

SENATE FINANCE COMMITTEE
February 7, 2020
9:02 a.m.

9:02:45 AM

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Lyman Hoffman
Senator Donny Olson
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Natasha von Imhof, Co-Chair
Senator David Wilson

ALSO PRESENT

Representative Dan Ortiz, Sponsor; Liz Harpold, Staff, Representative Dan Ortiz; Flip Prior, Division of Commercial Fisheries, Department of Fish and Game; Steve Ricci, Staff, Aleutian Pribilof Island Community Development Association (APICDA); Senator Cathy Giessel.

PRESENT VIA TELECONFERENCE

Brandon Spanos, Deputy Director, Department of Revenue, Anchorage; Julie Decker, Executive Director, Alaska Fisheries Development Foundation, Wrangell; Kate Sullivan, Southeast Alaska Regional Dive Fisheries Association, Ketchikan; Nancy Hillstrand, Pioneer Alaskan Fisheries, Anchorage.

SUMMARY

CSHB 41(FIN)

SHELLFISH PROJECTS; HATCHERIES; FEES

CSHB 41(FIN) was HEARD and HELD in committee for further consideration.

#hb41

CS FOR HOUSE BILL NO. 41(FIN)

"An Act relating to management of enhanced stocks of shellfish; authorizing certain nonprofit organizations to engage in shellfish enhancement projects; authorizing the Department of Fish and Game to collect fee revenue from applicants for certain salmon hatchery permits and from applicants for shellfish enhancement project permits; relating to application fees for salmon hatchery permits; and providing for an effective date."

[9:04:27 AM](#)

REPRESENTATIVE DAN ORTIZ, SPONSOR, introduced the legislation. He explained that the bill was a step in the process for helping the economies in coastal Alaska. The legislation was an enhancement for Alaska's shellfish industry. He stated that it held the potential for expanding economic opportunities in the coastal communities in the state, and an increased resilience of the state's fisheries portfolio. He explained that the bill allowed qualified nonprofits to pursue enhancement and/or restoration projects involving shellfish species, including red and blue king crab; sea cucumber; abalone; and razor clams. The bill created a regulatory framework for the Department of Fish and Game (DFG) to manage shellfish enhancement projects and outlined criteria for issuance of permits. The bill set out stringent safety standards to ensure sustainability for existing natural stocks. The commissioner of DFG must also make determination of "substantial public benefit" before a project could proceed. He furthered that, additionally, the bill allowed for DFG to set the application fee for a shellfish enhancement project permit, and granted similar authority over the application fee for a salmon enhancement permit. He announced that the bill played an important role in the development of mariculture in Alaska by providing a method to increase the available harvest of shellfish for public use in an environmentally safe and responsible manner.

Co-Chair Stedman wondered whether Representative Ortiz needed a "lifeline to explain the bill."

Representative Ortiz replied that he did not need a lifeline, but invited his staff to help explain the bill.

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LIZ HARPOLD, STAFF, REPRESENTATIVE DAN ORTIZ, explained the bill further. She stated that the bill came about, because many stakeholders and participants in Alaska's commercial fishing industry came together to identify shellfish enhancement restoration as something that, over time, would help improve Alaska's shellfish fisheries and expand the economic opportunities. She stated that, currently, shellfish enhancement was not allowed in the state. She explained that the bill provided the regulatory framework for DFG to permit shellfish enhancement. The bill was modelled after the current salmon enhancement statutes, AS 16.10. She remarked that mariculture had grown quite a bit in Alaska. She stated that mariculture encompassed that enhancement, restoration, and farming of shellfish or seaweeds. She stated, however, that aquatic farming as a private business was already in place with regulatory framework. She explained that the bill did not deal with private shellfish farming. The bill dealt with the public benefit aspect of mariculture development, which was the enhancement and restoration of species. She stated that enhancement was intended to create a greater abundance of shellfish for the public to legally harvest. She noted that restoration was an important aspect of the legislation. She remarked that there was currently no tool to remedy the decline in certain shellfish species, such as crab. She reiterated Representative Ortiz's comments.

