a
24 commercial fishery under AS 16.43.225 at the **commission's** [BOARD'S] next regular
25 or special meeting that follows the receipt by the **commission** [BOARD] of the request
26 for approval of the petition and that allows time for the notice required under this
27 subsection. The **commission** [BOARD] may consider the request of the commissioner
28 for approval of the petition only after 15 days' public notice of the **commission's**
29 [BOARD'S] intention to consider approval of the petition. The **commission** [BOARD]
30 shall consider whether the commissioner, in support of the request for approval of the
31 petition, has adequately shown that the fishery meets requirements for a moratorium

1 on new entrants under AS 16.05.050. The commission [BOARD] by a majority vote
 2 of its members at the meeting when the petition must be considered shall approve or
 3 disapprove the petition.

4 * **Sec. 8.** AS 16.05.251(h) is amended to read:

5 (h) The [BOARD OF] Fisheries Commission of Alaska shall adopt by
 6 regulation a policy for the management of mixed stock fisheries. The policy shall
 7 provide for the management of mixed stock fisheries in a manner that is consistent
 8 with sustained yield of wild fish stocks.

9 * **Sec. 9.** AS 16.05.290 is amended to read:

10 **Sec. 16.05.290. Compensation of [BOARD] members of the Board of Game**
 11 **and the Fisheries Commission of Alaska.** Each member of the Board of Game [A
 12 BOARD] is entitled to compensation at a rate equal to Step A, Range 20, of the salary
 13 schedule in AS 39.27.011(a) for Juneau, Alaska, for each day going to and from and
 14 for each day in actual attendance at board meetings. For other meetings or
 15 conferences authorized by the [A] board a member shall receive compensation at a rate
 16 equal to one-half of Step A, Range 20, of the salary schedule in AS 39.27.011(a) for
 17 Juneau, Alaska, for each day going to and from and for each day in actual attendance.
 18 Each member of the [A] board is also entitled to travel expenses and per diem
 19 authorized for boards and commissions under AS 39.20.180.

20 * **Sec. 10.** AS 16.05.290 is amended by adding a new subsection to read:

21 (b) Each member of the Fisheries Commission of Alaska is in the exempt
 22 service and is entitled to a monthly salary equal to Step C, Range 26, of the salary
 23 schedule in AS 39.27.011(a).

24 * **Sec. 11.** AS 16.05.305 is amended to read:

25 **Sec. 16.05.305. Assistance and staff for board and commission**
 26 **[CLERICAL ASSISTANCE FOR BOARDS]. (a)** The [BOARD OF FISHERIES
 27 AND THE] Board of Game is [ARE] authorized to hire and set the compensation for
 28 one clerical assistant.

29 **(b) The Fisheries Commission of Alaska may employ an executive director**
 30 **and other professional, administrative, and clerical staff as the commission**
 31 **considers appropriate to perform its functions** [FOR EACH BOARD].

1 * **Sec. 12.** AS 16.05.320 is amended to read:

2 **Sec. 16.05.320. Quorum for the Board of Game and for the Fisheries**
 3 **Commission of Alaska.** (a) A majority of the members of **the Board of Game** [A
 4 BOARD] constitutes a quorum for the transaction of business, for the performance of
 5 any duty, and for the exercise of any power. However, a majority of the full board
 6 membership is required to carry all motions, regulations, and resolutions.

7 **(b) A majority of the members of the Fisheries Commission of Alaska**
 8 **constitutes a quorum for the transaction of business, for the performance of any**
 9 **duty, and for the exercise of any power. However, a majority of the full**
 10 **commission membership is required to carry all motions, regulations, and**
 11 **resolutions.**

12 **(c) A majority of the members of each of the Board of Game and the**
 13 **Fisheries Commission of Alaska** [BOARDS OF FISHERIES AND GAME] constitute
 14 a quorum for the transaction of business in a joint [BOARD] meeting **of the board**
 15 **and commission.** A majority of the membership **of each** of the **board and the**
 16 **commission** [BOARDS] is required to carry all joint motions, regulations, and
 17 resolutions of the **board and commission** [BOARDS].

