

HOUSE CS FOR CS FOR SENATE BILL NO. 273(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 4/6/04

Referred: Finance

Sponsor(s): SENATOR GARY STEVENS BY REQUEST OF THE JOINT LEGISLATIVE SALMON
INDUSTRY TASK FORCE

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the size, membership, and powers of the board of directors of the
2 Alaska Seafood Marketing Institute and making a corresponding change in the quorum
3 requirement; authorizing the establishment of the seafood marketing assessment at a
4 rate of 0.5 percent or 0.6 percent of the value of seafood products produced; providing
5 for an election to retain, terminate, or increase the seafood marketing assessment;
6 providing for the repeal of the salmon marketing tax and provisions related to the
7 salmon marketing tax; and providing for an effective date."

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

9 * **Section 1.** AS 16.43.160(e)(2)(A)(ix) is amended to read:

10 (ix) Department of Revenue - fisheries business tax
11 program, fishery resource landing tax program, salmon enhancement
12 tax program, [SALMON MARKETING TAX PROGRAM,] and dive
13 fishery management assessment program;

1 * **Sec. 2.** AS 16.51.020(a) is amended to read:

2 (a) The governing body of the institute is a board of directors. The board
3 consists of **seven** [25] voting members appointed by the governor. In making
4 appointments to the board, the governor shall consider, but need not appoint, nominees
5 presented by persons engaged in fish processing, the financing of fish processing, or
6 commercial fishing.

7 * **Sec. 3.** AS 16.51.020(a) is amended to read:

8 (a) The governing body of the institute is a board of directors. The board
9 consists of **nine** [SEVEN] voting members appointed by the governor. In making
10 appointments to the board, the governor shall consider, but need not appoint, nominees
11 presented by persons engaged in fish processing, the financing of fish processing, or
12 commercial fishing.

13 * **Sec. 4.** AS 16.51.020(b) is amended to read:

14 (b) **Five** [TWELVE] members of the board shall be seafood processors: **four**
15 [EIGHT] of the seafood processors must have an annual payroll in the state of more
16 than \$2,500,000; **one** [FOUR] of the seafood processors must have an annual payroll
17 in the state of \$50,000 - \$2,500,000. **Two** [TWELVE] members of the board must be
18 engaged in commercial fishing. [THE GOVERNOR, TO THE EXTENT
19 PRACTICABLE, SHALL APPOINT AS COMMERCIAL FISHING MEMBERS OF
20 THE BOARD PERSONS ENGAGED IN COMMERCIAL FISHING IN A FISHERY
21 MANAGEMENT REGION OF THE STATE IN THE SAME PROPORTION THAT
22 THE REGION CONTRIBUTES, OR IS EXPECTED TO CONTRIBUTE DURING
23 THE NEXT YEAR, TO THE TOTAL SALMON MARKETING TAX COLLECTED
24 UNDER AS 43.76.110 - 43.76.130. ONE MEMBER OF THE BOARD SHALL BE A
25 LAY PERSON SELECTED BY THE GOVERNOR.]

26 * **Sec. 5.** AS 16.51.020(b) is amended to read:

27 (b) Five members of the board shall be seafood processors: four of the seafood
28 processors must have an annual payroll in the state of more than \$2,500,000; one of
29 the seafood processors must have an annual payroll in the state of \$50,000 -
30 \$2,500,000. **Four** [TWO] members of the board must be engaged in commercial
31 fishing.

1 * **Sec. 6.** AS 16.51.050 is amended to read:

2 **Sec. 16.51.050. Quorum. Four** [FOURTEEN] members of the board
3 appointed under AS 16.51.020 constitute a quorum for the transaction of business and
4 the exercise of the powers and duties of the board.

5 * **Sec. 7.** AS 16.51.050 is amended to read:

6 **Sec. 16.51.050. Quorum. Five** [FOUR] members of the board appointed
7 under AS 16.51.020 constitute a quorum for the transaction of business and the
8 exercise of the powers and duties of the board.