Ms. Harpold 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 brood stock needs, for cost recovery harvest.

Sec. 2: Grants the Department of Fish and Game the authority to set the fee for new private nonprofit salmon hatcheries based on regulatory costs.

Sec. 3: States that the fees collected in Section 2 will be accounted for separately as non-general fund program receipts.

Sec. 4: Adds a new Chapter 12 to Title 16, "Shellfish Stock Enhancement Projects."

AS 16.12.010: Provides direction to the commissioner of the Department of Fish and Game on issuance of permits for private nonprofit shellfish fishery enhancement projects and grants the department the authority to set the permit application fee. States the permit fee will be accounted for separately as non-general fund program receipts. This section directs the commissioner to consult with technical experts in the relevant areas before permit issuance;

AS 16.12.020: Provides for a hearing and public notification and input process prior to issuance of a permit;

AS 16.12.030 Describes terms and conditions for permit holders to conduct their work, including cost recovery fisheries, harvest, sale, and release of enhancement project produced shellfish, and selection of brood stock sources;

AS 16.12.040: Describes the revocation process should a permit holder fail to comply with the terms and conditions of the permit;

AS 16.12.050: Specifies that shellfish produced under an approved enhancement project are a common property resource, with provision for special harvest areas by permit holders. This section also specifies the Board of Fisheries to establish regulations relating to this chapter;

AS 16.12.060: Directs the department to advise and assist permit holders in their AS 16.12.070 provides department authority to approve source and number of shellfish taken for use as broodstock.

AS 16.12.080 places restrictions on how monies receives from sale of shellfish may be used only

for operating costs associated with their facilities;

AS 16.12.090 Relates to Cost Recovery Fisheries, and provides a means by which a shellfish hatchery may contract to either harvest and sell shellfish, or to implement a self-assessment from amongst its membership, for purposes of recovering operational costs associated with the hatchery.

AS 16.12.100 Gives the department authority to inspect facilities at any time while the facility is in operation;

AS 16.12.110 Requires a permit holder to submit an annual report to the department;

AS 16.12.199 provides definitions for "enhancement project," "facility," "genetically modified shellfish," "hatchery," and "shellfish;"

Sec. 5: Provides the Commercial Fisheries Entry Commission authority to issue special harvest area entry permits to holders of private nonprofit shellfish rehabilitation, or enhancement project permits.

Sec. 6: Defines legal fishing gear for special harvest area entry permit holders.

Sec. 7: Exempts shellfish raised in a private nonprofit shellfish project from the farmed fish definition.

Sec. 8: Defines the fees collected for salmon hatchery permit applications and shellfish enhancement project permit applications as non-general fund program receipts.

Sec. 9-10: Establish state corporate income tax exemption for a nonprofit corporation holding a shellfish fishery enhancement permit.

Sec. 11: Exempts shellfish harvested under a special harvest area entry permit from seafood development taxes.

Sec. 12: Establishes an effective date for the salmon hatchery permit application fee described in Section 2.

Sec. 13: Authorizes the Department of Fish and Game to adopt implementing regulations.

Sec. 14: Establishes an immediate effective date for sec. 11 pursuant to AS 01.10.070(c).

Sec. 15: Establishes an effective date for sec. 8 concomitant with sec. 2, Chapter 55, SLA 2013.

Senator Wielechowski queried the impacts to personal use if companies enhance an area, and whether that area would be off limits to the public.

Ms. Harpold deferred to the Department of Fish and Game (DFG).

[9:16:49 AM](#)

FLIP PRIOR, DIVISION OF COMMERCIAL FISHERIES, DEPARTMENT OF FISH AND GAME, introduced himself.

Co-Chair Stedman wondered whether DFG had any issue with the legislation.

Mr. Prior replied that the department had no issue with the bill.

