

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

February 25, 2004
8:37 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Peggy Wilson, Vice Chair
Representative Dan Ogg
Representative Ralph Samuels
Representative David Guttenberg

MEMBERS ABSENT

Representative Cheryll Heinze
Representative Les Gara

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 36

Requesting the National Park Service to mitigate the adverse economic effects of commercial fishing closures and restrictions in Glacier Bay National Park and Preserve.

- MOVED HJR 36 OUT OF COMMITTEE

HOUSE BILL NO. 444

"An Act relating to direct marketing fisheries businesses, to the fisheries business tax, and to liability for payment of taxes and assessments on the sale or transfer of fishery resources; and providing for an effective date."

- MOVED CSHB 444(FSH) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 36

SHORT TITLE: MITIGATING GLACIER BAY FISHING CLOSURES

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

02/05/04	(H)	READ THE FIRST TIME - REFERRALS
02/05/04	(H)	FSH, RES
02/11/04	(H)	FSH AT 8:30 AM CAPITOL 124
02/11/04	(H)	-- Meeting Canceled --
02/25/04	(H)	FSH AT 8:30 AM CAPITOL 124

BILL: HB 444

SHORT TITLE: DIRECT MARKETING FISHERIES BUSINESS

SPONSOR(S): REPRESENTATIVE(S) WILSON

02/09/04	(H)	READ THE FIRST TIME - REFERRALS
02/09/04	(H)	FSH, RES, FIN
02/18/04	(H)	FSH AT 8:30 AM CAPITOL 124
02/18/04	(H)	Heard & Held
02/18/04	(H)	MINUTE(FSH)
02/25/04	(H)	FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE BRUCE WEYHRAUCH

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as sponsor of HJR 36.

CHUCK HARLAMERT, Juneau Section Chief

Tax Division

Department of Revenue

Juneau, Alaska

POSITION STATEMENT: Answered questions about HB 444.

DENNIS ZADRA, Owner

Wild Salmon Incorporated

Cordova, Alaska

POSITION STATEMENT: Testified on HB 444.

BILL WEBBER, Owner

Gulkana Seafoods Direct

Cordova, Alaska

POSITION STATEMENT: Testified in support of HB 444.

BRAD SAPP, Commercial Fisherman

Cordova, Alaska

POSITION STATEMENT: Testified on HB 444.

ACTION NARRATIVE

TAPE 04-10, SIDE A

Number 0001

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 8:37 a.m. Representatives Seaton, Ogg, Samuels, and Guttenberg were present at the call to order. Representative Wilson arrived as the meeting was in progress.

HJR 36-MITIGATING GLACIER BAY FISHING CLOSURES

Number 0084

CHAIR SEATON announced that the first order of business would be HOUSE JOINT RESOLUTION NO. [36], Requesting the National Park Service to mitigate the adverse economic effects of commercial fishing closures and restrictions in Glacier Bay National Park and Preserve.

Number 0125

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, sponsor, explained that HJR 36 requests that the National Park Service (NPS) consider those who've been negatively affected by Glacier Bay National Park and Preserve commercial fishing closures for work that the NPS contracts for. He said in the late 1990s the NPS and other groups persuaded Congress to close portions of Glacier Bay National Park and Preserve to commercial fishing and to further restrict other areas where commercial fishing could continue.

REPRESENTATIVE WEYHRAUCH referred to a map to illustrate the boundaries of Glacier Bay National Park and Preserve. He said fishermen had been fishing there for generations, particularly fishermen from Hoonah, because the area is a beautiful place to fish, it is quiet, there aren't a lot of people around, and it is "the perfect Alaska setting." Nearby fisheries include halibut, salmon, and tanner crab; a Dungeness crab fishery is presently closed.

REPRESENTATIVE WEYHRAUCH informed members that in conjunction, the NPS implemented a program whereby lifetime fishing permits were given to fishermen who could show recent history of fishing in Glacier Bay National Park and Preserve. When those fishermen die, commercial fishing there will be phased out.

