

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES**

April 11, 2013

10:03 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Eric Feige
Representative Lynn Gattis
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

Representative Bob Herron
Representative Craig Johnson
Representative Kurt Olson

OTHER MEMBERS PRESENT

Senator Anna Fairclough

COMMITTEE CALENDAR

HOUSE BILL NO. 156

"An Act extending the termination date of the authority of the Commercial Fisheries Entry Commission to maintain a vessel-based limited entry fisheries system for the weathervane scallop and Bering Sea hair crab fisheries; and providing for an effective date by amending the effective date under sec. 28, ch. 137, SLA 2002."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 54(RES)

"An Act extending the termination date of the authority of the Commercial Fisheries Entry Commission to maintain a vessel-based limited entry fisheries system for the weathervane scallop and Bering Sea hair crab fisheries; and providing for an effective date by amending the effective date under sec. 28, ch. 137, SLA 2002."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 192(FSH)

"An Act relating to the fishery resource landing tax; and providing for an effective date."

- MOVED CSHB 192(FSH) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 156

SHORT TITLE: EXTEND HAIR CRAB & SCALLOP LIMITED ENTRY

SPONSOR(s): REPRESENTATIVE(s) HERRON

03/04/13 (H) READ THE FIRST TIME - REFERRALS
03/04/13 (H) FSH, RES
04/11/13 (H) FSH AT 10:00 AM CAPITOL 120

BILL: SB 54

SHORT TITLE: EXTEND HAIR CRAB & SCALLOP LIMITED ENTRY

SPONSOR(s): RESOURCES

02/13/13 (S) READ THE FIRST TIME - REFERRALS
02/13/13 (S) RES
03/04/13 (S) RES AT 3:30 PM BUTROVICH 205
03/04/13 (S) Heard & Held
03/04/13 (S) MINUTE(RES)
03/11/13 (S) RES AT 3:30 PM BUTROVICH 205
03/11/13 (S) Moved CSSB 54(RES) Out of Committee
03/11/13 (S) MINUTE(RES)
03/13/13 (S) RES RPT CS 2DP 3NR SAME TITLE
03/13/13 (S) DP: GIESSEL, MCGUIRE
03/13/13 (S) NR: MICCICHE, BISHOP, DYSON
03/18/13 (S) TRANSMITTED TO (H)
03/18/13 (S) VERSION: CSSB 54(RES)
03/20/13 (H) READ THE FIRST TIME - REFERRALS
03/20/13 (H) FSH, RES
04/11/13 (H) FSH AT 10:00 AM CAPITOL 120

BILL: HB 192

SHORT TITLE: PAYMENT OF FISHERY RESOURCE LANDING TAX

SPONSOR(s): MILLETT

03/29/13 (H) READ THE FIRST TIME - REFERRALS
03/29/13 (H) FSH, FIN
04/11/13 (H) FSH AT 10:00 AM CAPITOL 120

WITNESS REGISTER

KATE WOLGEMUTH, Staff
Representative Bob Herron

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 156, on behalf of Representative Herron, sponsor.

SHARON LONG, Staff
Senator Cathy Geisel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented CSSB 54, by request of the Senate Resources Committee, which Senator Geisel chairs.

CHARISSE MILLETT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 192, as prime sponsor.

TIM COTTONGIM, Fish Group Manager
Juneau Office
Tax Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Responded to questions, during the hearing on HB 192.

JULIANNE CURRY, Executive Director
United Fishermen of Alaska (UFA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 192.

KATHY HANSEN, Executive Director
Southeast Alaska Fishermen's Alliance
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 192.

ACTION NARRATIVE

[10:03:48 AM](#)

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 10:03 a.m. Present at the call to order were Representatives Seaton, Feige, Kreiss-Tomkins, and Gattis.

HB 156-EXTEND HAIR CRAB & SCALLOP LIMITED ENTRY

10:04:25 AM

CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 156, "An Act extending the termination date of the authority of the Commercial Fisheries Entry Commission to maintain a vessel-based limited entry fisheries system for the weathervane scallop and Bering Sea hair crab fisheries; and providing for an effective date by amending the effective date under sec. 28, ch. 137, SLA 2002."

10:05:09 AM

KATE WOLGEMUTH, Staff, Representative Bob Herron, Alaska State Legislature, presented HB 156, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

House Bill 156 extends the "sunset" date of the vessel-based limited entry programs for the weathervane scallops and the Bering Sea hair crab fisheries from December 30, 2013 to December 30, 2023.

