

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 23, 2004

1:35 p.m.

**TAPE(S) 04-25**

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 340(JUD) am

"An Act relating to damages in an action for a defect in the design, construction, and remodeling of certain dwellings; and providing for an effective date."

MOVED CSHB 340(JUD) am OUT OF COMMITTEE

SENATE BILL NO. 357

"An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; and providing for an effective date."

MOVED CSSB 357(L&C) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 34(FSH)

Requesting the United States Department of Agriculture and the United States Department of Labor to extend Trade Adjustment Assistance benefits to Alaska salmon fishermen; requesting the United States Congress and the United States Department of Agriculture to extend additional disaster and price support benefits to Alaska salmon fishermen; and requesting the United States Department of Commerce to establish a Trade Adjustment Assistance program specific to commercial fishermen.

MOVED CSHJR 34(FSH) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 409(FSH)

"An Act relating to the maximum length of salmon seine vessels; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 358

"An Act relating to the performance of railroad track construction work for the Department of Transportation and Public Facilities by the Alaska Railroad Corporation."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 340

SHORT TITLE: DAMAGES IN CONSTRUCTION CLAIMS

SPONSOR(S): REPRESENTATIVE(S) MEYER

01/12/04	(H)	PREFILE RELEASED 1/2/04
01/12/04	(H)	READ THE FIRST TIME - REFERRALS
01/12/04	(H)	L&C, JUD
01/23/04	(H)	L&C AT 3:15 PM CAPITOL 17
01/23/04	(H)	Moved CSHB 340(L&C) Out of Committee
01/23/04	(H)	MINUTE(L&C)
01/26/04	(H)	L&C RPT CS(L&C) 1DP 4NR
01/26/04	(H)	DP: ANDERSON; NR: CRAWFORD, LYNN,
01/26/04	(H)	GATTO, GUTTENBERG
02/04/04	(H)	JUD AT 1:00 PM CAPITOL 120
02/04/04	(H)	-- Meeting Canceled --
02/09/04	(H)	JUD AT 1:00 PM CAPITOL 120
02/09/04	(H)	Moved CSHB 340(JUD) Out of Committee
02/09/04	(H)	MINUTE(JUD)
02/12/04	(H)	JUD RPT CS(JUD) 5DP 1NR
02/12/04	(H)	DP: OGG, SAMUELS, HOLM, ANDERSON,
02/12/04	(H)	MCGUIRE; NR: GARA
02/23/04	(H)	TRANSMITTED TO (S)
02/23/04	(H)	VERSION: CSHB 340(JUD) AM
02/25/04	(S)	READ THE FIRST TIME - REFERRALS
02/25/04	(S)	L&C, JUD
03/04/04	(S)	L&C AT 1:30 PM BELTZ 211
03/04/04	(S)	Heard & Held
03/04/04	(S)	MINUTE(L&C)
03/09/04	(S)	L&C AT 1:30 PM BELTZ 211
03/09/04	(S)	Scheduled But Not Heard

03/23/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 357

SHORT TITLE: INSURANCE

SPONSOR(S): LABOR & COMMERCE

03/01/04 (S) READ THE FIRST TIME - REFERRALS  
03/01/04 (S) L&C, FIN  
03/09/04 (S) L&C AT 1:30 PM BELTZ 211  
03/09/04 (S) Heard & Held  
03/09/04 (S) MINUTE(L&C)  
03/23/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HJR 34

SHORT TITLE: FED TRAINING AND ASSISTANCE FOR FISHERMEN

SPONSOR(S): REPRESENTATIVE(S) OGG BY REQUEST OF SALMON INDUSTRY  
TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS  
01/28/04 (H) FSH, L&C  
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124  
02/09/04 (H) Moved CSHJR 34(FSH) Out of Committee  
02/09/04 (H) MINUTE(FSH)  
02/12/04 (H) FSH RPT CS(FSH) NT 5DP  
02/12/04 (H) DP: OGG, WILSON, SAMUELS, GUTTENBERG,  
02/12/04 (H) SEATON  
02/16/04 (H) L&C AT 3:15 PM CAPITOL 17  
02/16/04 (H) Moved CSHJR 34(FSH) Out of Committee  
02/16/04 (H) MINUTE(L&C)  
02/18/04 (H) L&C RPT CS(FSH) NT 4DP 1NR  
02/18/04 (H) DP: LYNN, GATTO, GUTTENBERG, ANDERSON;  
02/18/04 (H) NR: DAHLSTROM  
02/26/04 (H) TRANSMITTED TO (S)  
02/26/04 (H) VERSION: CSHJR 34(FSH)  
02/27/04 (S) READ THE FIRST TIME - REFERRALS  
02/27/04 (S) L&C, RES  
03/23/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 409