18 * **Sec. 13.** AS 16.05.940(3) is amended to read:

19 (3) "a board" means either the [BOARD OF] Fisheries **Commission**
 20 **of Alaska** or the Board of Game, **as the context may require;**

21 * **Sec. 14.** AS 16.05.940 is amended by adding a new paragraph to read:

22 (37) "Board of Fisheries" means the Fisheries Commission of Alaska
 23 created under AS 16.05.221;

24 (38) "commission" means the Fisheries Commission of Alaska created
 25 under AS 16.05.221.

26 * **Sec. 15.** AS 16.43.990 is amended by adding a new paragraph to read:

27 (10) "Board of Fisheries" means the Fisheries Commission of Alaska
 28 created under AS 16.05.221.

29 * **Sec. 16.** AS 29.60.450(f)(6) is amended to read:

30 (6) "management area" means one of the geographical units designated
 31 by the [BOARD OF] Fisheries **Commission of Alaska** by regulation adopted under

1 AS 16.05.251(a)(2) for the management of commercial fisheries of the state;

2 * **Sec. 17.** AS 39.25.110(11) is amended to read:

3 (11) the officers and employees of the following boards, commissions,
4 and authorities:

5 (A) [REPEALED

6 (B)] Alaska Permanent Fund Corporation;

7 ~~(B)~~ [(C)] Alaska Industrial Development and Export Authority;

8 ~~(C)~~ [(D)] Alaska Commercial Fisheries Entry Commission;

9 ~~(D)~~ [(E)] Alaska Commission on Postsecondary Education;

10 ~~(E)~~ [(F)] Alaska Aerospace Development Corporation;

11 **(F) Fisheries Commission of Alaska;**

12 * **Sec. 18.** AS 39.50.200(b)(40) is amended to read:

13 (40) [BOARD OF] Fisheries **Commission of Alaska** (AS 16.05.221(a));

14 * **Sec. 19.** AS 39.52.120(c) is amended to read:

15 (c) In addition to other provisions of this section, a public officer who is a
16 member of the [BOARD OF] Fisheries **Commission of Alaska** or the Board of Game
17 may not act on a matter before the **commission or** board if the public officer has not
18 disclosed in the manner set out in AS 39.52.220 all personal or financial interests in
19 a business or organization relating to fish or game resources.

20 * **Sec. 20.** AS 41.21.990 is amended by adding a new paragraph to read:

21 (3) "Board of Fisheries" means the Fisheries Commission of Alaska
22 created under AS 16.05.221.

23 * **Sec. 21.** AS 41.99.900 is amended by adding a new paragraph to read:

24 (3) "Board of Fisheries" means the Fisheries Commission of Alaska
25 created under AS 16.05.221.

26 * **Sec. 22.** AS 43.76.200(e) is amended to read:

27 (e) This section does not restrict or qualify the authority of the Department of
28 Fish and Game or the [BOARD OF] Fisheries **Commission of Alaska** under AS 16.

29 * **Sec. 23.** AS 44.39.030 is amended to read:

30 **Sec. 44.39.030. Appointment of commissioner.** The governor shall appoint
31 the commissioner of fish and game from a list of qualified persons nominated by the

1 [BOARD OF] Fisheries Commission of Alaska and the Board of Game meeting in
2 joint session, subject to the right of the governor to request additional nominations.
3 The appointment shall be confirmed by a majority of the members of the legislature
4 in joint session. The commissioner of fish and game serves at the pleasure of the
5 governor and may not be appointed for a fixed term.

