

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 24, 2004

1:35 p.m.

TAPE(S) 04-14

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Gary Stevens
Senator Hollis French

MEMBERS ABSENT

Senator Bettye Davis

COMMITTEE CALENDAR

SENATE BILL NO. 315

"An Act relating to the administration of commercial fishing entry permit buy-back programs."

HEARD AND HELD

SENATE BILL NO. 322

"An Act relating to the rate of the salmon enhancement tax."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 315

SHORT TITLE: ENTRY PERMIT BUY-BACK PROGRAM

SPONSOR(s): SENATOR(s) STEVENS B BY REQUEST OF SALMON INDUSTRY TASK FORCE

02/11/04	(S)	READ THE FIRST TIME - REFERRALS
02/11/04	(S)	L&C, FIN
02/24/04	(S)	L&C AT 1:30 PM BELTZ 211

BILL: SB 322

SHORT TITLE: SALMON ENHANCEMENT TAX

SPONSOR(s): SENATOR(s) STEVENS B BY REQUEST OF SALMON INDUSTRY TASK FORCE

02/11/04	(S)	READ THE FIRST TIME - REFERRALS
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02/11/04 (S) L&C, FIN
02/24/04 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

Ms. Cheryl Sutton
Staff to Senator Ben Stevens
Alaska State Capitol
Juneau AK 99801-1182

POSITION STATEMENT: Commented on SB 315 for the sponsor.

Mr. Frank Hohman, Commissioner
Commercial Fisheries Entry Commission (CFEC)
Alaska Department of Fish and Game
8800 Glacier Highway, Suite 109
Juneau AK 99801

POSITION STATEMENT: Supports SB 315.

Mr. Ken Duckett, Executive Director
United Southeast Alaska Gillnetters Association
PO Box 22427
Juneau AK 99801

POSITION STATEMENT: Commented on SB 315 and opposes SB 322.

Ms. Kate File
Juneau AK

POSITION STATEMENT: Opposes SB 322.

Mr. E.J. Cheshier
Prince William Sound Aquaculture Association
Cordova AK

POSITION STATEMENT: Supports SB 322.

ACTION NARRATIVE

TAPE 04-14, SIDE A

^#SB315

SB 315-ENTRY PERMIT BUY-BACK PROGRAM

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:35 p.m. Present were Senators Gary Stevens, Ralph Seekins, Hollis French and Chair Con Bunde. Senator Bettye Davis was excused. The first order of business to come before the committee was SB 315.

MS. CHERYL SUTTON, Staff to Senator Ben Stevens and the Joint Legislative Salmon Industry Task Force, said SB 315 is a recommendation of the task force and provides language for the Commercial Fisheries Entry Commission (CFEC) to fund a buyback program. If CFEC was able to receive monies from any source, those monies might have to be paid back, but currently there is no process in statute under which that could happen.

CHAIR BUNDE asked if buybacks were on the horizon anywhere.

MS. SUTTON replied that the only buyback being discussed right now is in the Southeast seine fishery, which has been dealing with Senator Ted Stevens on the federal level. They have not moved forward under the state law. She thought one of the big reasons they hadn't moved forward is because laws governing buybacks are not in place at the state level. "We have been attempting to repair this statute over the last several years so that if that case comes up, we would have a workable statute."

SENATOR RALPH SEEKINS asked if she was talking about a state-funded program.

MS. SUTTON replied no and that an optimum numbers study, which would determine whether too many permits existed in a fishery, would need to be completed first. The proposed legislation also provides for an assessment of up to 7 percent on the value of an individual fisherman's fish ticket sales to fund the program.

SENATOR SEEKINS asked if language stating the commission will cease a buyback once the optimum number has been reached has been in statute before.

MS. SUTTON replied no.

SENATOR GARY STEVENS said the optimum numbers study might show that there aren't enough permits in a fishery as well as show there are too many.

MS. SUTTON followed up on the issue of the optimum number of permits saying that one number was an unreasonable concept so the statute was changed to reflect that an optimum number is really a range of numbers. CFEC also has the authority to add permits back into a fishery.

