

SENATE FINANCE COMMITTEE
March 24, 2020
9:33 a.m.

9:33:52 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:33 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Lyman Hoffman
Senator Donny Olson
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Representative Dan Ortiz, Sponsor; David Scott, Staff,
Senator Bert Stedman.

PRESENT VIA TELECONFERENCE

Jeremy Woodrow, Executive Director, Alaska Seafood Marketing Institute; Sam Rabung, Commercial Fisheries Division, Alaska Department of Fish and Game; Christy Colles, Chief of Operations, Division of Mining Land and Water, Department of Natural Resources.

SUMMARY

HB 41 SHELLFISH PROJECTS; HATCHERIES; FEES

HB 41 was HEARD and HELD in committee for further consideration.

HB 197 EXTEND SEISMIC HAZARDS SAFETY COMMISSION

HB 197 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(DNR).

HB 247 SPORT FISHING ENHANCEMENT SURCHARGE

HB 247 was SCHEDULED but not HEARD.

Co-Chair Stedman discussed the agenda for the day. Both items on the agenda were bills previously heard. He thought the committee would recess and come back in the afternoon to consider HB 247.

#hb197

HOUSE BILL NO. 197

"An Act extending the Alaska Seismic Hazards Safety Commission; and providing for an effective date."

[9:34:47 AM](#)

Co-Chair Stedman relayed that the committee had heard the bill on March 19, 2020 and had heard public testimony. He asked the committee if members had any further concerns.

Senator Wielechowski MOVED to report HB 197 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 197 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(DNR).

#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."

[9:36:04 AM](#)

Co-Chair Stedman recalled that the first bill hearing and public testimony had been on February 2, 2020. He invited the sponsor to the table.

REPRESENTATIVE DAN ORTIZ, SPONSOR, discussed the bill. He reminded that the bill was an enhancement of the state's shellfish industry. He read from a Sponsor Statement (copy on file):

Enhancement of Alaska's shellfish industry holds the potential of expanded economic opportunities in Alaska's coastal communities and increased resilience of the State's fisheries portfolio.

To tap this potential House Bill 41 allows qualified non-profits to pursue enhancement and/or restoration projects involving shellfish species including red and blue king crab, sea cucumber, abalone, and razor clams.

The bill creates a regulatory framework with which the Department of Fish & Game can manage shellfish enhancement projects and outlines criteria for issuance of permits. It sets out stringent safety standards to ensure sustainability and health of existing natural stocks. The commissioner of ADF&G must also make a determination of substantial public benefit before a project can proceed.

In addition, the bill allows the Department of Fish & Game to set the application fee for a shellfish enhancement project permit and grants the similar authority over the application fee for a salmon enhancement project permit.

House Bill 41 plays 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 relayed that there was a Committee Substitute (CS) for the committee to consider.

[9:38:46 AM](#)

AT EASE

[9:38:49 AM](#)

RECONVENED

Senator Hoffman MOVED to ADOPT proposed committee substitute for CSHB 41(FIN), Work Draft 31-LS0218\O (Bullard, 11/19/19).

Co-Chair Stedman OBJECTED for discussion.

DAVID SCOTT, STAFF, SENATOR BERT STEDMAN, discussed a document entitled "Abridged Sectional" (copy on file). He highlighted changes in the CS. Section 7 through Section 10 of the bill would allow the Alaska Seafood Marketing Institute (ASMI) to market aquatic farm products. Section 13 dealt with an annual report from the Department of Natural Resources (DNR) to the legislature dealing with aquatic farm leases and the lease status. He continued that Section 14 through Section 17 dealt with lease renewal in DNR. The sections had been brought to the legislature by DNR the previous year and were the subject of another bill, HB 116. He noted that Section 17 allowed for eco-tourism and education on aquatic farming permits.