Although, it is recognized that there are two fisheries affected here, I will be mostly speaking to the Bering Sea hair crab fishery, as:

It is being brought forth as requested by a CDQ in the Bering Sea Region who has interest in two hair crab permits.

Vessel-based limited entry permits are not widespread in the state of Alaska.

Limited entry into the vast majority of commercial fisheries has been implemented with a skipper-based system that awards permits to individual fisherman based on their prior history of participation in and economic dependence on each specific fishery.

Created by the Alaska State Legislature about a decade ago, vessel-based limited entry is a very narrow exception to the individual-based system.

In 2002, the Legislature amended that Limited Entry Act to allow vessel-based limited entry permits to be given to vessels (instead of individuals) with a

history of fishing for weathervane scallops and Bering Sea hair crab in state waters.

These permits were issued as a result of an adjudicative process that considered past fishing history and other criteria that provide a rational basis for the issuance of those permits. This process complied with the constitutional mandate limiting the establishment of exclusive rights of fishery.

That said, conservation concerns have not allowed for any commercial openings for the Bering Sea hair crab fishery in the last decade.

Although, keep in mind that these permits are still held by vessels that are ready and able to harvest hair crab if and when fisheries managers decide that circumstances allow this fishery to open.

Bering Sea hair crab are of significant economic interest for the Bering Sea Region, as there already exist successful opilio and king crab fisheries that provide job opportunities for residents of said region.

It is expected that when the hair crab fishery is reopened, those same great opportunities will be available in the Bering Sea region for those aboard hair crab vessels.

Extending the sunset date for the vessel-based limited entry programs within the Limited Entry Act will serve the Bering Sea region well, as it allows for a potential future opening of the hair crab fishery.

[10:08:00 AM](#)

REPRESENTATIVE GATTIS asked how the fishery was handled prior to the limited entry approach.

MS. WOLGEMUTH responded that the fisheries were open access prior to moratoria being imposed and the vessel based limited entry scheme implemented.

[10:08:41 AM](#)

CHAIR SEATON asked what has occurred for the vessels during the ten year moratoria; have any left the fisheries.

MS. WOLGEMUTH offered to provide the information to the committee.

CHAIR SEATON announced that the bill would be held.

SB 54-EXTEND HAIR CRAB & SCALLOP LIMITED ENTRY

[10:09:37 AM](#)

CHAIR SEATON announced that the next order of business would be CS FOR SENATE BILL NO. 54(RES), "An Act extending the termination date of the authority of the Commercial Fisheries Entry Commission to maintain a vessel-based limited entry fisheries system for the weathervane scallop and Bering Sea hair crab fisheries; and providing for an effective date by amending the effective date under sec. 28, ch. 137, SLA 2002."

[10:09:47 AM](#)

SHARON LONG, Staff, Senator Cathy Geisel, Alaska State Legislature, presented SB 54, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

Senate Bill 54 was introduced by the Senate Resources Committee at the request of the Alaska Commercial Fisheries Entry Commission. It is a bill which - if enacted - simply, will prolong for five years the decade-old vessel-based limited entry system for two discrete fisheries, Alaska weathervane scallops and Bering Sea hair crab. The bill was heard twice and passed out of the Senate Resources Committee, which heard testimony both in favor of and in opposition to it. Those in favor of the bill include CFEC, the State agency that adjudicated and issued all the limited entry permits that now exist, and many fishermen who participate in the fishery and who spoke of the direct economic harm they would suffer if their fishery were to "sunset" and cease to exist at the end of this year. There was less testimony in opposition to the bill, than in favor.

SB 54 passed the full Senate with 18 votes in favor and a single vote in opposition. As the Senate

Resources Committee aide I promptly, on the 21st of March, submitted a request for a hearing before this panel. We heard, just day before yesterday, of this opportunity for the bill to be heard. With just four days left in this session of the 28th Legislature, if neither this bill nor Representative Herron's companion bill move out of this committee today, they will not be able to pass the Legislature this session. With a looming sunset date at the end of this year - before next year's session begins - that would mean the end of these limited entry fisheries.

As SB 54 was introduced at the request of CFEC, I'll defer any questions you may have, Mr. Chairman, or any that the Fisheries members may have, to Ben Brown, who serves on the Entry Commission. He can address the history of vessel-based limited entry, the constitutional and statutory legality of the program, and why it is good and sound public policy for the House to pass SB 54 without delay.

[10:12:09 AM](#)

CHAIR SEATON noted that the limited entry commission has provided a seven page document in the committee packet for background information, and pointed out other notable supporting documents provided to the committee.

CHAIR SEATON announced that SB 54 would be held over.