CHAIR BUNDE said SB 315 is not intended to present the development of fisheries resources, but rather to optimize them.

MS. SUTTON agreed that it would benefit all Alaskans, but particularly those in the coastal regions.

MR. FRANK HOHMAN, Commissioner, Commercial Fisheries Entry Commission (CFEC), supported Ms. Sutton's comments and added that this measure would make fleet consolidation somewhat easier to accomplish. The reason for looking into fleet consolidation is that the economic return in some fisheries might be diminishing. An optimum number of permits could be found that would represent how many fishermen and boats could harvest the resource in an efficient manner and still have a reasonable economic return.

The optimum number can tell you if there are too many permits in the fishery or too few in the fishery. In either case, we are told by the statutes that, if there are too many permits, then we can establish a buyback program to reduce the number of permits to an optimum number. If there are too few permits after a study, then we can provide more permits and sell them back into the fishery to bring that number up.

CHAIR BUNDE asked how the state would reinject permits into the market.

MR. HOHMAN replied that CFEC would probably do an analysis of the value of the existing permits and figure out an average cost and make them available using a currently unspecified method - first come first served basis, a lottery, a high bid, something like that. The 1 to 7 percent assessment would go into a fund over a period of years and when it reached a point where the required number of permits could be bought back, CFEC would go ahead and buy them back.

Since establishing the fund would take a while, the task force discussed borrowing money for the buyback and then paying it back with the assessment money. But under that scenario, if the upfront money was used to buy back permits, current statute says the assessment has to stop. That's how this bill came about.

All it says is that once you reach the optimum number, you can continue the assessment until repayment of any debt that the commission had to establish the buyback program in the beginning.

MR. HOHMAN said that the commission has no idea of a fund of money out there for this purpose and also that, if grant monies were used, they would not have to be paid back.

CHAIR BUNDE asked if there was any opposition to this program.

MR. HOHMAN answered that he was not aware of any.

SENATOR GARY STEVENS asked how an optimum number is defined.

MR. HOHMAN replied that an actual optimum number would be very hard to find, but a couple of years ago, the CFEC changed the definition from one number to a range of numbers.

CHAIR BUNDE questioned how the CFEC would determine what the range is.

MR. HOHMAN replied that the CFEC would do a complete economic analysis of the fishery.

SENATOR HOLLIS FRENCH asked if it is true that there is no money in the buyback fund currently.

MR. HOHMAN replied that is right.

SENATO FRENCH asked if the assessment would begin only after some monies are put into the fund and a buyback had taken place.

MR. HOHMAN replied that the optimum number for the fishery would have to be established first.

SENATOR FRENCH asked if the 1 to 7 percent assessment was in statute.

MR. HOHMAN replied yes and that language was put into statute to accommodate the dedicated funds issue.

SENATOR FRENCH asked once the buyback is done, does CFEC intend to totally repay the fund with the assessment or just the costs of operating the buyback program.

MR. HOHMAN answered:

It depends on how we got the money. If the money was a grant from somewhere, then we wouldn't have to repay it. It would be, like you say, the cost of the program. If the fund was established by the

Legislature and it needed to be repaid, then we would continue it until we could repay.

SENATOR FRENCH recapped that absent a gift of money to do a buyback, he envisions this program being some kind of loan. He asked if the assessment would apply to just the affected fishery or statewide.

MR. HOHMAN replied that the assessment would be applied to the affected fishery.

SENATOR FRENCH asked how he imagined "reasonable" costs would be figured out.

MR. HOHMAN answered before CFEC would even enter into a buyback program, it would have to promulgate regulations and the assessment process would be in those. It would be a very visible process.

SENATOR FRENCH said he thought it sounded like a good idea.

MR. KEN DUCKETT, Executive Director, United Southeast Alaska Gillnetters Association (USAG), said his members really were undecided about supporting this legislation. One concern is that, as the various different ideas for the buyback programs have developed, a number of them have contained votes that would occur by the permit holders. Some call for a majority or a number of different percentages, but SB 315 does not require a vote of the people who would be affected by a buyback program.