9 * **Sec. 8.** AS 16.51.120(a) is amended to read:

10 (a) A seafood marketing assessment shall be levied on the value of seafood
11 products produced in Alaska as provided in (b), (c), (d), [OR] (e), **(h), or (i)** of this
12 section if an election is held under AS 16.51.140 at which the assessment is approved
13 by eligible processors who together produce at least 51 percent of the value of seafood
14 products produced in Alaska in the calendar year.

15 * **Sec. 9.** AS 16.51.120(f) is amended to read:

16 (f) An election under (a) of this section shall be held if the proposed election
17 for the levying of an assessment under (b), (c), (d), [OR] (e), **(h), or (i)** of this section
18 is approved by a majority of the whole membership of the board at a regularly
19 scheduled meeting.

20 * **Sec. 10.** AS 16.51.120(g) is amended to read:

21 (g) Notwithstanding (a) - (e), **(h), and (i)** of this section and AS 16.51.150(c),
22 a processor is not subject to, or liable for payment of, an assessment under this section
23 on the value of the seafood products produced in Alaska if the value of seafood
24 products produced in Alaska by the processor is less than \$50,000 in a calendar year.
25 This subsection does not exempt a processor from liability for payment of taxes
26 imposed under AS 43.75 or AS 43.77.

27 * **Sec. 11.** AS 16.51.120 is amended by adding new subsections to read:

28 (h) Each processor shall pay a seafood marketing assessment of .5 percent of
29 the value of seafood products produced in Alaska by the processor.

30 (i) Each processor shall pay a seafood marketing assessment of .6 percent of
31 the value of seafood products produced in Alaska by the processor.

1 * **Sec. 12.** AS 16.51.130(a) is amended to read:

2 (a) A seafood marketing assessment levied under AS 16.51.120(b), (c), (d),
3 [OR] (e), **(h), or (i)** shall be terminated by the commissioner of revenue if

4 [(1)] an election is held under AS 16.51.140 in which the termination
5 is approved by eligible processors who together produce at least 51 percent of the total
6 value of seafood products produced in Alaska during the calendar year [; OR

7 (2) THE BOARD, AT A REGULARLY SCHEDULED MEETING,
8 ADOPTS A RESOLUTION APPROVED BY TWO-THIRDS OF THE VOTING
9 MEMBERSHIP OF THE BOARD REQUESTING THE COMMISSIONER OF
10 REVENUE TO TERMINATE THE ASSESSMENT].

11 * **Sec. 13.** AS 16.51.130(b) is amended to read:

12 (b) An election under **(a)** [(a)(1)] of this section shall be held if

13 (1) the proposed election for the termination of the assessment is
14 approved by a majority of the whole membership of the board at a regularly scheduled
15 meeting; or

16 (2) a petition is presented to the director of elections requesting
17 termination of the assessment by eligible processors who together produce at least 25
18 percent of the total value of seafood products produced in Alaska during the calendar
19 year.

20 * **Sec. 14.** AS 16.51.140(b) is amended to read:

21 (b) In conducting the election under this section, the institute **and the director**
22 **of elections** shall adopt the following procedures:

23 (1) the proposed levy or termination of the assessment shall be adopted
24 at a regularly scheduled meeting of the board **of directors of the institute** held not
25 less than 60 days before the date on which the ballots must be postmarked to be
26 counted unless the election is for termination of the assessment and has been initiated
27 by a petition under AS 16.51.130(b)(2);

28 (2) the institute shall hold at least one meeting, not less than 30 days
29 before the date on which ballots must be postmarked to be counted, to explain the
30 reason for the proposed seafood marketing assessment or termination of the
31 assessment and to explain the voting procedure to be used in the election; the institute

1 shall provide notice of the meeting by

2 (A) mailing the notice to each eligible processor; and

3 (B) publishing the notice in at least one newspaper of general
4 circulation in each region of the state at least two weeks before the meeting;