Co-Chair Stedman wondered whether it was a "perfect bill."

Mr. Prior replied that it was not a perfect bill, but he saw no issue with it.

Co-Chair Stedman wondered whether DFG was in support of the bill.

Mr. Prior replied that DFG was in support of the bill.

Senator Wielechowski wondered whether companies would be enhancing areas that would be in turn off limits to the public.

Mr. Prior responded that companies would not enhance areas that would in turn be off limits to the public. He explained that the idea behind the bill was to provide opportunity. The areas that would be set up for special harvest areas were not off limits to the public, but would be managed accordingly. Therefore, there may be instances that would restrict access.

Senator Wielechowski wondered whether recreational fisherman could use the areas, and whether they would be charged to use those areas.

Mr. Prior replied that it would be just like any other area.

Senator Wielechowski wondered how there would be management without oversight of the public take.

Mr. Prior replied that it would be managed like any other fishery.

[9:19:36 AM](#)

Senator Bishop requested an example of "designated legal gear."

Mr. Prior replied that, generally, legal gear had the same designation as the commercial fishery. Although, there may be modifications in some instances.

Senator Bishop requested an example for shellfish.

Mr. Prior could not think of a shellfish example.

Senator Olson felt that the legislation was geared exclusively to nonprofits. He wondered whether a for-profit organization could participate.

Mr. Prior responded that nonprofits were historically involved in the salmon industry. He explained that once the fish were released, they became common property. Therefore, it did not make sense for a for-profit company to be involved in that endeavor.

Senator Wielechowski noted the change from \$100 to a yet determined amount. He queried the fee determination process, and asked the amount of the estimated fee.

Mr. Prior replied that the fee had not yet been determined, and stated that there would be an examination of the volume of permits. He felt that there would not be many permits. He explained that there was an expectation of two or three in the first year, and then one a year for every year after the first year. He explained that there would be an examination of staff time needed to process the permits. He remarked that there was a good current system that could accept a little bit more pressure.

Senator Wielechowski queried the process of the cost recovery under the system.

Mr. Prior responded that it would most likely be an assessment tax. He explained that it would vary case to case, and species to species.

Senator Wielechowski requested the current rate of taxation and whether it would be recovered through the cost recovery.

Mr. Prior replied that he was not the right person to respond to the question.

Co-Chair Stedman asked for a restatement of the question.

Senator Wielechowski noted that there was an exemption in Section 11 created for the tax for shellfish. He requested detail about that tax, and whether the loss in potential revenue would be recouped through some other means like cost recovery.

Co-Chair Stedman shared that the question would be brought back to another department.

Senator Wielechowski wondered whether DFG or the nonprofit would manage paralytic shellfish toxin testing.

Ms. Prior replied that he was not sure about the testing procedure management. He felt that it would be species-specific in a case-by-case basis. He shared that the harvesters of geoduck fisheries managed the testing.

[9:25:35 AM](#)

Co-Chair Stedman requested more information about that issue.

Senator Wielechowski wondered whether a nonprofit would be permitted to genetically modify shellfish for harvest.

Mr. Prior replied in the negative. He explained that local stocks would be used, and try to not affect the genetics of the species.

Senator Wielechowski wondered whether there would be an allowance for a non-native stock to be introduced in areas.

Mr. Prior replied that it would not occur. He stressed that the intent was to use local stocks in all cases.

Senator Wielechowski queried the defining of special areas of crab enhancement, because crab move around.

Mr. Prior replied that special harvest areas would be defined with the commissioner's authority either through permitting or emergency order (EO). He stressed that it would be a defined area for the fishing, regardless of whether the crab move from that area.

Co-Chair Stedman queried an explanation of "EO."

Mr. Prior explained that "EO" stood for emergency order.

Senator Olson queried the effect of climate change on enhancement efforts.

Mr. Prior replied that there has not yet been a determination of the effect of climate change.