We think at the very minimum that it's prudent to have at least a vote of 50 [percent] and a plurality of 50 percent of the permit holders that would approve going into this program..... I'm sure it's fine that they would promulgate regulations and have hearings, but as you know, there's a lot of fishermen and a lot of people in the general public, some of which will participate in a hearing such as that and others will, even if it affects them, will sit on the sidelines and won't participate. We think, definitely, that some kind of vote of the people who would be affected is prudent in this situation.

MR. DUCKETT outlined another concern his members have.

In the mid-70s, if you had told people that we would be where we are today with prices and our current

situation in the salmon market, folks wouldn't have really believed you - that things could change as much as they have changed. So, the point that I'm making is the way this thing is structured now, with the 7 percent assessment on fishermen, you're asking fishermen to buy permits back out of the fishery. If we see a big change, say the farmed fish - they're going to have too many PBCs or whatever have you, or we have a market condition that goes back to earlier times and we see a significant increase in prices in our fish, which a lot of us hope would happen, maybe additional permits want to be added to the fishery.

That situation could happen just like the situation happens that makes us want to reduce the number now. It's not fair in our assessment that the fishermen are assessed for permits to leave the fishery and the state gets the benefit of selling permits back into the fishery if the number of permits wants to be increased later on. That really bothers us.

MR. DUCKETT said USAG does not want to stand in the way of a fleet that wants to reduce the number of its permits and hopes the Southeast seiners are successful. Implementing a buyback program with a federal grant is totally different than assessing fishermen to have their permits bought back. "We think there are some inequities here and I guess at that, I'll conclude my testimony."

CHAIR BUNDE thanked him and promised to have the sponsor reflect on and address his questions when the bill comes up again.

SENATOR BEN STEVENS, sponsor of SB 315, who arrived in the middle of Mr. Duckett's testimony, said he sponsored this bill at the request of the Commercial Fisheries Entry Commission and wanted a chance to clarify Mr. Duckett's questions now. He said there are two programs:

One does require a vote of the fishermen in the region and the other one would allow the CFEC to implement the program. So, there are two mechanisms for buyback. One is a CFEC-run buyback developed by the optimum yield; the other one is a buyback that's initiated by the regional association.

CHAIR BUNDE said Mr. Duckett was also concerned that if a buyback program is funded by fishermen in a certain fishery, if

on the flip side, additional permits were issued by CFEC, that profit would go back to the state. He, personally, could see that the state could issue permits at no expense, which would decrease the value of existing permits, but he didn't know of any mechanism whereby, if the state issued a new permit for \$10,000, that money would end up being distributed to the members of the fishery.

SENATOR STEVENS said that is one of the complexities of the situation right now.

You have to have an optimum study in order to buy back the permits to retire them. It's just which way you do it. If the optimum study says that the state can buy them back, then the state can assess a buyback fund and then retire the permits for \$10,000. If the association would buy back the permits, they would also retire the permits. The question is, can the permits that are bought back be retired and that's what the bill is designed to do - to make sure that that is correct - that when you buy the permits back, the CFEC is not forced to put them back into the market.

CHAIR BUNDE thought he had heard testimony earlier indicating that, if the fishery expands, those permits would not be put back into the market and another study would have to be done to offer new permits.

SENATOR STEVENS replied that the CFEC could be forced by the court to issue permits back again, but they wouldn't come from the buyback pool. "[The permits] would come from another interim use issuance."

CHAIR BUNDE said that he would hold the bill for further work.

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^#SB322

SB 322-SALMON ENHANCEMENT TAX

CHAIR CON BUNDE announced SB 322 to be up for consideration.

2:10 p.m.

SENATOR BEN STEVENS, sponsor of SB 322, said it relates to the salmon enhancement tax, which is available to regional aquaculture associations. Statute allows regional associations

to tax themselves at 1 to 3 percent of their harvest value to help pay for the operations of their hatcheries.

