

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 24, 2002
3:38 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Gary Wilken, Vice Chair
Senator Robin Taylor
Senator Ben Stevens
Senator Kim Elton

MEMBERS ABSENT

Senator Rick Halford
Senator Georgianna Lincoln

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 45
Relating to the labeling of salmon food products.

MOVED HJR 45 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 208(RES)
"An Act relating to aquatic farming of shellfish; and providing for an effective date."

MOVED CSHB 208(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 286(RES) am
"An Act allowing a person to hold two commercial fishing entry permits for a salmon fishery for the purpose of consolidating the fishing fleet for a salmon fishery; relating to salmon fishery associations and to salmon fishery assessments; and providing for an effective date."

MOVED SCSHB 286(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 462(RES)
"An Act relating to the release of certain confidential records and reports concerning fishing, fish buying, or fish processing; and providing for an effective date."

MOVED CSHB 462(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 455(CRA)

"An Act relating to the assessment of certain agricultural land for purposes of municipal taxation; and providing for an effective date."

MOVED CSHB 455(CRA) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 46(RES)
Relating to the moratorium on fish farming in British Columbia.

MOVED CSHJR 46(RES) OUT OF COMMITTEE

PREVIOUS SENATE COMMITTEE ACTION

HJR 45 - No previous action to consider.

HB 208 - No previous action to consider.

HB 286 - See Resources minutes dated 4/8/02.

HB 462 - No previous action to consider.

HB 455 - See CRA minutes dated 4/17/02.

HJR 46 - No previous action to consider.

WITNESS REGISTER

Ms. Sue Aspelund
Cordova Fishermen United
POB 1715
Cordova AK 99574

POSITION STATEMENT: Supported HJR 45, HB 286 and HJR 46.

Ms. Doris Cabana
POB 607
Homer AK 99603

POSITION STATEMENT: Supported HJR 45 and opposed HB 208 and HB 286.

Representative Drew Scalzi
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 208 and HB 286.

Mr. Bob Loeffler, Director
Division of Mining, Land and Water
Department of Natural Resources
550 W 7th Ave., Ste 1070
Anchorage AK 99501

POSITION STATEMENT: Supported HB 208.

Mr. Geron Bruce, Deputy Director
Division of Commercial Fisheries
Alaska Department of Fish & Game
PO Box 25526

Juneau, AK 99802-5226

POSITION STATEMENT: Supported HB 208.

Ms. Vi Jerell, Ph.D

POB 938

Homer AK 99603

POSITION STATEMENT: Opposed HB 208.

Mr. Paul Seaton

58395 Bruce St.

Homer AK 99603

POSITION STATEMENT: Opposed HB 208 and HB 286.

Ms. Julie Decker, Executive Director
Southeast Alaska Regional Dive Fisheries
No address provided

POSITION STATEMENT: Supported HB 208.

Mr. Pat Veasart, Executive Director

Sitka Conservation Society

POB 6533

Sitka AK 99835

POSITION STATEMENT: Opposed HB 208.

Mr. Ron Long, Director

Qutekcak Shellfish Hatchery

POB 369

Seward AK 99664

POSITION STATEMENT: Supported HB 208.

Mr. John Agosti

Alaska Shellfish Growers Association

POB 20704

Juneau AK 99802

POSITION STATEMENT: Supported HB 208.

Representative Gary Stevens

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 462.

Mr. John Manley

Staff to Representative Richard Harris

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HB 455 for sponsor.

Mr. Robert Wells, Director
Division of Agriculture
Department of Natural Resources
1800 Glenn Hwy Ste 12
Palmer AK 99645-6736

POSITION STATEMENT: Supported HB 455.

Ms. Jean Ellis
Staff to Representative Peggy Wilson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HJR 46 for the sponsor.

ACTION NARRATIVE

TAPE 02-22, SIDE A

Number 001
#HJR45

HJR 45-SALMON LABELING

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:38 p.m. and announced HJR 45 to be up for consideration.

REPRESENTATIVE BETH KERTTULA, sponsor of HJR 45, said she was going to let her intern, Terra Briner, comment on the resolution as she had another commitment.