HB 192-PAYMENT OF FISHERY RESOURCE LANDING TAX

[10:14:58 AM](#)

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 192, "An Act relating to the filing date for the final quarterly payment of, and to the assessment of penalties under, the fishery resource landing tax."

[10:15:11 AM](#)

CHARISSE MILLETT, Alaska State Legislature, introduced HB 192 and explained the intent behind the legislation, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

Currently, commercial fishermen are required to submit the resource landing tax by April 1st. The difficulty with this fixed date is that Department of Fish and Game does not always have the statewide average fish report by that time. Though the Department of Revenue does grant an automatic extension to file the landing tax return if the report has not been submitted within 30 days of the due date, there are no extensions for payment time. This results in penalties and interest to occur. For example, the 2011 list was not published until May 29, 2012. This results in in the accumulation of unfair penalties and interest to commercial fishermen. Commercial fishermen are also required to make equal quarterly payments. This means that in some instances, the current statute would require payment of 50% of the landing taxes before even leaving port.

House Bill 192 makes necessary changes to the resource landing tax statutes. The first section aligns the due date for the resource landing tax with the date that the statewide average fish report is released. This is a long overdue remedy. The State of Alaska should not punish our fishing industry for the delay of information they have no control over.

The second section of House Bill 192 still maintains that 100% of the previous year's tax liability or at least 90% of the estimated amount is owed. However, the requirement to make equal quarterly payments is deleted. Instead, the commercial fisherman is allowed to pay their quarterly tax based on their production and estimated price for that specific quarter. It only makes sense that a way of life as volatile as that of our commercial fishermen should have a tax structure that reflects those realities. House Bill 192 provides a tax regime that is equitable and fair.

REPRESENTATIVE MILLETT reminded the committee of the volatile financial experience that is inherent to the fishing business.

[10:19:23 AM](#)

CHAIR SEATON clarified that the bill relates to the business of fishing more than to the actual commercial fishing activity. He noted that an effective date is not stipulated, and asked

whether a 90 day effective date, following bill passage, would be appropriate.

REPRESENTATIVE MILLETT indicated that the Alaska Department of Fish & Game (ADF&G) would stipulate a date via regulation.

REPRESENTATIVE FEIGE opined that an effective date would not be necessary to include in the bill.

[10:22:29 AM](#)

TIM COTTONGIM, Fish Group Manager, Juneau Office, Tax Division, Department of Revenue (DOR), responding to the effective date question said a January 1 effective date would align with the tax year.

[10:23:49 AM](#)

REPRESENTATIVE FEIGE moved to adopt the proposed committee substitute (CS) for HB 192, Version 28-LS0725\U, Bullard, 4/10/13. Without objection, Version U was before the committee.

[10:24:14 AM](#)

MR. COTTONGIM pointed out that the CS allows businesses that are subject to a landing tax to elect of which of the three installment payment methods is preferable. The decision is due by March 31 of each year. He pointed out that the provision could not be honored in 2013 and said this default further supports a January effective date.

CHAIR SEATON characterized the proposed legislation as a housekeeping bill, and asked if the system of tax collection will be better served by passage of HB 192.

MR. COTTONGIM opined that the bill will serve the industry and the optional pay period should prove helpful.

[10:26:54 AM](#)

REPRESENTATIVE FEIGE noted that the bill may not pass this session, and asked if the effective date could be retroactive to January 2014, if passed in the 2014 legislative session.

[10:27:58 AM](#)

MR. COTTONGIM explained how tax reporting works on a quarterly basis, and said it would be possible for bill language to effectively stipulate a retroactive payment.

[10:28:40 AM](#)

JULIANNE CURRY, Executive Director, United Fishermen of Alaska (UFA), stated unqualified support for HB 192.

[10:29:11 AM](#)

KATHY HANSEN, Executive Director, Southeast Alaska Fishermen's Alliance, stated unqualified support for HB 192.

CHAIR SEATON closed public testimony.

[10:29:52 AM](#)

CHAIR SEATON offered Conceptual Amendment 1 to add an effective date of January 1, 2014. Without objection Conceptual Amendment 1 was adopted.

[10:30:26 AM](#)

REPRESENTATIVE GATTIS opined that the bill is necessary and urged committee support.

[10:30:54 AM](#)

REPRESENTATIVE FEIGE moved to report the CS for HB 192, Version 28-LS0725\U, Bullard, 4/10/13, as amended, out of committee with individual recommendations and the accompanying fiscal notes. Without objection, CSHB 192(FSH), was reported from the House Special Committee on Fisheries.

CHAIR SEATON thanked the committee members and participants.

[10:31:10 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:31 a.m.