SHORT TITLE: SEINE VESSEL LENGTH

SPONSOR(S): REPRESENTATIVE(S) WILLIAMS BY REQUEST OF SALMON  
INDUSTRY TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS  
01/28/04 (H) FSH, RES  
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124  
02/09/04 (H) Heard & Held

02/09/04 (H) MINUTE(FSH)  
 02/16/04 (H) FSH AT 9:00 AM CAPITOL 124  
 02/16/04 (H) Moved CSHB 409(FSH) Out of Committee  
 02/16/04 (H) MINUTE(FSH)  
 02/18/04 (H) FSH RPT CS(FSH) 3DP 4NR  
 02/18/04 (H) DP: WILSON, HEINZE, GUTTENBERG;  
 02/18/04 (H) NR: GARA, OGG, SAMUELS, SEATON  
 02/18/04 (H) RES AT 1:00 PM CAPITOL 124  
 02/18/04 (H) Moved CSHB 409(FSH) Out of Committee  
 02/18/04 (H) MINUTE(RES)  
 02/19/04 (H) RES RPT CS(FSH) 5DP 1DNP 2NR  
 02/19/04 (H) DP: STEPOVICH, HEINZE, KERTTULA,  
 02/19/04 (H) GUTTENBERG, MASEK; DNP: WOLF;  
 02/19/04 (H) NR: LYNN, GATTO  
 02/26/04 (H) TRANSMITTED TO (S)  
 02/26/04 (H) VERSION: CSHB 409(FSH)  
 02/27/04 (S) READ THE FIRST TIME - REFERRALS  
 02/27/04 (S) L&C, RES  
 03/11/04 (S) L&C AT 1:30 PM BELTZ 211  
 03/11/04 (S) <Above Bill Hearing Postponed>  
 03/23/04 (S) L&C AT 1:30 PM BELTZ 211

**BILL: SB 358**

**SHORT TITLE: ALASKA RAILROAD TRACK WORK**

**SPONSOR(S): TRANSPORTATION**

03/03/04 (S) READ THE FIRST TIME - REFERRALS  
 03/03/04 (S) TRA, L&C  
 03/04/04 (H) TRA AT 1:30 PM CAPITOL 17  
 03/04/04 (H) -- Meeting Canceled --  
 03/05/04 (S) TRA RPT 3DP 2NR  
 03/05/04 (S) DP: WAGONER, COWDERY, THERRIAULT  
 03/05/04 (S) NR: LINCOLN, OLSON  
 03/23/04 (S) L&C AT 1:30 PM BELTZ 211

**WITNESS REGISTER**

Representative Kevin Meyer  
 Alaska State Capitol  
 Juneau AK 99801-1182

**POSITION STATEMENT:** Sponsor of HB 340.

Ms. Linda Hall, Director  
 Division of Insurance  
 Department of Community & Economic Development  
 PO Box 110800  
 Juneau AK 99811-0800

**POSITION STATEMENT:** Supports SB 357.

Ms. Melissa Dover  
Staff to Representative Dan Ogg  
Alaska State Capitol  
Juneau AK 99801-1182

**POSITION STATEMENT:** Sponsor of HJR 34.

Mr. Mark Vinsel, Executive Director  
United Fishermen of Alaska  
211 4th Street, Suite 110  
Juneau AK 99801-1172

**POSITION STATEMENT:** Supports HJR 34.

Mr. Tim Barry  
Staff to Representative Bill Williams  
Alaska State Capitol  
Juneau AK 99801-1182

**POSITION STATEMENT:** Commented on HB 409 for the sponsor.

Mr. Jerry McCune, Executive Director  
United Fishermen of Alaska (UFA)  
211 4th Street, Suite 110  
Juneau AK 99801-1172

**POSITION STATEMENT:** Supports HB 409.

Mr. Mac Meiners  
Purse Seiner  
No address provided

**POSITION STATEMENT:** Supports HB 409.

Mr. Melvin Larson  
Sand Point AK

**POSITION STATEMENT:** Opposes HB 409.

Mr. Richard Schmitz  
Staff to Senator John Cowdery  
Alaska State Capitol  
Juneau AK 99801-1182

**POSITION STATEMENT:** Commented on SB 358 for sponsor.

Ms. Wendy Lindskoog, Director  
External Affairs  
Alaska Railroad Corporation (ARRC)  
PO Box 107500  
Anchorage AK 99510

**POSITION STATEMENT:** Supports SB 358.

Ms. Nona Wilson, Legislative Liaison  
Department of Transportation &  
Public Facilities  
3132 Channel Dr.  
Juneau AK 99801-7898  
**POSITION STATEMENT:** Supports SB 358.

Mr. J.R. Wood, Owner  
Railway Support Services  
Anchorage AK  
**POSITION STATEMENT:** Opposes SB 358.