SB 322 is the result of the hatchery subcommittee of the Salmon Task Force that he chaired. The hatchery subcommittee discussed the fact that with the declining values in some of the regions' salmon harvest, the 2 percent that is being collected is not paying for the operational costs of those hatcheries. The subcommittee suggested increasing the tax range up to 10 percent so the associations could vote to assess themselves to pay for the operating costs of the hatcheries producing fish in those regions. After discussions with a couple of people, he added in the larger numbers of 15, 20 and 30 percent to allow regionals to super-assess themselves to pay down large capital debts. Some private non-profit hatcheries have already gone through periods of high self-assessment to pay down on capital costs and those hatcheries are operating at very low-cost recovery rates to the benefit of the local harvesters. He referenced supporting data in the committee's packets.

SENATOR FRENCH asked what was the estimated value of fish in 1993.

SENATOR STEVENS answered that the statewide value of fish in 1992 was about \$167 million and in 2003 it was about \$197 million with a five-year average of about \$315 million. The 2002 figure is the low point of the modern commercial fishery. The important thing about the bill is that it allows hatcheries under a regional aquaculture association to vote to increase their assessment if they choose.

MS. KATE FILE, Juneau resident, opposed SB 322 with the following testimony:

My family is a fishing family in a unique position. Our boat and permit are paid for. If this proposed tax were implemented, we would have to consider whether or not it would be cost effective for our crew and family to fish salmon. For those fishers who have loans, it would be almost impossible to make expenses, pay their crew and take home income to live on for the winter. Several fishermen I have talked to say that SB 322 would completely wipe out their profit margin.

I believe this bill could work, but in a different format. This bill is missing a major component. Please bear with me as I start from the beginning. SB 322

would stop the practice of taking cost recovery for regional hatcheries, like SNRRA and SSRRA, while allowing non-regionals, like Kake, DIPAC and Port Armstrong, to continue the practice of cost recovery.

As you look at the information provided to you by [The Department of] Fish and Game on 'The Alaska Hatchery Commercial Common Property and Cost Recovery Return' handout, you will see the regionals are within their salmon enhancement allocation goals. In contrast, it is the non-regionals who are, in some cases, taking far and above the Board of fish suggested allocation goals for cost recovery.

In the Board of Fish findings, the suggested salmon enhancement allocation goals for cost recovery are for regionals - 70 percent to common property and 30 percent for cost recovery. Also keep in mind that regionals receive a 3 percent aquaculture tax in Southeast Alaska. For the non-regionals, the suggested salmon allocation goals are 60 percent to common property [fisheries] with 40 percent to cost recovery. Non-regionals receive no aquaculture tax and have no taxing authority.

As you can see, it is not the regionals' cost recovery practices that are affecting your average commercial fisher. It is the non-regionals who are taking far and above the suggested salmon allocation. In some hatchery operations you will see 74 percent and 89 percent being taken for cost recovery purposes. This practice is harmful to commercial fishers.

The component that is missing to SB 322 is to regionalize all non-regional hatcheries. The only way taxing fishers to replace cost recovery is going to work is if you eliminate all cost recovery fishing in that region.

To benefit the fishers of Southeast Alaska, we would need to take all hatcheries in the region and create a single regional association. This would also benefit the region by decreasing overhead administrative costs.

I ask that serious consideration be given to this suggestion. Many fishers feel that, if the bill were

amended in this way, it would go a long way to help stabilize the salmon industry. It would also help hatcheries reach their full potential and be of benefit to the commercial fisher.

This bill, as it is written now, will not help the commercial fleet. It will make a bad situation disastrous. I ask that you not approve SB 322 in its current form.

CHAIR BUNDE responded that the fishermen in each fishery would have to vote to assess themselves and asked if that would address any negative concerns that she has. "Obviously, if this is going to cause people to have a negative cash flow, they would vote no, wouldn't they?"

MS. FILE replied that she didn't understand his point. She thought the regionals are not the problem. "Unless you eliminate a cost recovery across the board, this really doesn't work."

CHAIR BUNDE sought to clarify his position saying if fishermen find a serious negative financial impact, they would vote no on the assessment. She agreed. He then asked if that didn't mean she was really in charge of whether the assessment happened or not.

