

SENATE FINANCE COMMITTEE

April 6, 2016

5:14 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 5:14 p.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Peter Micciche, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Donny Olson

MEMBERS ABSENT

Senator Lyman Hoffman

ALSO PRESENT

Kevin Brooks, Deputy Commissioner, Department of Fish and Game; Forrest Bowers, Deputy Director, Division of Commercial Fisheries, Department of Fish and Game.

PRESENT VIA TELECONFERENCE

Seth Beausang, Assistant Attorney General, Department of Law; Julie Decker, Executive Director, Alaska Fisheries Development Foundation, Wrangell.

SUMMARY

SB 172 FISH/SHELLFISH HATCHERY/ENHANCE. PROJECTS

SB 172 was HEARD and HELD in committee for further consideration.

#sb172

SENATE BILL NO. 172

"An Act relating to management of enhanced stocks of fish; authorizing the operation of nonprofit shellfish hatcheries; relating to application fees for salmon and shellfish hatchery permits; and providing for an effective date."

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KEVIN BROOKS, DEPUTY COMMISSIONER, DEPARTMENT OF FISH AND GAME, introduced the legislation. He stated that the purpose of the legislation was to allow the Department of Fish and Game (DFG) to permit shellfish enhancement in rehabilitation projects; and the construction and operation of the shellfish hatcheries by nonprofit corporations for the purpose of enhancing and rehabilitation the shellfish fisheries. He explained that the bill would benefit the state's economy by allowing more public use.

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FORREST BOWERS, DEPUTY DIRECTOR, DIVISION OF COMMERCIAL FISHERIES, DEPARTMENT OF FISH AND GAME, discussed the Sectional Analysis (copy on file):

Sec. 1

Provides the Alaska Board of Fisheries authority to direct the department to manage production of enhanced shellfish stocks, beyond broodstock needs, for cost recovery harvest.

Sec. 2

Increases the permit application fee for new private nonprofit salmon hatcheries from \$100 to \$1,000.

Sec. 3

Adds a new Chapter 12 to Title 16, "Shellfish Stock Rehabilitation Efforts, Enhancement Projects, and Hatcheries. Provides direction to the commissioner on issuance of permits for private nonprofit shellfish stock rehabilitation and fishery enhancement projects and associated shellfish hatcheries and establishes a \$1,000 permit application fee. This section directs the commissioner to consult with technical experts in the relevant areas before permit issuance. This section provides for a hearing prior to issuance of a permit and describes certain permit terms including cost recovery fisheries, harvest, sale, and release of

hatchery-produced shellfish, and selection of broodstock sources. This section describes reporting requirements and terms for modification or revocation of a permit.

Sec. 4

Provides the commissioner authority to issue special harvest area entry permits to holders of private nonprofit shellfish rehabilitation, enhancement or hatchery permits.

Sec. 5

Defines legal fishing gear for special harvest area entry permit holders.

Sec. 6

Exempts shellfish raised in a private nonprofit shellfish project from the farmed fish definition.

Sec. 7 and 8

Establish tax exemption for a nonprofit corporation holding a shellfish hatchery, rehabilitation, or enhancement permit.

Sec. 9

Exempts shellfish harvested under a special harvest area entry permit from certain taxes.

Sec. 10

Establishes an effective date of the fee for salmon hatchery permits described in sec. 2.

Sec. 11

Authorizes the department to adopt implementing regulations.

Sec. 12

Establishes an immediate effective date for sec. 12 pursuant to AS 01.10.070(c).

Sec. 13

Establishes an effective date for sec. 9 concomitant with sec. 2 effective date.

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Senator Dunleavy noted that the bill allowed for hatchery permits for salmon and other fish. Mr. Bowers stated that Section 2 was the only portion of the bill that related to salmon. The section changed the fee for new private nonprofit salmon hatchery applications from \$100 to \$1000.

Senator Dunleavy queried the purpose of Section 5. Mr. Bowers replied that Section 5 related to the fishing gear used for cost-recovery harvest in special harvest areas for the shellfish enhancement or rehabilitation projects.

Co-Chair MacKinnon noted that bill did not change the gear for salmon fisheries, rather added shellfish. Mr. Bowers replied in the affirmative.

Senator Dunleavy queried an example of legal fishing gear as it pertains to Section 5. Mr. Bowers replied that crab pots would be an example.

Senator Bishop wondered whether the immunity from liability related to donations of shellfish to a food bank was removed from the legislation. Mr. Brooks replied that there had been a concern about the shellfish donations, because the requirements for donation was a visual inspection. He remarked that it was difficult to visually determine whether shellfish was spoiled or problematic.

Vice-Chair Micciche wondered if the concern was related to paralytic shellfish poisoning. Mr. Brooks indicated in the affirmative.

Co-Chair MacKinnon looked at page 2, lines 28 through 30. She read, "the commissioner may not issue a permit under this section, unless the commissioner determines that the action will result in substantial public benefit, and would not jeopardize natural stocks." She wondered how that was different was benefitting what hurdle must be met for a nonprofit to start shellfish enhancement based on substantial public benefit. Mr. Bowers replied that the determination would be made from public input.

Co-Chair Kelly looked at section 2, and queried the reasoning for the commissioner's ability to waive the permit in order to operate a hatchery. Mr. Brooks replied that it was the existing language for salmon hatcheries. He agreed to provide more information.

Co-Chair Kelly wanted to know what the waiver would accomplish.

Senator Dunleavy queried the number of total waivers and the reasoning behind the waivers.

Co-Chair MacKinnon looked at lines 28 through 30, and felt that substantial public benefit would be determined based on opposition by the public. She felt that folks were often opposed to any issue related to a waterway. She requested assurance that the word, "substantial" was appropriately used on line 29.

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SETH BEAUSANG, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW (via teleconference), replied that the language was vague, and left discretion to the commissioner in determining what was a "substantial public benefit."

Co-Chair MacKinnon wondered whether statute defined, "substantial public benefit." Mr. Beausang replied that it was not defined in the bill. He did not know if it was defined elsewhere in Alaska law.

Co-Chair MacKinnon requested research regarding how other state resources were protected, and used substantial public benefit. She queried parameters related to substantial public benefit, in order to provide guidelines as to what the public would be testifying. Mr. Beausang agreed to provide that information.

Senator Dunleavy felt that the language seemed subjective. He felt that there should be a set of criteria in regards to qualification. Mr. Brooks replied that there was some criteria used in the aquaculture program, and agreed to provide that information.

Vice-Chair Micciche remarked that the bill only dealt with mollusk and crustaceans. He queried the purpose of the bill. Mr. Bowers replied that the purpose of the bill was to look at the depleted crab or shellfish stocks; and to examine areas where fisheries had been closed for a number of years without the possibility of current management's ability to rebuild the stocks. He shared that the bill was a new tool to rebuild the stocks.

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JULIE DECKER, EXECUTIVE DIRECTOR, ALASKA FISHERIES DEVELOPMENT FOUNDATION, WRANGELL (via teleconference), testified in support of the legislation. She stated that the bill played an important role in the development of mariculture in Alaska. The bill created a regulatory framework, so DFG could manage shellfish fishery enhancement. She stated that the development would allow interested stakeholders to either continue or begin enhancement.

Co-Chair MacKinnon CLOSED public testimony.

Senator Dunleavy wondered if species not native to Alaska could be farmed under the legislation. Mr. Bowers asked for a restatement.

Senator Dunleavy restated his question. Mr. Bowers replied that the bill related only to enhancement of wild stocks native to Alaska. The bill did not relate to fish farming.

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ADJOURNMENT

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The meeting was adjourned at 5:39 p.m.