5 (3) the **director of elections** [INSTITUTE] shall mail ballots to each
6 eligible processor not more than 45 days before the date specified as the date ballots
7 must be postmarked;

8 (4) the ballot must

9 (A) indicate whether the assessment is to be levied under
10 AS 16.51.120(b), (c), (d), [OR] (e), **(h), or (i)** and must state the percentage of
11 the assessment;

12 (B) indicate the effective date of the levy of the assessment or
13 termination of the assessment;

14 (C) ask whether the assessment shall be levied or, if the
15 election is to terminate the assessment, whether the assessment shall be
16 terminated;

17 (5) the ballots shall be returned by mail **to the director of elections**
18 and shall be counted by the director of elections or a representative.

19 * **Sec. 15.** AS 37.05.146(c)(25) is amended to read:

20 (25) receipts from the seafood marketing assessment under
21 AS 16.51.120 - 16.51.170 [, THE SALMON MARKETING TAX UNDER
22 AS 43.76.110 - 43.76.130,] and [OTHER] receipts of the Alaska Seafood Marketing
23 Institute;

24 * **Sec. 16.** REPEAL OF SALMON MARKETING TAX. (a) Section 9, ch. 55, SLA 1993,
25 as amended by sec. 1, ch. 111, SLA 1998, and sec. 3, ch. 136, SLA 2002, is amended to read:

26 Sec. 9. AS 43.76.110, 43.76.120, and 43.76.130 are repealed **December 31,**
27 **2005** [JUNE 30, 2008].

28 * **Sec. 17.** REPEAL OF MISCELLANEOUS PROVISIONS RELATED TO THE
29 SALMON MARKETING TAX. Sections 3, 8(c), and 12, ch. 55, SLA 1993, are repealed.

30 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITION FOR MEMBERS OF THE BOARD OF DIRECTORS OF THE
2 ALASKA SEAFOOD MARKETING INSTITUTE. (a) Notwithstanding AS 16.51.030, the
3 terms of office of all persons who are serving as members of the board of directors of the
4 Alaska Seafood Marketing Institute on the day before the effective date of sec. 2 of this Act
5 expire on the effective date of sec. 2 of this Act.

6 (b) The governor shall appoint qualified persons to serve on the board of directors of
7 the Alaska Seafood Marketing Institute, as restructured under AS 16.51.020, as amended by
8 sec. 2 of this Act, as soon as practicable on or after the effective date of sec. 2 of this Act.
9 The governor shall appoint persons to initial terms in accordance with AS 39.05.055(5). To
10 the extent possible, the governor shall maintain staggered terms for members of each class of
11 board members.

12 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 APPOINTMENT OF MEMBERS OF THE BOARD OF DIRECTORS OF THE
15 ALASKA SEAFOOD MARKETING INSTITUTE FOLLOWING THE ELECTION HELD
16 UNDER SECTION 20 OF THIS ACT. The governor shall appoint qualified persons to fill
17 the two commercial fishermen memberships created on the board of directors of the Alaska
18 Seafood Marketing Institute under AS 16.51.020, as amended by sec. 3 of this Act, as soon as
19 practicable on or after the effective date of sec. 3 of this Act. The governor shall appoint the
20 two commercial fisherman members to initial terms of one, two, or three years, as the
21 governor determines appropriate to provide for staggered terms for the commercial fishermen
22 members of the board.

23 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 SEAFOOD MARKETING ASSESSMENT; ELECTION. (a) Notwithstanding
26 AS 16.51.120 - 16.51.170, the seafood marketing assessment that is in effect on the day
27 before the effective date of this section shall remain in effect until December 31, 2005. After
28 December 31, 2005, a levy of the seafood marketing assessment under AS 16.51.120 shall be
29 retained, amended, or terminated in accordance with the results of the election held under this
30 section by the Alaska Seafood Marketing Institute.