MS. TERRA BRINER, intern for Representative Kerttula, explained that HJR 45 supports the actions of Congress to require labeling for farmed and wild salmon. A few months ago our U.S. senators highlighted the need for labeling as a tool to both give American consumers the right to know what's in their food and where it came from and to give the Alaska salmon industry the leg up that it needs. Congress introduced an amendment to the farm bill to require such labeling and HJR 45 supports that action.

SENATOR TAYLOR asked why Representative Kerttula chose to introduce a resolution instead of a bill applicable to various retail trades and other operators in Alaska.

MS. BRINER replied that she would have done that, but Senator Ward beat her to the idea and his bill has already been signed into law.

MS. SUE ASPELUND, Cordova Fishermen United, supported HJR 45.

SENATOR TAYLOR moved to pass HJR 45 from committee with individual recommendations and the accompanying zero fiscal note. There were no objections and it was so ordered.

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#HB208

CSHB 208(RES)-AQUATIC FARMS FOR SHELLFISH

CHAIRMAN TORGERSON announced HB 208 to be up for consideration.

REPRESENTATIVE DREW SCALZI, sponsor of HB 208, said the Aquatic Farm Act was established in 1988 and it was a comprehensive approach to licensing of farm sites. While it has worked, there are some conflicts when people pick a site but then have to go back to the Department of Natural Resources (DNR) to get approval. A lot of the sites conflict with personal use. This bill makes the Alaska Department of Fish and Game (ADF&G) select 90 sites ahead of time, 60 of which will be for suspended culture, such as scallops and oysters, 20 for on-bottom clamming of little necks and 10 sites specifically for geoducks. This will hopefully preclude the NIMBY syndrome. CSHB 208(RES) has a fiscal note of \$260,000.

He noted the New Sagaya Market in Anchorage has said it has a one million pound clam market that it can't seem to satisfy on an annual basis. It has to import shellfish from out of state. The State of Connecticut has about 500,000 acres under lease and the State of Alaska has about 500 acres under lease. This bill is modeled after Senator Torgerson's SB 141, which has moved through the House quicker.

SENATOR TAYLOR said Representative Peggy Wilson had received one letter of concern from Ben Mitchell of Sitka who felt that in reality this bill would tie up every protected cove in Anchorage and Southeast.

REPRESENTATIVE SCALZI responded that's why they want this bill. ADF&G would be the agency to go out ahead of time to find out where those conflicts may arise and hold public hearings ahead of time. The 90 sites are going to be located statewide, not just in Southeast.

SENATOR ELTON said he assumed the private sector would identify its needs and potential sites and then come tell ADF&G what it want to do rather than the state spending the money to identify sites and telling the private sector where it can go. He asked him to comment on the philosophical difference.

REPRESENTATIVE SCALZI replied that the state has been trying to use that philosophical approach since the Aquatic Farm Act passed in 1988. An example is in Kachemak Bay, a critical habitat area, where a person now wants to put in a little neck clam site just below his property. He has met with resistance from his neighbors who say it is a subsistence area or that they don't want the nets on the beach. To him, it makes sense, because he would have direct access to this site from his property. The part about the private sector identifying sites is still going to go forward, but ADF&G will say yes or no to those sites ahead of time.

CHAIRMAN TORGERSON said he thought all the sites would be nominated in the first go-round by private enterprise.

SENATOR TAYLOR asked how they will resolve the problem of DNR and ADF&G having resident clams within an area.

REPRESENTATIVE SCALZI said that is the common property issue, which has been a roadblock. ADF&G is using the criteria now that sites with no standing stocks would be applicable. If there are standing stocks, the intent is through regulation to have a common property fishery - commercial, subsistence or personal use or a combination. The intent of this bill is not to go after sites that have standing stocks on them. He noted, "Standing stocks would have to be addressed separately."

SENATOR TAYLOR said his only concern is that ADF&G will have to find areas where there are no clams so someone can raise clams on that site. However maybe the clams are not there because the area is not conducive to them. He stated, "It's totally self defeating."

REPRESENTATIVE SCALZI said that is a concern and HB 513 addresses a request to do just that. There is no problem with suspended culture; so they are basically talking about clams. ADF&G has explained that if an area had 100 acres, it would allow a 2% harvest out of that area. ADF&G would take all of the standing stocks out, then that site would be available for clams. The Constitution also says that they could allow for aquaculture to take place provided that a certain amount of the available clams are used to propagate the species.