Mr. Mark Condon, President  
Condon Railroad Construction  
Anchorage AK  
**POSITION STATEMENT:** Opposes SB 358.

Mr. John Landerfelt  
Laborers Local 341  
Anchorage AK  
**POSITION STATEMENT:** Opposes SB 358.

**ACTION NARRATIVE**

**TAPE 04-25, SIDE A**  
^#HB340

**HB 340-DAMAGES IN CONSTRUCTION CLAIMS**

**CHAIR CON BUNDE** called the Senate Labor and Commerce Standing Committee meeting to order at 1:35 p.m. All members were present. The first order of business to come before the committee was CSHB 340(JUD)am.

REPRESENTATIVE KEVIN MEYERS, sponsor, said that there had already been a lot of testimony on this bill and offered to answer any questions.

CHAIR BUNDE said the committee had already had one hearing on this bill and there was no additional testimony.

SENATOR RALPH SEEKINS moved to pass CSHB 340(JUD)am from committee with individual recommendations and attached fiscal note.

CHAIR BUNDE asked for a roll call vote. Senators Gary Stevens, Bettye Davis, Hollis French, Ralph Seekins and Chair Con Bunde voted yea; and CSHB 340(JUD)am moved from committee.

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^#SB357

**SB 357-INSURANCE**

CHAIR CON BUNDE announced SB 357 to be up for consideration.

SENATOR GARY STEVENS moved to adopt CSSB 357(L&C), version H. There were no objections and it was so ordered.

MS. LINDA HALL, Director, Division of Insurance, Department of Community & Economic Development (DCED), said the CS has two changes.

We have had two areas of concern expressed to us.... One of those is represented in sections 47 and 48, which are the changes in the bill. The original bill requires reinsurance agreements to be filed and approved by the director of the Division of Insurance. The feedback we got from, not only industry, but the Reinsurance Association, was that this was overly burdensome and could sometimes be impossible due to negotiations between insurers for their treating reinsurance agreements. The new language in the CS requires only that the signed agreements be filed within 30 days and it's my understanding that these changes meet the concerns of industry and they also meet our needs. Our needs were that we need to be sure that we are able to get copies of the signed reinsurance agreements and that had been a problem in the past. So, the only changes in the CS are to, instead of the division having to approve the reinsurance agreements, they would merely have to file a signed copy of the reinsurance agreements.

The other area of concern that I would like to address...is in section 12 of the bill and I believe this was also part of a letter that was received by members of the committee.

CHAIR BUNDE asked her if she was referencing the Timber Insurance Exchange letter.

MS. HALL replied yes. She explained:

The second half of that letter is addressed in 47 and 48 addressed in the CS. Section 12 has received some concern. The language in section 12 is taken directly from the NAIC [National Association of Insurance Commissioners] model regulations on reinsurance. What we've tried to do here is to provide assurances that the state of domicile is aware that the insurer writing the reinsurance is a life insurance company who is writing what is typically a property casualty line of workers' compensation. The financial statements that are filed by the two types of companies are very different and the NAIC has recognized a need for more extensive financial information and has provided a supplement to the annual financial statements that a life insurer would file if they choose to write workers' compensation. We want to be sure that the state of domicile, the primary regulator, has that information, has the ability to look at and approve that company writing those lines of business. We're not asking that they have a certificate of authority, but merely that they be given approval, which can be done as simply as a letter acknowledging that they have approval to write that line of business. That's really a financial oversight area.

CHAIR BUNDE added that the letter expressed concern that section 12 would prevent Alaskan property and casualty insurers from using life insurance as a reinsurance.

MS. HALL clarified that it wouldn't prevent them from using life insurers for reinsurance as long as the state where the reinsurer is primarily regulated, their state of domicile, knows they're doing it and has approved them doing it. They don't have to be licensed, so section 12 would not prevent them from being able to do it.

CHAIR BUNDE asked her why it could be perceived as preventing them from doing it.

MS. HALL replied that she didn't know.

CHAIR BUNDE asked if she had any further comments on the bill.

MS. HALL replied that she had spent quite a bit of time going through the bill at its first hearing and would answer questions.

CHAIR BUNDE indicated there were no further questions.

SENATOR RALPH SEEKINS moved to pass CSSB 357(L&C) from committee with individual recommendations and attached zero fiscal note.

CHAIR BUNDE asked for a roll call vote. Senators Ralph Seekins, Hollis French, Bettye Davis, Gary Stevens and Chair Con Bunde voted yea; and CSSB 357(L&C) moved from committee.

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^#HJR34

**HJR 34-FED TRAINING AND ASSISTANCE FOR FISHERMEN**

CHAIR CON BUNDE announced CSHJR 34(FSH) to be up for consideration.