31 (b) Notwithstanding AS 16.51.120 - 16.51.140, the Alaska Seafood Marketing

1 Institute shall conduct an election under this section for the retention, termination, and
2 amendment of the levy of the seafood marketing assessment under AS 16.51.120.

3 (c) In conducting the election under this section, the Alaska Seafood Marketing
4 Institute and the director of elections shall adopt the following procedures:

5 (1) by January 1, 2005, the director of elections shall approve

6 (A) the notice of the election to be published by the institute;

7 (B) the ballot to be used in the election; and

8 (C) the registration and voting procedures for the election;

9 (2) the institute shall hold at least one meeting before February 28, 2005, to
10 explain the reason for the election and to explain the voting procedure to be used in the
11 election; the institute shall provide notice of the meeting by

12 (A) mailing the notice of the meeting to each eligible processor; and

13 (B) publishing the notice in at least one newspaper of general
14 circulation in each region of the state at least two weeks before the meeting;

15 (3) the director of elections shall mail ballots to each eligible processor not
16 earlier than February 15, 2005;

17 (4) the ballot must ask two questions as follows:

18 (A) the first ballot question must ask whether the seafood marketing
19 assessment shall be retained; the ballot question must be written so that a yes vote is
20 for retention of the levy of the seafood marketing assessment and a no vote is for
21 termination of the levy of the seafood marketing assessment;

22 (B) the second ballot question must ask whether the seafood marketing
23 assessment shall be levied under AS 16.51.120(h) at a rate of .5 percent of the value of
24 seafood products produced in Alaska by a processor; the ballot question must be
25 written so that a yes vote is for approval of the levy of the assessment under
26 AS 16.51.120(h) and a no vote is for retention of the levy under AS 16.51.120 that is
27 in effect on the day before the effective date of this section; the ballot must indicate
28 that the effective date of the levy of the assessment under AS 16.51.120(h) is
29 January 1, 2006, if the levy is approved;

30 (5) the ballots must be postmarked on or before March 31, 2005, and received
31 by the director of elections on or before April 15, 2005, to be counted in the election;

1 (6) the ballots shall be returned by mail;

2 (7) the ballots shall be counted by the director of elections or the director's
3 representative; the director or the director's representative, with the assistance of the
4 commissioner of revenue, shall first determine whether the retention of the levy of the seafood
5 marketing assessment is approved by eligible processors who together produce at least 51
6 percent of the value of seafood products produced in Alaska in the previous calendar year;
7 only if the retention of the levy of the assessment is approved, the director or the director's
8 representative, with the assistance of the commissioner of revenue, shall determine the results
9 of the voting on the second ballot question;

10 (8) if the retention of the levy of the seafood marketing assessment under
11 AS 16.51.120 is not approved by eligible processors who together produce at least 51 percent
12 of the value of seafood products produced in Alaska in the previous calendar year, the levy of
13 the assessment is terminated December 31, 2005;

14 (9) if the retention of the levy of the seafood marketing assessment under
15 AS 16.51.120 is approved by eligible processors who together produce at least 51 percent of
16 the value of seafood products produced in Alaska in the previous calendar year and if the levy
17 of the seafood marketing assessment under AS 16.51.120(h) is approved by eligible
18 processors who together produce at least 51 percent of the value of seafood products produced
19 in Alaska in the previous calendar year, the levy of the seafood marketing assessment under
20 AS 16.51.120(h) takes effect January 1, 2006; and

21 (10) if the retention of the levy of the seafood marketing assessment under
22 AS 16.51.120 is approved by eligible processors who together produce at least 51 percent of
23 the value of seafood products produced in Alaska in the previous calendar year and if the levy
24 of the seafood marketing assessment under AS 16.51.120(h) is not approved by eligible
25 processors who together produce at least 51 percent of the value of seafood products produced
26 in Alaska in the previous calendar year, the levy under AS 16.51.120 that is in effect on the
27 day before the effective date of this section remains in effect until amended or terminated
28 under AS 16.51.120 - 16.51.140.