MR. BOB LOEFFLER, Director, Division of Mining, Lands and Water, DNR, said DNR has been working closely with industry and Representative Scalzi and is pleased with the bill and the fiscal note.

CHAIRMAN TORGERSON asked how he dealt with conflicts in critical habitat areas and parks.

MR. LOEFFLER said the habitat question of how the standing stocks are allocated is an ADF&G question that he can't answer. DNR will deal with the conflicts of land use as it has in the past by first seeing what uses are compatible and, if they aren't, to decide between them.

CHAIRMAN TORGERSON said he heard that there is a regulation that says you can't have a site in front of a park.

MR. LOEFFLER replied that he didn't know if that regulation exists.

CHAIRMAN TORGERSON asked how DNR would handle this if it was a law, not a regulation.

MR. LOEFFLER replied that the law suggests regulation, but he didn't think it would conflict with that regulation.

SENATOR ELTON said it seems to him that if he is in charge of identifying numerous sites, he might be causing a lot of angst and public outcry even though there be no interest in some instances by industry to do anything in the area. He asked if that is a correct supposition.

MR. LOEFFLER replied that it is but in the final planning process DNR could deal with that by working with the applicants and communities to figure out where they are looking. Right now an applicant goes out and finds a site and brings that back to the department who might reject it and have them try it again and so on. This would happen at the beginning of the process and be more of a cooperative approach.

MR. GERON BRUCE, Deputy Director, Division of Commercial Fisheries, ADF&G, said he worked closely with the sponsor and interested parties and is appreciative of the flexibility and effort put into the legislation, which he supports. He explained:

It will clear the brush away so to speak so that people, when they get ready to go out and find a site and start a farm, they have a good chance of picking a spot that they will encounter no problems with, because it will have been looked at [carefully] and will be identified as a place where there aren't problems and it will be suitable from that standpoint.

He said they intend to work very closely with industry folks to identify areas where they think suitable sites would lie. A fair amount of groundwork has already occurred over the years in Southeast and Kachemak Bay.

CHAIRMAN TORGERSON asked if the bill addresses the common use issue.

MR. BRUCE replied that it is a separate issue and Representative Scalzi described the approach they are taking. He said it is possible to find areas that could be productive with the application of existing technology that currently don't have standing stocks.

SENATOR ELTON asked why the fiscal note from March was higher than the one from April.

MR. BRUCE explained that as they worked through the process with the bill, they had a better understanding of the scope of work involved. Initially they were thinking of taking it farther than is really necessary to accomplish the scope of the goals.

SENATOR TAYLOR asked how many of these farms exist now.

MR. BRUCE replied that ADF&G has issued about 250 permits or leases since 1988, but not all of them are still operating.

SENATOR TAYLOR asked if they are all hanging mariculture permits.

MR. BRUCE answered that they are primarily.

SENATOR TAYLOR asked if the only clam leases are in Kachemak Bay.

MR. BRUCE replied that clams are a recent development and most of the sites have been focused on Prince of Wales Island.

SENATOR TAYLOR asked if ADF&G has actually licensed some of those.

MR. BRUCE replied it has.

MS. DORIS CABANA, Homer resident, said she had quite a few reservations about this bill because in Homer there are commercial fishermen. When they go over to the bays, all they see are buoys. She understands that the same people are asking for additional sites and wanted to know where it would end. She thought that sites that failed for some reason needed to be restored. She said she is totally against this bill because it takes beach away from the public and fishermen who might want to fish the area.

MS. VI HERRELL, Ph.D, said she is from the Homer and Anchor Point area and opposed HB 208. She thought it would deny use of public beaches and water by everyone.

MR. PAUL SEATON, Homer resident, said this bill would override traditional habitat and state park regulations. He pointed out that the fiscal note only covered funding for identifying sites and they would be back in the same box of people leasing sites, but not being able to get them permitted due to a lack of funding.

MS. JULIE DECKER, Executive Director, Southeast Alaska Regional Dive Fisheries, expressed support for CSHB 208(RES) because it would resolve conflicts beforehand.