MS. FILE replied:

Ultimately we are, but unfortunately there is a lot of apathy out there and I know quite a few fishermen who get ballots in the mail and things like that and they don't even open them anymore. They just toss them in the garbage. Yes, you're right; it is the fishermen's responsibility.

CHAIR BUNDE politely exhorted her to urge those fishermen to start reading their mail.

MS. FILE said, "I'm working on it. I'm trying."

CHAIR BUNDE thanked her for her testimony.

MR. KEN DUCKETT, Executive Director, United Southeast Alaska Gillnetters Association (USAG), opposed SB 322. The fishery cannot afford any more direct taxes on its gross. Fishermen do not want any chance for additional taxes to be levied. "They don't want to let the cat out of the bag."

TAPE 04-14, SIDE B

CHAIR BUNDE asked if fishermen have to vote to assess themselves, wouldn't the ultimate decision lay in their hands.

MR. DUCKETT replied that is correct, except Southeast Alaska has three different fleets - 1,000 trollers, 400 gillnetters and approximately 400 seiners.

That different population would obviously have different motives for voting different ways.... In theory what you say is true, but my guys that I talk to are not interested in increased taxes, they are not interested in any additional assessment on their gross and, quite frankly, they're not interested in participating in a campaign one way or the other to try to convince some other people to do it or not to do it.

CHAIR BUNDE doggedly pointed out that if hatcheries can't support themselves, the state has divorced itself of providing that funding. "It's between the devil and the deep blue sea, if that's not a bad analogy for fishermen."

MR. DUCKETT came back saying that he has also been on the board of directors for the Southern Southeastern Alaska Regional Aquaculture Association (SSRAA) for 16 years. He explained:

Fishermen basically control the boards, at least for the regional associations. There are certainly people at large and folks that represent other boat interests and subsistence interests, but the predominance of people on these boards are commercial fishermen. SSRAA has entered into a program of trying to get our debt under control, pay our debt down. In fact, we have been successful over the last five years, in part, due to some help from [The Department of] Commerce and Economic Development where we have been able to cut our debt load from about \$14 million to just about \$6 million at this point in time. So, we've been somewhat successful. We've had some good seasons and a good marketing program that helped us on this.

But right now, our general manager, John Berg, did an analysis at a meeting we had about a week ago and if we were to try and cover all operating costs plus debt

retirement with an assessment on fishermen's gross and completely eliminate cost recovery, it would take over 50 percent of the gross that the fishermen make to cover that. We think that the cost recovery program, the way it's currently structured, is a reasonable program. It works, at least it certainly works for the regionals.

MR. E.J. CHESHER, Prince William Sound Aquaculture Association (PWSAC), said the association generally supports new tools that allow fishermen to control their destiny and this does open new options for them.

I think you kind of hit the nail on the head. If fishermen don't want to change the way they are doing things, they don't have to vote for that. That's one reason that this bill doesn't scare us here.

CHAIR BUNDE thanked him for his testimony and said he would set SB 322 aside for another week so that the questions could be worked out. He asked the sponsor if he had any final comments.

SENATOR BEN STEVENS sought to convince the committee with these closing comments:

Fishermen are being taxed this rate anyway. The cost recovery for the fish that are produced by a hatchery that they don't get to catch, competes with their fish in the market and competes with their fish in the capacity of the local processing facility that is a tax on their production. The intent of the bill is to allow more fish to be caught by the independent fishermen, therefore increasing his bottom line. If at some point in time they have to do a super-accelerated assessment in order to achieve that, that's what this bill permits.

To respond to Ms. File's comments, she's right. There is a large portion of the hatchery production that does not fall under the jurisdiction of this language. That is another issue to be attacked at another day. Her comments are correct, but the portion of the bill that does fall under this jurisdiction in the bill is intended to increase the amount of fish that those individuals are allowed to catch and allows them to catch it instead of a cost recovery process that takes place.

SENATOR STEVENS concluded saying he looked forward to having more discussions on this issue.

CHAIR BUNDE thanked Senator Stevens for his testimony and said SB 322 would have another hearing next week. There being no further business to come before the committee, he adjourned the meeting at 2:30 p.m.

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