29 (d) The director of elections shall certify the results of an election under this section if
30 the director determines that the requirements of (c) of this section have been satisfied. The
31 director shall provide the certified results of the election to the commissioner of revenue, the

1 Alaska Seafood Marketing Institute, the lieutenant governor, and the revisor of statutes.

2 (e) Following the election conducted under this section, a seafood marketing
3 assessment may be approved, amended, or terminated in accordance with the procedures set
4 out under AS 16.51.120 - 16.51.140, as amended by secs. 8 - 14 of this Act and under
5 AS 16.51.150.

6 (f) For purposes of AS 16.51.120(a), the election held under this section shall be
7 considered to be an election held under AS 16.51.140.

8 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **TERMINATION OF THE SEAFOOD MARKETING ASSESSMENT.**

11 Notwithstanding AS 16.51.120 - 16.51.140, the seafood marketing assessment levied under
12 AS 16.51.120 that is in effect on the day before the effective date of sec. 20 of this Act is
13 terminated December 31, 2005.

14 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 **CONTINGENT EFFECT -- TERMINATION OF SEAFOOD MARKETING**
17 **ASSESSMENT.** (a) Section 21 of this Act takes effect only if the director of elections
18 certifies that the retention of the levy of the seafood marketing assessment under
19 AS 16.51.120 is not approved by eligible processors who together produce at least 51 percent
20 of the value of seafood products produced in Alaska in the previous calendar year at the
21 election held under sec. 20 of this Act.

22 (b) Sections 3, 5, 7, and 19 of this Act take effect if the director of elections certifies
23 that the retention of the levy of the seafood marketing assessment under AS 16.51.120 was
24 not approved by eligible processors who together produce at least 51 percent of the value of
25 seafood products produced in Alaska in the previous calendar year at the election held under
26 sec. 20 of this Act.

27 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 **CONTINGENT EFFECT -- APPROVAL OF LEVY UNDER AS 16.51.120(h).** (a)
30 Section 16 of this Act takes effect only if the director of elections certifies that the levy of the
31 seafood marketing assessment under AS 16.51.120(h) is approved by eligible processors who

1 together produce at least 51 percent of the value of seafood products produced in Alaska in
2 the previous calendar year at the election held under sec. 20 of this Act.

3 (b) Sections 1 and 15 of this Act take effect only if the director of elections certifies
4 that the levy of the seafood marketing assessment under AS 16.51.120(h) is approved by
5 eligible processors who together produce at least 51 percent of the value of seafood products
6 produced in Alaska in the previous calendar year at the election held under sec. 20 of this Act.

7 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 CONTINGENT EFFECT -- DISAPPROVAL OF LEVY UNDER AS 16.51.120(h).
10 Sections 3, 5, 7, and 19 of this Act take effect if the director of elections certifies that the levy
11 of a seafood marketing assessment under AS 16.51.120(h) was not approved by eligible
12 processors who together produce at least 51 percent of the value of seafood products produced
13 in Alaska in the previous calendar year at the election held under sec. 20 of this Act.

14 * **Sec. 25.** If sec. 16 of this Act takes effect under sec. 23 of this Act, it takes effect on the
15 day after the director of elections certifies the result of the election held under sec. 20 of this
16 Act.

17 * **Sec. 26.** If secs. 1 and 15 of this Act take effect under sec. 23 of this Act, they take effect
18 December 31, 2005.

19 * **Sec. 27.** If secs. 3, 5, 7, and 19 of this Act take effect under sec. 22 or 24 of this Act, they
20 take effect on the day after the director of elections certifies the result of the election held
21 under sec. 20 of this Act.

22 * **Sec. 28.** If sec. 21 of this Act takes effect under sec. 22 of this Act, it takes effect on the
23 day after the director of elections certifies the result of the election held under sec. 20 of this
24 Act.

25 * **Sec. 29.** Except as provided in secs. 25 - 28 of this Act, this Act takes effect immediately
26 under AS 01.10.070(c).