MR. PAT VEESART, Executive Director, Sitka Conservation Society, asked why this bill is even being considered. There is already a process by which the aquatic farming industry can apply for lease sites suitable for shellfish farming. The state is also in the process of creating management plan for state tidelands in Southeast Alaska. He thought it was premature to vote on this bill before the legislature has an opportunity to review the planning process. He asked, "Is it appropriate and wise for the state to be promoting an industry that leads to privatization of public lands that are already being utilized by Alaskans?"

He questioned what will happen, under section 2(g), if the lessee doesn't restore the site and wild stocks or shellfish back to their original condition. He asked whether penalties and funds for enforcement are attached.

He also asked how, under section 3(b), the state would solicit nominations for sites from the public, whether DNR would have adequate funds to do a thorough job communicating with the public, and how DNR will know if a site is an established subsistence or personal use fishery.

MR. VEESART said that CSHB 208(RES) promotes the privatization of public resources at the expense of local economies. In Sitka, the tidelands are already being utilized by Sitkans. He has faxed the committee materials that demonstrate the concerns that both Sitka and Tenakee have over shellfish mariculture.

MR. RON LONG, Director, Qutekcak Shellfish Hatchery, supported HB 208. He said that no public process would be eliminated through this bill. All nominations will still go through coastal zone planning review processes. The object is to eliminate the conflicts and not trump one conflict over another. He commented, "Within that vast amount of coastline, there is room enough for us all to live and work together. We're not taking food off anyone's table. We're attempting to add to the table and grow the

economic pie."

MR. LONG said there will be no exotic species brought in and the cost of the permits will be borne by the farmer, as it is currently. He said that 219 acres are under cultivation now in Alaska with 50 active farms.

MR. JOHN AGOSTI, Alaska Shellfish Growers, supported CSHB 208(RES) for all the aforementioned reasons. He thought this was a safe investment that would more than repay in years to come. Added advantages are increased employment and economic activity in coastal Alaska.

SENATOR WILKEN asked Mr. Loeffler if he had seen the letter from Ben Mitchell of Sitka that Senator Taylor was referring to.

MR. LOEFFLER said he hadn't.

SENATOR WILKEN said he would send it to him so they could get a response from DNR when it comes up in the next committee.

SENATOR TAYLOR moved to pass CSHB 208(RES) from committee with individual recommendations. There were no objections and it was so ordered.

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#HB286

CSHB 286(RES) am-FISHING PERMITS/ASSOCIATIONS/ASSESSMENTS

CHAIRMAN TORGERSON announced CSHB 286(RES) am to be up for consideration. He reminded members about their concern that if a tax is levied to buy out the permits, it might never go away. He explained that Amendment 1 requires organizations to tell members when voting on whether or not to tax or assess, when the tax will stop and then have another vote.

SENATOR TAYLOR moved Amendment 1 as follows:

22-LS1099\T.1
Utermohle
10/31/02

A M E N D M E N T 1

TO: CSHB 286(), Draft Version "T"
Page 8, following line 2:

Insert a new subsection to read:

"(e) The provisions of AS 43.05 and AS 43.10 apply for the enforcement and collection of a salmon fishery assessment levied under AS 43.76.220 - 43.76.280."

SENATOR ELTON said this would also require that the re-vote reach the supermajority that originally voted.

CHAIRMAN TORGERSON said it would reach the people who hold the permits. He explained, "It does away the cloud of one group could buy out a bunch of others and leave that tax on there and have a broader scope than what we wanted originally."

SENATOR ELTON asked Representative Scalzi what he thought.

TAPE 02-22, SIDE B

REPRESENTATIVE SCALZI said he concurred with the amendment.

CHAIRMAN TORGERSON asked Mary McDowell, Commercial Fisheries Entry Commission (CFEC), if she supported this amendment and she indicated she did. He announced that there were no objections to Amendment 1 and it was adopted.

MS. DORIS CABANA, Homer resident, said she opposed SCS CSHB 286(RES). She thought it would cause a lot of problems.

CHAIRMAN TORGERSON said this is what the members want and all it does is create an ability to vote.

MR. PAUL SEATON said he thought this bill may have unintended consequences because in some areas a majority of permits aren't being fished. This will create a situation where people who are not fishing could vote this in. Meanwhile, those who are fishing will be taxed and the money will be distributed among the people who aren't fishing so that they will continue to not fish.

MS. SUE ASPELUND, Cordova Fishermen United (CFU), said CFU supports SCS CSHB 286(RES).