Number 0319

REPRESENTATIVE WEYHRAUCH provided that the federal government appropriated \$23 million under a compensation plan to be implemented by the NPS to compensate those who had been negatively impacted by the closures in Glacier Bay National Park and Preserve. He said boat owners, crewmembers, support businesses, communities, and others that could prove their dependence on commercial fishing were able to request funds from

this appropriation. The NPS has already paid out those claims, although some claims are pending because of litigation; however, he said some fishermen who'd applied to lease boats from the NPS for maintenance, research, and transport have had a hard time working with the NPS.

Number 0430

REPRESENTATIVE WEYHRAUCH noted that Dan Foley had planned to testify, but was fishing and unable to participate. Representative Weyhrauch said Mr. Foley was negatively affected by the recent changes in commercial fishing in Glacier Bay National Park and Preserve and has tried to work with the NPS; he wasn't compensated for his losses and felt the compensation plan didn't adequately fund the broad scope of the total losses by commercial fishermen and the affected businesses.

REPRESENTATIVE WEYHRAUCH used Mr. Foley as an example as for his reasoning behind HJR 36, saying he feels the NPS should strongly consider those people directly affected by the recent prohibitions and restrictions in Glacier Bay National Park and Preserve when contracting for, purchasing, or leasing vessels, equipment, materials, lodging, and services.

Number 0526

CHAIR SEATON, upon determining that no one wished to testify, closed public testimony.

REPRESENTATIVE GUTTENBERG inquired what businesses the NPS was currently dealing with, instead of those that were affected by the recent changes.

REPRESENTATIVE WEYHRAUCH said he wasn't sure exactly what processes the NPS has to determine who it does business with or how it does business. He added that he doesn't want to propose legislation to force the NPS to consider Alaskan residents or businesses first. He emphasized that HJR 36 asks the NPS to prioritize those businesses and people affected by the recent loss of commercial fishing rights in Glacier Bay National Park and Preserve over other options when contracting for, purchasing, or leasing vessels, equipment, materials, lodging, and services.

REPRESENTATIVE WEYHRAUCH surmised that the NPS would probably be open to people from all over the world in the procurement of those goods and services, and that it would want to get the

"best bang for their buck." He said that with HJR 36 he is asking the legislature to lobby on behalf of those negatively affected [by the recent changes], and is making it more of a formal process whereby those people would be considered first.

Number 0679

CHAIR SEATON, referring to page 2, line 19, noted that the resolution called for preference towards those affected, but not a specific preference; he pointed out that the resolution didn't request a percentage of funds or bids.

REPRESENTATIVE WEYHRAUCH responded that including a specific request like that would enter a "morass" that he didn't understand nor really want to. He said that, as a policy issue, he feels the legislature can say [to the NPS] the following:

We appreciate that there has been payment. But future impacts may not be considered in the compensation program you've implemented. So, please, when you're considering those who may offer services, ... look first at those who have been negatively affected. Can they meet your needs? Give a preference to those by looking at them first and [giving] consideration of their sales and services. And if they can't, go meet your business objectives as a manager.

REPRESENTATIVE WEYHRAUCH added that the foregoing is his intent with HJR 36.

Number 0807

REPRESENTATIVE GUTTENBERG said he thought HJR 36 was a good resolution; his only concern was how this may displace some businesses and fishermen who'd had the foresight to leave Glacier Bay National Park and Preserve before the closures were enacted.

REPRESENTATIVE WEYHRAUCH agreed that people left before the closures; he referred to a man who'd moved to Wrangell and opened up a charter business because he knew Glacier Bay National Park and Preserve would be closing its commercial fishing sites. Representative Weyhrauch said he believes that this man, as well as any other person or business that had been negatively affected by the closures, should receive the same preference that is asked for in HJR 36.

Number 0925

CHAIR SEATON commented that the intent of HJR 36 is clear. He reiterated that the resolution was just asking for a preference to be given to those people and vessels that could prove useful to the NPS and that have been affected by the recent closures of commercial fishing sites.