MS. MELISSA DOVER, staff to Representative Dan Ogg, sponsor, said the HJR 34 asks Congress to make trade adjustment assistance a better fit for commercial fishermen. Last year commercial fishermen became eligible to receive trade adjustment assistance through two programs. One of them is a Department of Labor program that expends retraining benefits and the other is a U.S. Department of Agriculture (USDA) program that gives cash benefits up to \$10,000.

For a variety of reasons the programs have not fit very well for commercial fishermen - mostly because they were designed for agricultural workers. Things like receiving Exxon-Valdez payments made fishermen ineligible for the programs. HJR 34 asks for four specific things - the first is that USDA give price adjustment benefits to Alaska salmon fishermen who fished five out of six years from 1997 to 2002 and subsequent qualifying years if they can prove lost income or market share in any one of those five years due to imports. It also asks that the U.S. Department of Labor extend retraining benefits to Alaskan salmon fishermen who fished in the same years even if they did not fish in the preceding year due to impacts from price fluctuations or loss of market. Some people were not able to fish, especially last year, simply because they lost their market.

Third, HJR 34 asks Congress and the USDA to make Alaska salmon a covered commodity, which would make Alaska salmon fishermen

eligible for other disaster and price support benefits. This is something that Senator Murkowski hopes to get passed this year.

Lastly, it asks Congress to pursue a program that is designed specifically for commercial fishermen so that they don't have the same problems in the future.

CHAIR BUNDE asked how fishermen prove they have lost price due to imported fish.

MS. DOVER replied that currently the USDA is not disputing the fact that prices have plummeted due to imports.

MR. MARK VINSEL, Executive Director, United Fishermen of Alaska (UFA), added that UFA filed the petition that successfully qualified all five species of Alaska salmon for the USDA trade adjustment assistance. The Foreign Agricultural Service has determined that increased imports were a significant factor in the price decline according to guidelines in the program for all five salmon species.

CHAIR BUNDE asked if the retraining program is designed to make fishermen better fishermen or to get them to move out of the fishing industry.

MR. VINSEL replied that part of the program includes technical assistance training to show fishermen ways to be more efficient and other ways to get more income by diversifying their fishing business. The cash price adjustment helps fishermen to adjust financially to the impact imports have already had on their business.

CHAIR BUNDE noted that he's often thought of commercial fishing as a way of life rather than a career choice.

As I've told Senator Stevens from time to time, I believe in separation of church and state, so we ought not to be putting money into fishing that's a religion.

SENATOR RALPH SEEKINS asked Mr. Vinsel to define an Alaskan salmon fisherman.

MR. VINSEL replied that the petition included all permit-holding Alaska salmon fishermen throughout the state, all crew members if they could should show a crew license, which doesn't say which kind of fishery or species, and a letter from a captain

stating that they did have a share in a catch of salmon. Fishermen of both crew and fishermen categories of the Metlakatla Indian Association are included.

SENATOR SEEKINS asked, of the qualified fishermen, how many are Alaska residents.

MR. VINSEL replied that he didn't have statistics for crew members, but of the permit holders, about 70 to 75 percent are residents.

CHAIR BUNDE asked if it was possible for the State of California to have a program like this and that fishermen could possibly double dip and apply in both states?

MR. VINSEL replied:

This is a federal USDA program and the commodity that UFA qualified through our petition is all Alaska salmon. The Farm Service Agency of the different states is cast with following through with helping with the application process so basically the qualification of Alaska salmon is by the permit holder fishing fishermen from other states as well. They are included in the program. In addition, Washington State salmon, other than their pinks and chums were qualified.... California salmon - I don't think that they applied. Oregon salmon applied and were not approved. Alaska salmon - all five species were approved and it's a commodity-based program, so it's really based on the fish and that's where there's a little bit of misconception and the price adjustment is based on the poundage of fish during the year under the petition.

SENATOR SEEKINS said the reason he asked is because language on pages 2 and 15 talks about Alaska salmon and that led him to think about Alaska residents who fish for the Alaska salmon. He thought language on line 15, "whereas alternative job opportunities are uncommon in many of the rural areas where Alaska salmon fishermen live", is a little misleading and was concerned about temporary people who come to Alaska from the Lower 48 to fish for a season and then want to get benefits because they are "Alaska salmon fishermen."

SENATOR SEEKINS wanted to know how many members of the United Fishermen of Alaska actually live in Alaska and don't just fish

here. He is not sympathetic to transients who come up here to take advantage of Alaska's disaster.

CHAIR BUNDE said he would get an update of those numbers for him.