SENATOR WILKEN moved to pass SCS CSHB 286(RES) from committee with individual recommendations and its zero fiscal note. There were no objections and it was so ordered.

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#HB462

CSHB 462(RES)-CONFIDENTIALITY OF FISHING RECORDS

CHAIRMAN TORGERSON announced CSHB 462(RES) to be up for consideration.

REPRESENTATIVE GARY STEVENS, sponsor, said that this bill is about the release of certain providential records in reports concerning fish, fish buying and fish processing. It cleans up several small problems that have been uncovered over time by releasing a controlled amount of confidential information, giving

the state and federal government very limited access to fishing reports. It also lets fishermen, buyers and processors get their information back or sent to a designated third party. Right now fishermen cannot get copies of their own fish reports even if they need them for loan applications. This bill would allow a fisherman to have his reports sent directly to a third party like a bank.

REPRESENTATIVE STEVENS noted another problem occurred when the National Park Service planned to close parts of Glacier Bay and wanted to compensate those affected by the closure. He said the bill would also allow the Department of Public Safety to have access to salt water charter log books and annual fish statistical reports for management purposes only. It would also give the National Marine Fisheries Service (NMFS) and the National Oceanic and Atmospheric Administration (NOAA) access to annual statistical reports for management purposes.

SENATOR TAYLOR moved to pass CSHB 462(RES) from committee with individual recommendations. There were no objections and it was so ordered.

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#HB455

CSHB 455(CRA)-MUNICIPAL TAXATION OF AGRICULTURAL LAND

MR. JOHN MANLEY, staff to Representative Harris, sponsor of HB 455, told members that land classified as agricultural in the state is being assessed at more than free market value rather than at the value commensurate with the restrictions that are put on the land. This bill would correct that discrepancy by directing that the land be assessed based on what it can produce under its restrictions.

SENATOR ELTON said he was assuming that the state assessor when valuing land in municipalities would value it at the agriculture rate also.

CHAIRMAN TORGERSON said this bill only applies to state land but his question is on other than state land. Municipalities get partial exemptions depending on how much of the land is being farmed. He asked if Mr. Rob Wells knew the technical answer.

MR. ROB WELLS, Director, Division of Agriculture, DNR, explained that this bill only deals with land that the state conveys with agricultural restrictions. The division has worked with Steve Vansant in the Assessors Office who has testified that he can work with this legislation. It does not preclude a municipal assessor from determining the value of the land, but it does require, when the state conveys agriculture lands with covenants or other restrictions, that the assessor recognize that when he

does his assessment every January 1.

CHAIRMAN TORGERSON asked if the bill doesn't affect municipal property right now for the most part.

MR. WELLS said that is correct. He added, "It does affect state agriculture lands that are in municipalities...It relieves people with [agricultural] restricted lands from filling out an annual application to a municipality for the exemption, because, in fact, they are restricted to [agriculture] uses by the very conveyance."

SENATOR TAYLOR moved CSHB 455(CRA) from committee with individual recommendations. There were no objections and it was so ordered.
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#HJR46

CSHJR 46(RES)-BC MORATORIUM ON FISH FARMING

CHAIRMAN TORGERSON announced CSHJR 46(RES) to be up for consideration.

MS. JEAN ELLIS, Fisheries Committee aide for Representative Peggy Wilson, told members:

In January of this year the government of British Columbia announced that the provincial moratorium on fish farming would be lifted effective April 30. This decision could have a substantial effect on the Alaskan economy and the environment, both directly and indirectly. So, HJR 46 strongly encourages the government of British Columbia to reinstate the moratorium on fish farming.

SENATOR TAYLOR moved CSHJR 46(RES) from committee with individual recommendations.

SENATOR ELTON objected for the purpose of thanking the House for addressing this issue as it is important.

MS. SUE ASPELUND, Cordova Fishermen United, supported CSHJR 46(RES) because it addresses many concerns that Alaskans have about fish farming impacting our state waters.

SENATOR TAYLOR renewed his motion to move CSHJR 46(RES) from committee with individual recommendations and zero fiscal note. There were no objections and it was so ordered.
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There being no further business to come before the committee,

CHAIRMAN TORGERSON adjourned the meeting at 5:00 pm.