Co-Chair Stedman announced that Senator Cathy Giessel was present for the meeting.

Senator Wielechowski looked at page 3, Section 4, "would result in substantial public benefits." He queried the determination of "substantial public benefit." He wondered whether it was substantial public benefit for private or commercial use.

Mr. Prior replied that it would be a sum of those uses.

Senator Wielechowski wondered whether oysters were native to Alaska.

Mr. Prior replied that oysters were not native to Alaska.

Senator Wielechowski wondered whether oysters would be covered in the legislation.

Mr. Prior replied that currently the aquatic farm operation had oysters, but did not see the enhancement of oysters as part of the bill.

Senator Bishop remarked that oysters had been farmed in Alaska for at least 60 years. He wondered whether farming had been longer than 60 years.

Mr. Prior replied that he did not know when oyster farming began in Alaska.

[9:30:44 AM](#)

BRANDON SPANOS, DEPUTY DIRECTOR, DEPARTMENT OF REVENUE, ANCHORAGE (via teleconference), introduced himself.

Co-Chair Stedman asked Senator Wielechowski to state his question.

Senator Wielechowski looked at Section 11, which had an exemption for shellfish in the tax code. He queried the current tax, and wondered whether there was an anticipation to cover the lost revenue through some other means like cost recovery.

Mr. Spanos replied that Section 11 exempted the new assessment from another assessment. He explained that Section 43.76.360 was the Regional Seafood Development Tax, which was another elective tax on fishery resources using specific gear types from designated seafood development regions. He stated that the revenue was deposited into a special seafood development tax in the general fund, which would be subject to appropriation to go to the seafood development associations. He explained that the salmon tax was already exempt from the Regional Seafood Development Tax, and was in lieu of that tax. The bill would create another assessment in lieu of the Regional Seafood Development Tax, which was currently at 1 percent.

[9:33:43 AM](#)

JULIE DECKER, EXECUTIVE DIRECTOR, ALASKA FISHERIES DEVELOPMENT FOUNDATION, WRANGELL (via teleconference), spoke in support of the legislation.

Co-Chair Stedman OPENED public testimony.

[9:38:13 AM](#)

KATE SULLIVAN, SOUTHEAST ALASKA REGIONAL DIVE FISHERIES ASSOCIATION, KETCHIKAN (via teleconference), spoke in support of the legislation. She stated that her association had spent many years to develop sea cucumber enhancement to do wild stock enhancement work. She stated that, without the ability to put sea cucumbers in the wild, there was a point where work was halted.

[9:39:48 AM](#)

NANCY HILLSTRAND, PIONEER ALASKAN FISHERIES, ANCHORAGE (via teleconference), testified against of the legislation. She wanted the removal of crab in the legislation, because of their effect on other fisheries.

Co-Chair Stedman stressed that the bill would be set aside for further review.

[9:44:01 AM](#)

STEVE RICCI, STAFF, ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION (APICDA), spoke in support of the legislation.

Co-Chair Stedman CLOSED public testimony.

Senator Bishop discussed the fiscal notes.

[9:51:09 AM](#)

Mr. Harpold thanked the committee for hearing the bill. She addressed some questions. She stressed that oysters did not propagate in Alaskan waters, so they were not eligible for enhancements. She shared that the regulations were laid out for personal use for sport or subsistence.

Senator Wielechowski wanted to hear from DFG about testimony from Ms. Hillstrand.

Senator Olson queried the sponsor's perspective about Ms. Hillstrand's view related to the removal of crab from the bill to alleviate her concern.

Ms. Harpold agreed to provide that information.

Senator Wielechowski wondered whether the bill had been vetted with DFG scientists, and asked whether there were concerns from them about the bill.

Mr. Prior agreed to provide that information.

Co-Chair Stedman requested responses to the questions, and provide those answers to the committee. He discussed the following week's schedule.

CSHB 41(FIN) was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[9:55:51 AM](#)

The meeting was adjourned at 9:55 a.m.