SENATOR GARY STEVENS commented that Senator Seekins' concern has troubled all people in the fishing industry. Often permits are held by people who are not Alaska residents, but he hesitated to call them transients, because many had been fishing in Alaska for 20, 30 or 40 years. Charging non-residents more for their permits was found to be unconstitutional. Much of the industry has been created by people from outside Alaska and it's an issue that he didn't want to tackle. He asked Mr. Vinsel if there was any element of the retraining that would take fishermen out of the fishing industry.

MR. VINSEL answered that the technical training part of it is specific to fishing and helping people be better fishermen, but the Department of Labor program, which a fisherman automatically qualifies for if he qualifies for the USDA program, previously required that a fisherman had to be part of an employee worker group. Employees of processors qualified for that, but not fishermen. That program is a retraining program to offer alternative work and new career paths. It includes other jobs that could go hand in hand with seasonal fishing.

SENATOR GARY STEVENS stated that the salmon industry is in a crisis because of farming and hopefully it will come back, but it would take a while. Fishermen can train for fishing in undersubscribed fisheries - specifically the pollock jig fishery.

CHAIR BUNDE asked if a person who lives in Seattle and fished in Kodiak for the last 20 years could take advantage of this program. That person could retrain and go from an oversubscribed to an undersubscribed fishery and thereby compete with an Alaska resident. "There could be a downside to this as well. Is that not possible?"

SENATOR GARY STEVENS responded, "I would think that in a jig fishery, which is a year-round fishery...that person would probably become an Alaska resident, I would think...."

SENATOR SEEKINS asked why those particular dates were selected.

MR. VINSEL answered that 2001/2002 is the specific year of price decline for which UFA applied and a full year of data was needed for the application; 2003 was still in progress at the time. The concept should be carried forward into the 2003/2004 petition cycle, for which the salmon species will still probably be qualified.

SENATOR HOLLIS FRENCH said language on page 2 was confusing, because it first states that fishermen experience reduced earnings due to a decline in price, but went on to say they couldn't show that.

MR. VINSEL replied that is the crux of the problem with the specific net fishing income decline requirement for benefits.

Salmon prices went down over the whole five-year period. It was a slam-dunk in getting the salmon qualified based on the numbers. And if somebody had \$1 less fishing income in 2001, then they made \$1 more than that in 2002, even though it's pretty much understood that both years were pretty poor, they wouldn't qualify for this program. So, the net fishing income decline is really the crux of the resolution, in my opinion. It's the main reason why many salmon fishermen weren't able to qualify for the benefits in the program. It's what we expect to have some possibility to work on with the USDA in fine-tuning the program.

SENATOR FRENCH asked if the net decline was different than the annual decline.

MR. VINSEL answered:

The requirement for benefits in the program is a net decline in all fishing income. In my opinion, more or less rightly so, taking into effect that if you were a farmer or a fisherman and were already diversified and you made up on other species from the poor fishing in salmon - or say you grew another crop, because you knew the price would be low on your corn and so you grew potatoes or something like that.... Things like Melissa mentioned, like the *Exxon Valdez* payments and any other things that are ultimately in your tax returns in the fishing income category - that kept other people from qualifying. We believe these are not necessarily in the statutes; they were interpreted by

the USDA as this was the first year of this program. Partly in their haste in the challenge of processing the potential large number of fishermen that may apply, which is a little beyond what the program was designed to do when it was started with farmers in mind. When they added fishermen, it made some procedural challenges - especially in Alaska where we didn't have a large infrastructure of Farm Service Agency offices....

SENATOR FRENCH said he heard him saying that net decline in fishing earnings is just a different measure than simply fishing earnings by themselves.

MR. VINSEL sought to clarify further that the net fishing income on tax returns includes *Exxon Valdez* payments and other work a fisherman does with his boat. The original program started out with net farming income, which might not be as complicated as fishing income.

SENATOR SEEKINS moved to pass CSHJR 34(FSH) from committee with individual recommendations.

CHAIR BUNDE asked for a roll call vote. Senators Hollis French, Bettye Davis, Gary Stevens, Ralph Seekins and Chair Bunde voted yea: and CSHJR 34(FSH) moved from committee.

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^#HB409

**HB 409-SEINE VESSEL LENGTH**

CHAIR CON BUNDE announced HB 409 to be up for consideration.

MR. TIM BARRY, staff to Representative Bill Williams, sponsor, said that HB 409 was requested by the Joint Legislative Salmon Industry Task Force.

It could give the Alaska Board of Fisheries and Alaska's fishermen an additional tool to allow them to diversify and increase the value of their fish. First of all, Mr. Chairman, I want to make it clear that this does not eliminate the 58 ft. length limit on salmon seiners. It only puts these boats in the same regulatory regime as all other fishing boat size limits. The 58 ft. limit is one of only two commercial fishing boat length limits that are enshrined in statute.