6 * **Sec. 24.** AS 44.39.050 is amended to read:

7 **Sec. 44.39.050. Removal of commissioner.** The [BOARD OF] Fisheries
8 Commission of Alaska or the Board of Game may submit a resolution to the governor
9 requesting the removal of the commissioner. The resolution shall set out the grounds
10 for the request and the governor shall give the commissioner and the commission and
11 the board [BOTH BOARDS] an opportunity to be heard. The final decision to
12 remove or retain the commissioner shall be made by the governor. The governor may
13 also remove the commissioner without being requested to do so by the commission
14 or the [A] board.

15 * **Sec. 25.** AS 44.62.330(a)(40) is amended to read:

16 (40) [BOARD OF] Fisheries Commission of Alaska;

17 * **Sec. 26.** AS 46.15.035(e)(1) is amended to read:

18 (1) "fish" means a species of anadromous or freshwater fish that may
19 be taken under regulations of the [BOARD OF] Fisheries Commission of Alaska;

20 * **Sec. 27.** AS 46.15.037(e)(1) is amended to read:

21 (1) "fish" means a species of anadromous or freshwater fish that may
22 be taken under regulations of the [BOARD OF] Fisheries Commission of Alaska;

23 * **Sec. 28.** The governor shall appoint, and submit to the legislature for confirmation by
24 the 10th legislative day of the First Regular Session of the Twenty-Second Alaska State
25 Legislature, five persons qualified to serve on the Fisheries Commission of Alaska, as created
26 under AS 16.05.221, as amended by secs. 1 and 2 of this Act. Notwithstanding
27 AS 16.05.221(d), as amended by sec. 2 of this Act, the governor shall appoint one person to
28 serve on the commission for an initial term of two years, one person to serve on the
29 commission for an initial term of three years, one person to serve on the commission for an
30 initial term of four years, one person to serve on the commission for an initial term of five
31 years, and one person to serve on the commission for an initial term of six years.

1 * **Sec. 29.** Notwithstanding secs. 1 - 27 of this Act, regulations, policies, resolutions, and
2 other actions taken by the Board of Fisheries remain in effect for the period for which the
3 regulations, policies, resolutions, or other actions were adopted or until repealed or modified
4 by the Fisheries Commission of Alaska, as created under AS 16.05.221, as amended by secs.
5 1 and 2 of this Act.

6 * **Sec. 30.** The revisor of statutes shall prepare and submit to the legislative council by the
7 first legislative day of the First Regular Session of the Twenty-Second Alaska State
8 Legislature a bill amending the Alaska Statutes to replace references to the Board of Fisheries
9 and related matters as necessary to conform to the provisions of this bill.

10 * **Sec. 31.** (a) This section of this Act does not take effect if sec. 32 of this Act is passed
11 by concurrence of two-thirds of the membership of each house of the Alaska State Legislature
12 as provided under art. II, sec. 18, Constitution of the State of Alaska.

13 (b) Notwithstanding secs. 1 - 27 of this Act, the persons serving as members of the
14 Board of Fisheries on the day before the effective date of sec. 1 of this Act, and their
15 successors, shall continue to serve on the board until July 1 following the confirmation by the
16 legislature of at least three of the five persons appointed by the governor to serve on the
17 Fisheries Commission of Alaska, as created under AS 16.05.221, as amended by secs. 1 and
18 2 of this Act.

19 (c) Notwithstanding secs. 1 - 27 of this Act, the Board of Fisheries shall operate under
20 the provisions of the Alaska Statutes that are amended by this Act as those provisions read
21 on the day before the effective date of sec. 1 of this Act until July 1 following the
22 confirmation by the legislature of at least three of the five persons appointed by the governor
23 to serve on the Fisheries Commission of Alaska, as created under AS 16.05.221, as amended
24 by secs. 1 and 2 of this Act.

25 * **Sec. 32.** Sections 1 - 27 and 29 of this Act take effect on July 1 following the
26 confirmation by the legislature of at least three of the five persons appointed by the governor
27 to serve on the Fisheries Commission of Alaska, as created under AS 16.05.221, as amended
28 by secs. 1 and 2 of this Act.