REPRESENTATIVE WEYHRAUCH added that he wouldn't deny that waste and inefficiency have occurred within the federal government, and that he felt if the NPS was going to hire people or buy a bunch of gear, it should do so from [the businesses and fishermen that were negatively affected by the closure of commercial fishing sites in Glacier Bay National Park and Preserve].

Number 0983

REPRESENTATIVE OGG moved to report HJR 36 out of committee with individual recommendations.

REPRESENTATIVE OGG remarked that he supports HJR 36 and thinks it's a good resolution.

CHAIR SEATON asked if there was any objection. There being no objection, HJR 36 was reported from the House Special Committee on Fisheries.

HB 444-DIRECT MARKETING FISHERIES BUSINESS

[Contains discussion of SB 286]

Number 1046

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 444, An Act relating to direct marketing fisheries businesses, to the fisheries business tax, and to liability for payment of taxes and assessments on the sale or transfer of fishery resources; and providing for an effective date.

Number 1068

REPRESENTATIVE WILSON moved to adopt Amendment 1, which read [original punctuation provided]:

P. 4, line 5: INSERT unprocessed between "the" and "fishery resource"

The amended line 5 would read:

by the prevailing price paid to fishermen for the unprocessed fishery resource...

Number 1163

CHUCK HARLAMERT, Juneau Section Chief, Tax Division, Department of Revenue (DOR), stated that the Department of Revenue would not object to the proposed amendment.

REPRESENTATIVE OGG asked Mr. Harlamert what impact there would be on the amount of revenue generated if HB 444 were not passed.

MR. HARLAMERT replied that in fiscal year 2003 (FY 03), DOR collected \$120,000 of fisheries business tax revenue from taxpayers that it feels would fall into the category proposed by HB 444.

Number 1193

REPRESENTATIVE OGG asked for a projected amount of tax collected if HB 444 passes.

MR. HARLAMERT said he doesn't have a firm projection, but from data analysis, DOR believes there are compliance issues. He commented on the difficulty of enforcing compliance issues, but said, at worst, the net effect would be revenue-neutral.

Number 1310

CHAIR SEATON asked if there was any objection to adoption of Amendment 1 [text provided previously]. There being no objection, it was so ordered.

Number 1363

DENNIS ZADRA, Owner, Wild Salmon Incorporated, testified that he is a commercial fisherman who is processing and directly marketing his own fish. He offered his belief that HB 444 will make it more of an even playing field for the custom processor/direct marketer sector. Mr. Zadra pointed out that currently that sector is taxed at a high rate, especially when taxed at the point of sale.

MR. ZADRA, using his own experience as an example, illustrated many examples that he felt represented just how much more expensive being a custom processor/direct marketer [over a larger business] is. He compared the costs between his business and a larger-scale business, pointing out differences in taxation, the higher cost of shipping, and other inherent fees that his business has that other, larger businesses do not.

Number 1459

CHAIR SEATON asked Mr. Zadra whether he was a resident of Cordova and moored and stored his vessel there as well.

MR. ZADRA affirmed the foregoing.

Number 1501

BILL WEBBER, Owner, Gulkana Seafoods Direct, said he'd just started in the custom processing/direct marketing sector. He said he has been a drift gillnetter in the Copper River fishery for 34 years; since starting his direct marketing business, he has encountered many of the same problems Mr. Zadra had illustrated. Mr. Webber said he believes Senator Stedman summarized [the problem] well in his sponsor statement for SB 286. He closed by saying HB 444 is a good first step, and that the legislature needs to move forward to empower individual commercial fishermen.

Number 1598

BRAD SAPP, Commercial Fisherman, testified that he owns his own fishing vessel, the Gladiator, and had started a custom processing/direct marketing business a few years ago; he eventually backed out of the business because of the taxes and costs that Mr. Zadra and Mr. Webber had explained in earlier testimony. Noting that he is starting his custom processing/direct marketing business back up again, Mr. Sapp asked for HB 444 to be made into law. In response to a question from Chair Seaton, he said he is a year-round Cordova resident.