The 58 ft. limit predates statehood. In the 1950s, Alaska's commercial fisheries were not nearly as well developed as they are now. Territorial and early state lawmakers wanted to protect Alaska's fishing fleet from the dominant fleet of large boats that fished out of, primarily, Puget Sound. This perceived threat was serious enough that legislators enshrined this length limit in statute rather than allowing the Board of Fisheries to have the same discretion it has regarding lengths in other gear restrictions. Those concerns that drove the law 50 or so years ago are no longer present. There really is no longer the same threat from outside vessels or fleets today. In fact, Alaska's fishing fleet is far stronger and healthier now than certainly the Puget Sound fishing fleet.

In addition, if HB 409 becomes law, the length limit, as I said earlier, remains in place. If the Board of Fisheries decides to consider changing it, the board will have to consider the concerns about Alaska's seiners and their economic future, as well as dozens of other concerns before rendering a decision. The Board of Fisheries has the authority to change or impose length limits, gear limits, and all sorts of other regulations on commercial fishing boats in the State of Alaska.

If this bill is made law, the board will have to go through its normal public process, which involves hearings, public comment, generally speaking, at least a three-year cycle between the proposal of a change and an actual change being made before this length limit would be changed. The bill before you is supported by the UFA and by a number of individual fishermen around the state. Unfortunately, a number of seiners who wanted to testify in favor of this bill are out fishing. In conversations in other committees, seiners have said they could diversify their operations if they had longer boats. They could do a little more processing; they could add value to their product, which is something we're all hoping we can help Alaska's fishermen do. There is a zero fiscal note from the Department of Fish and Game....

CHAIR BUNDE asked if the other length that is set in statute is for Bristol Bay boats.

MR. BARRY replied that Bristol Bay boat length is not enshrined in statute, but is determined by the board. The other boat length was set in statute six years ago and has to do with the hair crab fishery out west.

CHAIR BUNDE asked if he thought seiners would begin to pressure the board to change their length limitation if this bill passes.

MR. BARRY replied that he wouldn't bet against that happening.

SENATOR GARY STEVENS asked if the 58 ft. length were eliminated, would that devalue the vessels that are in the fleet now.

MR. BARRY answered that fishermen have commented a lot on this issue. One of their comments is that not all seiners are 58 ft. long - some are 48 ft. or 52 ft. and a good living could be made from them if other boats were larger. Testimony is that some fishermen want to diversify their business with the change being very gradual.

SENATOR STEVENS pointed out that the 58 ft. boat length is not being removed, but the option is simply being given to the board to do that.

SENATOR SEEKINS asked if he had a 62 ft. seiner that has been in the state's waters since before 1962, could he still be fishing it.

MR. BARRY replied that he understands that using an Alaska seine permit limits a boat size to 58 ft.

2:17 p.m.

SENATOR SEEKINS remarked that it says, "except vessels that have fished for salmon with seines in waters of the state before January 1, 1962...." and asked what that means.

MR. BARRY replied that some boats were fishing when the law was put in place in 1962, but the boat would still have to be under the same ownership and permit to be fished.

SENATOR FRENCH asked how much longer he anticipated boats getting to be.

MR. BARRY replied that testimony has indicated that other considerations would come into play in the board's process of

determining length. For instance, federal regulations for boats longer than 60 ft. and practical considerations in terms of what people can do on a boat once it gets to be that much longer like where it can fish. People are not looking for an optimum number. He added that trollers currently do not have a length limit and a few are 70 ft., but most are shorter than 60 ft.

MR. JERRY MCCUNE, United Fishermen of Alaska (UFA), supported the sponsor's statement for HB 409. People could petition the board according to area and it would have to decide based on its deliberations.

**TAPE 04-25, SIDE B**

MR. MCCUNE continued saying that probably some fishermen would want to extend their boats 5 - 10 ft. and be able to harvest more fish - perhaps by putting in a Sunday hold so they could put RSW (refrigerated salt water) sockeye in it and high grade fish in another.

So, even if you change the limit in Southeast, it's not going to happen overnight. Guys are going to have to make the decision based on their economics and based on whether they want to market some of their own fish and things like that. Way back when, there were 100 ft. tuna seiners coming up here to do the herring and stuff, so they put that 58 ft. to keep all that big boat fleet out of here.... Well, that fleet is no longer in existence. So, a lot of this is changing now to be able to do your own fish and market and have enough room to handle it.

He described how one fisherman needs more room to put his seine [net] and another fish hold while still being able to have a covered area to clean fish, a DEC requirement. In other areas, some guys have two boats, a 58 ft. and a 70 ft. They could get rid of one boat and consolidate their operations and save money by just using the one boat if the board decided that was the limit.

SENATOR SEEKINS asked again what the process is for the Board of Fisheries to consider changing the length regulation.

MR. MCCUNE explained that he would write a proposal to the board if he fished in Southeast, asking to change the 58 ft. limit to 65 ft.

