

CS FOR SENATE BILL NO. 68(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/30/99
Referred: Finance

Sponsor(s): SENATORS HALFORD, Taylor, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to cooperation with federal programs relating to management of
2 fish and game."

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

4 * **Section 1. FINDINGS.** (a) The legislature finds that

5 (1) sustained yield management of fish and game in accordance with the
6 mandate of the Constitution of the State of Alaska assures the maintenance of healthy
7 populations of fish and game and provides the opportunity for a wide range of uses of the fish
8 and game resource;

9 (2) the State of Alaska has made a commitment to provide a preference for
10 subsistence uses of fish and game;

11 (3) the harvest of fish and game for personal and family use for food is the
12 highest and best use of fish and game;

13 (4) Alaskans, both Native and non-Native, have a traditional, social, cultural,
14 and economic relationship to and dependence upon fish and game resources;

1 (5) the fish and game resources of Alaska have adequate biological and
2 reproductive capacity to provide an abundance of fish and game for subsistence uses as well
3 as other recreational, personal use, commercial, and aesthetic uses in perpetuity, provided that
4 the state is able to maintain its sustained yield management of the fish and game resources.

5 (b) The legislature further finds that

6 (1) the State of Alaska is the only entity in Alaska responsible for assuring the
7 sustained yield management of fish and game throughout the entire state;

8 (2) the multitude of federal entities that have authority to provide for the
9 management of fish and game in Alaska have jurisdiction over only a patchwork of land and
10 water in the state and operate under a potpourri of legal mandates regarding fish and game;

11 (3) the State of Alaska bears the burden of providing a single comprehensive
12 scheme of sustained yield management for fish and game to compensate for diverse
13 management objectives pursued by the many federal agencies;

14 (4) when federal agencies restrict state management of fish and game, the
15 burden on the state is made more difficult because the state then has less freedom to use the
16 customary fish and game management tools of seasons, areas, bag limits, and means and
17 methods and must undertake more intense, more complicated, and more expensive
18 management measures to assure that sustained yield is maintained;

19 (5) fish and game management over an area as large as Alaska is expensive;
20 the complications generated by multiple federal agencies implementing their own management
21 strategies makes the cost of state management much more expensive;

22 (6) federal agencies reap a significant cost savings through the use of state
23 management expertise, data, and research;

24 (7) federal agencies can assist the state in achieving the high level of
25 management expertise, data, and research that benefits both the state and the federal agencies
26 by paying their share of the fish and game management costs incurred by the state to cope
27 with the complex federal land ownership and fish and game management strategies present
28 in the state.

29 * **Sec. 2.** AS 16.05 is amended by adding a new section to read:

30 **Sec. 16.05.145. Cooperation with federal agencies.** (a) A state agency may
31 not cooperate with a federal agency in the implementation of a federal program that

1 restricts the state management of fish or game in the state unless the commissioner of
2 fish and game finds in writing that the federal agency has entered into an agreement
3 to reimburse the state for the additional costs incurred by the state to cooperate with
4 the federal program and for the federal share of expenditures of state funds for
5 management of fish and game that benefit the federal program. The commissioner
6 shall include in the findings a description of the additional costs incurred by the state
7 to cooperate with the federal program and of the federal share of state expenditures for
8 management of fish and game that benefit the federal program.

9 (b) The commissioner shall annually prepare and update as necessary a list of
10 federal programs that restrict state management of fish or game in the state. The
11 commissioner shall submit the list to the legislature by January 31 of each year
12 together with a report of actions taken under (a) of this section during the preceding
13 calendar year. The report must

14 (1) include the findings for each instance in which the commissioner
15 found that a federal agency agreed to reimburse the state for the additional costs
16 incurred by the state to cooperate with a federal program and for the federal share of
17 expenditures of state funds for management of fish and game that benefit the federal
18 program;

19 (2) describe the nature of the cooperation extended to each federal
20 agency to implement a program included on the list;

21 (3) describe the additional costs of cooperation incurred by the state
22 and the amount of reimbursement received or expected by the state for that
23 cooperation;

24 (4) describe the federal share of expenditures of state funds for
25 management of fish and game that benefit the federal program and the amount of
26 reimbursement received or expected to be received by the state for those expenditures;
27 and

28 (5) describe each instance in which the commissioner determined that
29 a federal agency did not agree to reimburse the state for the additional costs of
30 cooperation with a federal program included on the list or for the federal share of the
31 expenditures of state funds that benefit the federal program.

1 (c) In determining the additional costs incurred by the state to cooperate with
2 a federal program, the commissioner shall include the direct cost and associated
3 overhead cost of additional fish or game management or research activities that are
4 requested or required by a federal agency for the purpose of implementing the federal
5 program and the cost of acquiring, interpreting, and sharing additional information that
6 is requested or required by a federal agency for the purpose of implementing the
7 federal program. If cooperation with the federal program requires or is directly aided
8 by the adoption of regulations or the enactment of law, the commissioner shall include,
9 as part of the additional costs incurred for cooperation, the direct cost and associated
10 overhead cost incurred by the department, the Board of Fisheries, the Board of Game,
11 local fish and game advisory committees, the Department of Law, the Department of
12 Public Safety, the Department of Corrections, other state agencies, the legislature, and
13 the court system in reviewing, considering, adopting or enacting, implementing, and
14 enforcing the regulation or law and in prosecuting and punishing violations of the
15 regulation or law.

16 (d) In determining the federal share of expenditures of state funds for
17 management of fish and game that benefit a federal program, the commissioner shall
18 prorate the expenditures of state funds for management of fish and game between the
19 federal share and the state share of the expenditures in direct proportion to the extent
20 that the federal program restricts state management of the fish or game resource for
21 which the state expended the funds.

22 (e) This section does not apply to assistance provided to a federal law
23 enforcement officer by the Department of Public Safety that is necessary in the
24 unforeseen absence of available assistance from a federal source to avert a present and
25 substantial risk of physical harm to a person.

26 (f) In this section,

27 (1) "federal program" does not include a federal program established
28 under 16 U.S.C. 703 - 712 (Migratory Bird Treaty Act); 16 U.S.C. 773 - 773k
29 (Northern Pacific Halibut Act of 1982); 16 U.S.C. 1361 - 1421h (Marine Mammal
30 Protection Act); 16 U.S.C. 1531 - 1544 (Endangered Species Act); 16 U.S.C. 1801 -
31 1883 (Magnuson-Stevens Fishery Conservation and Management Act); 16 U.S.C.

- 1 3631 - 3644 (Pacific Salmon Treaty Act of 1985);
- 2 (2) "restrict" means preempt or otherwise limit the authority of the state
- 3 under the Constitution of the State of Alaska to manage the taking of fish or game
- 4 through regulation of seasons, areas, bag limits, or means and methods.