

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 25, 2001
3:50 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Drue Pearce, Vice Chair
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Rick Halford
Senator Pete Kelly
Senator Robin Taylor

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 194(FIN)
"An Act relating to fees for commercial fishing licenses and permits; and providing for an effective date."

MOVED CSHB 194 (FIN) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 194 - No previous action to record.

WITNESS REGISTER

Representative Gary Stevens
Alaska State Capitol
Juneau AK 99811

POSITION STATEMENT: Sponsor of HB 194.

Kevin Brooks, Director
Division of Administrative Services
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226

POSITION STATEMENT: Commented on HB 194.

Ms. Mary McDowell
Commercial Fisheries Entry Commission
8800 Glacier Hwy, Ste 109
Juneau AK 99801-8079

POSITION STATEMENT: Supported HB 194.

Mr. Jerry McCune, Director
United Fishermen of Alaska
Cordova Fishermen United
211 4th St., #110
Juneau AK 99811

POSITION STATEMENT: Supported HB 194.

ACTION NARRATIVE

TAPE 01-33, SIDE A

Number 001
#HB194

HB 194-COMMERCIAL FISHING LICENSE & PERMIT FEES

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:50 p.m. and announced HB 194 to be up for consideration.

REPRESENTATIVE GARY STEVENS, sponsor of HB 194, explained that this bill relates to the Carlson class action suit that challenges state statutes that mandate that out-of-state fishermen be charged three times more than resident fishermen for licensure. The courts have said this is simply not allowed as it results in excessive fee charges to non-residents. The court has also said the state can use a differential based on the amount that residents pay for fisheries management versus what non-residents pay. He said HB 194 won't affect the Carlson case, but it will cause the state to stop adding to this potential debt. It will stop the addition of 250 plaintiffs to this case every year while it goes on. He said, "HB 194 repeals the statute that charges three to one and replaces it with wording that allows us to charge non-residents the maximum amount allowed by the law."

REPRESENTATIVE STEVENS said this issue has already been to the Supreme Court twice and the Supreme Court ruled that the state must use a formula. The Supreme Court remanded the case to the Alaska Superior Court to work out the budget categories. The state's attorney, Mr. White, has argued in Superior Court that the state should be able to use six budget categories to justify charging non-residents more than residents. In June 2000, the Superior Court said higher fees could be charged on two of those categories. If that ruling stands, the cost to the state could be around \$22.5 million as of March 15, 2001 and that figure is increasing every day. He said the state will be appealing this decision to the Alaska Supreme Court and will try to get the other four categories included in the formula. Mr. White will also appeal the prejudgement interest that has been accruing in an attempt to get to the point where there are no interest charges.

REPRESENTATIVE STEVENS said that even today, if anyone were to get a limited entry permit, they would be charged three to one. He remarked, "That's the statute they are operating under and continue to operate under, despite this court ruling." He said this bill will allow the Commercial Fisheries Entry Commission (CFEC) to stop charging three to one and to begin to charge the maximum amount that is constitutional. If this bill passes, the CFEC will begin to use the fee structure the court has said is permissible.

REPRESENTATIVE STEVENS said HB 194 will not create any more problems for us. It will get rid of the three to one ratio; it shows the court that the legislature is acting in good faith; it shows that when the legislature realized what the state's liability was, it took steps to correct things; it stops adding to the state's liability each year; and it will add to the strength of the state's case when it appeals to the Alaska Supreme Court.

Number 355

SENATOR LINOLN asked him to expound on how this would strengthen court action and asked if he heard any opposition from fisher groups to this piece of legislation.

REPRESENTATIVE STEVENS said the question of it strengthening the state's position in court is very important and Mr. White could elaborate on that. He said HB 194 doesn't admit any guilt. It simply says that we will now move on, at the direction of the court, and try to use all six of the categories, which are quite broad.

He said he has not heard any strong opposition to this bill. The United Fisherman's Association endorsed it and has agreed to increased cost to fishermen in order to put more money into commercial fisheries.

CHAIRMAN TORGERSON asked why it limits deposits into the Fishermen's Fund to \$50 (page 6, line 17).

REPRESENTATIVE STEVENS explained that it keeps "them" from putting more money into the Fishermen's Fund than "they" need to. He added, "It holds them harmless as well."

CHAIRMAN TORGERSON responded that he would debate that in a minute and asked what is being repealed in Section 7.

MR. KEVIN BROOKS, Director, Division of Administrative Services, Alaska Department of Fish and Game (ADF&G), said that Section 7 is a direct reference to AS 16.04.580 and crewmembers' licenses in the ADF&G statutes that address \$60 and \$125. Title 16.43 deals specifically with limited entry permits.

He noted that Section 6, which caps contributions to the Fishermen's Fund, is related to a discussion that surrounded SB 146 a few years ago about decreasing a 60 percent contribution of that revenue to the Fund to 39 percent. As a result of this bill, he said non-resident fees have the potential to grow significantly and that the current contribution from a resident crewmember license is \$23.25 and about \$48.25 from a non-resident crewmember license.

CHAIRMAN TORGERSON asked why ADF&G cares if it grows.

MR. BROOKS informed the committee that the Fund has received about \$800,000 from the crew licenses and about \$400,000 from limited entry permits, for a total of \$1.2 million per year. The administrator of the Fund, Mr. Paul Grossi, said it is in good shape. He remarked, "I guess there is no down side to letting it grow, but the other side of it is that this revenue would then be deposited into the ADF&G fund and be available [for] subsequent appropriation by the legislature for commercial fishing management..."

CHAIRMAN TORGERSON asked if he remembered the debate on whether it was actually constitutional to change the percentage.

MR. BROOKS answered yes.

CHAIRMAN TORGERSON said he thought Assistant Attorney General Jim Baldwin was very clear about the state staying out of numbers and sticking with percentages. He asked, "Now we're saying it's okay this year, but not okay last year?"

MR. BROOKS responded that ADF&G discussed this with Mr. Baldwin and there were a couple of ways of looking at the issue of dedicated funds. He pointed out, "If left unchecked, this fund would grow far. It would eventually contribute a lot more money into a dedicated fund, thereby limiting the appropriation powers of the legislature... One rationale in the capping of this is that it could actually help to strengthen that position."

He continued to say that they want to avoid a situation where every year they would have to come back and "tweak that percentage" because it was based on the previous years' actual expenditures by the state.

MS. MARY MCDOWELL, Commercial Fisheries Entry Commissioner, testified in support of HB 194. Her testimony was not recorded due to transmission problems.

MR. JERRY MCCUNE, United Fisherman of Alaska and Cordova Fishermen United, supported HB 194. His testimony was not recorded due to transmission problems.

SENATOR ELTON moved to pass HB 194 from committee with individual recommendations. There were no objections and it was so ordered.
#

There being no further business to come before the committee,
CHAIRMAN TORGERSON adjourned the meeting at 4:20 p.m.