I'd have to write that proposal, submit it in the three-year cycle that the board has Southeast in. Let's use, for example, 2006 is the next Southeast cycle - submit that proposal, they accept the proposal, put it in the book and then they publish it to the public - all the proposals - so everybody gets to see what's going to be coming up in 2006.

SENATOR SEEKINS said the application is not by petition, but rather by a proposal that anyone could write.

MR. MCCUNE replied that is correct.

SENATOR SEEKINS asked if he was right in assuming that the board didn't have to consider just any proposal at any time, but within the board cycle.

MR. MCCUNE replied that is right.

SENATOR GARY STEVENS asked if he thought there would be any devaluation of the existing fleet and would existing vessels still be competitive.

MR. MCCUNE replied that he really didn't think existing boats would be devalued. There is a good 58 ft. limit market in Kodiak right now. He said that a lot of people would just extend their existing boats that might already be paid for.

SENATOR GARY STEVENS said he knew of several fishermen in Kodiak who were attempting to do value-added processing on their vessels and they often have to do that in very cramped spaces. "This would allow them to be a little more competitive on the market, I would guess."

MR. MCCUNE agreed. "You have to have another fish hold if you're going to clean fish and ice them. You can't have it in the refrigerated salt water. That's against DEC rules, because of bacteria and stuff...."

MR. MAC MEINERS, Alaska purse seiner, supported HB 409. He has a little purse seiner.

If they would open up and get bigger seiners, that would give me an opportunity to buy a little bit bigger boat.... What we've got to remember is that the gear catches the fish and the gear is also restricted.

So, no matter how big the boat is, you'll always have the same piece of gear.

MR. MELVIN LARSON said he is a limit seiner out of Sand Point and carries 160,000 lbs. under the deck; he didn't agree with most of the previous testimony. He said there are many different ways to process and make a boat capable of doing more work.

Under the federal LLP regulation, with the limit seiner that I have now, I'd only be able to add on two feet. Under federal regulations you can only go to 60 ft. and then it goes from 60 to 125 ft. I'd be penalized and I'd be able to go only two feet under federal regulations.

MR. LARSON said the same goes for fishing halibut IFQs. You could only go to 60 ft. otherwise you would have to get another boat or you wouldn't be able to fish your IFQs on the same vessel.

Under federal regulations, also, if you are not currently qualified for processing, you are only capable of processing a small amount of rockfish on a vessel. Getting rid of the 58 ft. limit wouldn't help in terms of adding processing capacity.

Regarding the value of a 58 ft. seiner, Mr. Larson said he paid over \$1 million for his "wide-bodied Delta," and right now it is valued at about half of that. If the 58 ft. limit went away, he didn't know what he would be able to sell it for. Not much.

I also believe the salmon fishery is already overcapitalized. It doesn't need anything to change it. Passing this bill would stop in the wrong direction, putting the burden on small struggling communities that are already having a hard time. I don't believe many people in these smaller communities could afford to spend \$400,000 to \$500,000 to lengthen their boats....

MR. LARSON said he has been a member of the UFA for a long time and wasn't contacted about this. "I don't agree with UFA. I think it's just personal opinions there that's being presented to you."

CHAIR BUNDE said he would pass that information on to Mr. McCune and that he would hold the bill for further thought.

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^#SB358

**SB 358-ALASKA RAILROAD TRACK WORK**

CHAIR CON BUNDE announced SB 358 to be up for consideration and that it is a work in progress and he didn't plan to move it today.

MR. RICHARD SCHMITZ, staff to Senator John Cowdery, explained that until recently the Department of Transportation (DOTPF) would treat the railroad the same way it would treat a utility or power company when crossing a highway by putting the work out to bid.

Over the last few years, there have not been bids put on some of this work and the railroad itself has come in and done it because they have the equipment to do it. So, the purpose of the bill is to basically go back and allow DOT to have the choice of either putting the work out to competitive bid or just allowing the railroad to do the work under a utility type agreement....

MS. WENDY LINDSKOOG, Director, External Affairs, said that Eileen Riley, Vice President of Projects, Engineering Signals and Technology, ARRC, would help her answer questions. She supported Mr. Schmitz' statements elaborating that SB 358 retains the DOTPF's ability to work with the private sector under the competitive bid process for the DOT projects that include track construction, like a crossing over a road.

In addition, SB 358 amends the state procurement code so that DOT can also work directly with the ARRC on track work through a reimbursable service agreement similar to other utilities. Prior to 1996, the Alaska Railroad could conduct work with DOT projects under the utility agreement arrangement. The railroad work was treated just as a utility relocation with cost reimbursed in the same manner as the relocation of any other utilities similar to a power line or a water line. The utility agreements include cost estimates that are reviewed and approved by DOT in advance of the work. After 1996, due to private sector interest in the track work part of these projects, the state procurement code was amended requiring DOT to contract track work under the competitive bid process.