Number 1702

CHAIR SEATON noted that HB 444 would cover two types of commercial fishing operations: custom processing/direct marketing to private individuals or to other, larger licensed fisheries. He asked if Mr. Sapp foresees selling his fish

directly to private individuals by either a mail-order system or by just selling off of the dock, or would sell to a larger commercial-licensed fishery and have it take care of the paperwork and tax collection.

MR. SAPP said he could see himself doing both, depending on the market and the opportunity.

Number 1820

CHAIR SEATON highlighted the duality of HB 444, which provides a tax break for businesses that do custom processing/direct marketing to either consumers or other licensed fishery businesses. He commented that if a custom processing/direct marketing business sells to individuals, it would be responsible for the paperwork and tax collection; if it sold to a licensed fishery, however, the larger fishery would assume that burden.

Number 1901

CHAIR SEATON asked if there were further testifiers. He then closed public testimony.

REPRESENTATIVE OGG posed a hypothetical scenario involving a fisherman who could have a vessel under 65 feet in length, go to a cod fishery, custom process the catch on the boat, freeze it, and then go to a tramp steamer and thus avoid taxation. He said in essence this would make it an offshore factory processor, and it might allow the fisherman to compete unfairly with other offshore processors.

Number 1971

MR. HARLAMERT clarified that the Department of Revenue does not tax any vessel that sails outside of the three-mile [limit]. If the vessels were offshore three miles or more, they would not have to pay a tax; this wouldn't change whether or not HB 444 passed. He explained that if those vessels were within the three-mile limit, then they would pay the tax.

Number 2048

REPRESENTATIVE OGG asked for further clarification based on the vessels' never returning to port and, under HB 444, paying a 3 percent tax and taking their product to an offshore vessel, whereas under current law, any other business would be paying a 5 percent tax by using a floating processor.

MR. HARLAMERT answered that the direct market/custom processing vessels would have a 3 percent tax, and a floating processor would have a 5 percent tax.

Number 2181

CHAIR SEATON clarified that the 3 percent tax would only apply to a direct market vessel, which could only process the fish it caught. He added that there is a distinction between a floating processor that buys fish from other vessels and the direct market vessel that can only process its own fish.

Number 2218

REPRESENTATIVE OGG said he understood, but pointed out that an unintended consequence may remove fishery resources from the coastal communities to a potentially nonresident population. He said if these direct marketers start using larger processors, then control of Alaskan fish could be taken away from residents in coastal communities. Representative Ogg asked whether he was reading the bill wrong or whether this possibility exists.

MR. HARLAMERT answered that the possibility does exist with the passage of HB 444, but it currently exists by virtue of simply not processing fish within the state's territorial waters. He went on to say that the complementary landing tax deals with that possibility, and he doesn't think HB 444 generates further incentive to move the economic activity offshore.

CHAIR SEATON asked for clarification on the rate of taxation for a catcher-processor.

Number 2304

MR. HARLAMERT explained that for a catcher-processor that processes fish within state waters, the rate is 5 percent; a catcher-processor that operates outside of state waters doesn't pay the fisheries business tax, but instead pays a fisheries landing tax at 3 percent. He added that if the vessels don't land or process fish within state waters, they pay no tax, with some exceptions.

REPRESENTATIVE OGG shared that he thought the intent of the bill was to encourage local Alaskans to directly market and to keep the money generated flowing through the community. He expressed

concern that passage of HB 444 may remove the fishery resources from coastal Alaska by outside businesses' coming in.

Number 2370

REPRESENTATIVE GUTTENBERG said he shared the same concerns about the unintended consequences.

MR. HARLAMERT said he doesn't see how the 3 percent tax rate would negatively impact economic activity in Alaska.

Number 2457

REPRESENTATIVE WILSON moved to report HB 444, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 444(FSH) was reported from the House Special Committee on Fisheries.

ADJOURNMENT

Number 2495

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 9:17 a.m.