Over the years, contractors have bid and won the track construction work from DOT. Today, however, some of the specific railroad work does require highly specialized equipment that is not cost effective for the private sector to support or maintain in Alaska. This has affected the level of interest on certain DOT projects and it also has contributed to some recent work that was not completed to railroad industry standards. For an example, in the past year, the railroad has had to redo some projects including a mainline crossing at C Street in Anchorage and in Talkeetna along the spur road. These factors led to support for SB 358 from the Alaska Railroad, DOT and the Associated General Contractors.

The goal of the bill is to ensure that DOT projects involving rail construction can move forward by giving DOT the flexibility to use either the competitive bid process or to work directly with the railroad. And more specifically, SB 358 would allow basic track construction work to be done by the private sector and, I say basic track construction work, but it would also allow the highly specialized work like a mainline crossing to be constructed by the railroad at the discretion of DOT. Either way, Alaska laborers are constructing the project.

Finally, we believe that there are advantages to working with the railroad directly on certain projects and the advantages for DOT would include some lower costs and savings of time. There are a couple of reasons for some cost savings. For starters, the railroad does buy railroad materials in quantity and we're able to pass those savings along. We own the specialized equipment; it's very expensive and we also have the skilled labor force who know how to work the equipment and work around track issues. So, therefore, cost savings are realized because the railroad does not have to mobilize the specialized equipment out of state. We already have it here in Alaska. Excessive contractor premiums will be avoided for the small specialty market and the railroad provides federally required inspection and coordination for road projects. DOT must pay the railroad for these services even under the competitive bid process. An example would be flagging, so that everybody who is working around the track is protected from moving trains.

The advantage of this bill for the Alaska Railroad, in our opinion, would be enhanced quality and assurance that our industry standards are being met. The Railroad, the DOTPF and Associated General Contractors do support SB 358.

CHAIR BUNDE noted that there were concerns from the private sector and asked if those had been addressed.

MS. LINDSKOOG replied that they had not heard any opposition after a couple of hearings, but last week received word from some companies that were concerned. Local 341 Laborers were being used for this work. Other facts have come forward, but their concern over quality issues hasn't changed on certain parts of the rail projects that are highly specialized. One of the companies may even be new to the scene. The bill has been drafted in a manner as to allow DOT the flexibility to use either method to get the work done.

CHAIR BUNDE asked her to work with DOT and the contractors to see if there is some middle ground.

SENATOR HOLLIS FRENCH asked if this bill just applies to railroads where they cross roads.

MS. LINDSKOOG answered that the bill amends the state procurement code. When DOT has a road project, sometimes it might be over a rail crossing or maybe straightening out the highway like along Turnagain Arm where the railroad track has to be moved. DOT is funding and managing the work, so it can mean more than a crossing.

MS. NONA WILSON, Legislative Liaison, Department of Transportation and Public Facilities (DOTPF), said Mark O'Brien, Chief Contracting Officer, is out of town and had been working closely with Ms. Lindskoog who has already hit all the major points. She offered to answer questions.

CHAIR BUNDE said he would delay action on the bill until Mr. O'Brien could testify.

MR. J.R. WOOD, owner, Railway Support Services, said he is concerned that the bill would limit the procurement of the Alaska Railroad from the DOT to just railroad crossing per se. For instance, the job he just bid on in Wasilla is approximately 4,000 ft. adjacent to the highway.

Our major concern here is that we feel there are quality contractors here available that can do the work. In fact, I have worked with one of them that I bid against this year. We do work in the transit industry where the standards are much higher than they are in the freight industry and we manage to maintain those standards, which are nationwide....

MR. WOOD said that he has hired and trained more than 80 personnel including personnel with the local laborers union who are exceptional workers and could compete with any railroad laborer in the country.

Some of the specifications we follow up here are not nearly as tight as they are in the states. I feel that probably our abilities to perform the work and our efficiency because we do work as 'hungry contractors,' would be much greater.

MR. MARK CONDON, President, Condon Railroad Construction, said he had been working on projects in Alaska for the last four years and planned on continuing bidding on projects, but said, "If they go through with this, it would pretty much put us out of business."

MR. JOHN LANDERFELT, Laborers Local 341, opposed SB 358 as it has potential to work harm against contractors who are now engaged in this kind of rail work and, therefore, his membership. He felt that the problems could easily be resolved through the bidding process. He suggested holding the bill until all the parties concerned could come to the table and work things out.

CHAIR BUNDE said that was his recommendation as well - to see if they could come to some compromise and bring that back to the committee. There being no further business to come before the committee, he adjourned the meeting at 2:52 p.m.

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