Mr. Scott continued to address changes to the bill outlined in the Abridged Sectional document. He relayed that Section 17 also had a clause that allowed a one-year time limit for DNR to grant or deny a lease application. He explained that the department had expressed concerns with the provision and there would be a forthcoming conceptual amendment to address the matter if it was the will of the committee. Section 21 was in uncodified law and asked for a one-time report from DNR and the Department of Fish and Game to give recommendations on how to streamline the permitting process.

[9:41:56 AM](#)

Senator Wielechowski asked for a definition of aquatic farm products.

Mr. Scott read that the definition could be found in AS 16.40.199:

2) "aquatic farm product" means an aquatic plant or shellfish, or part of an aquatic plant or shellfish,

that is propagated, farmed, or cultivated in an aquatic farm and sold or offered for sale;

Senator Wielechowski wanted to ensure that the bill had nothing to do with farming salmon.

Mr. Scott stated that the bill did not address fin-fish farming, which was still prohibited in Alaska as per AS 16.40.210.

Co-Chair Stedman WITHDREW his OBJECTION. There being NO further OBJECTION, the CS for CSHB 41(FIN), Version O was ADOPTED.

Co-Chair Stedman reminded that the committee would set the bill aside to address any questions members might have and consider any forthcoming amendments.

[9:44:25 AM](#)

Mr. Scott reviewed the Sectional Analysis (copy on file):

Section 1 The Board of Fish may direct the department to manage enhanced shellfish stocks for cost recovery projects.

Section 2 Hatchery permit application fee change.

Section 3 Conforms with Sec. 2. Hatchery permit application fee will be set by regulation equal to regulatory costs. Fee level will be annually reviewed.

Section 4 Adds a new Chapter to Title 16

- AS 16.12.010 Commissioner of ADF&G may issue permits for nonprofit corporation for a shellfish enhancement project. Section includes permitting process, rules, and fees.
- AS 16.12.020 Prior to permit approval, there will be public notification, a public hearing, and comment period.
- AS 16.12.030 Requirements on permit holders.
- AS 16.12.040 Permit revocation, suspension, or alteration.
- AS 16.12.050 Enhanced shellfish stocks are common property. Board of Fish may regulate.

- AS 16.12.060 ADF&G shall advise and assist applicants and permit holders to a reasonable and appropriate extent.
- AS 16.12.070 ADF&G shall approve source and number of shellfish taken for brood stock.
- AS 16.12.080 Limits proceeds from sale of shellfish to operating costs, shellfish enhancement projects, and shellfish research
- AS 16.12.090 Cost recovery fisheries via contract or common property fishery.
- AS 16.12.100 ADF&G can inspect project facility at any time.
- AS 16.12.110 Annual Report
- AS 16.12.199 Definitions

Mr. Scott continued to address the Sectional Analysis:

Section 5 CFEC may issue special harvest area entry permits to AS 16.12 permit holders.

Section 6 Fishing gear used in a special harvest area must be authorized by the Board of Fish.

Section 7 Allows aquatic farm products to be marketed by ASMI.

Senator Hoffman asked about funding for marketing aquatic farm products. He noted that fishermen taxed themselves and gave funds to ASMI for marketing fish. He asked how the marketing promotions of aquatic farm products would be funded.

Mr. Scott stated that the topic had come up in discussion with ASMI. He furthered that ASMI believed there would need to be a self-assessment related to the new permits proposed in the bill.

Co-Chair Stedman asked to continue going through the bill before hearing from ASMI and considering an amendment.

[9:50:31 AM](#)

Mr. Scott continued to address the Sectional Analysis:

Section 8 Conforms to Section 7.

Section 9 Conforms to Section 7.

Section 10 Adds aquatic farm products to ASMI's definitions.

Section 11 Exempts shellfish raised under a AS 16.12 permit from the farmed fish food labeling requirement.

Section 12 Adds hatchery permit fees & AS 16.12 permit fees to list of Program Receipts.

Section 13 DNR Annual report to the legislature on aquatic farming lease status and lease applications under AS 38.05.083.

Section 14 Adds AS 38.05.083 leases to eligible list of leases that the Director of the Division of Mining, Land, & Water may renew.

Section 15 Conforms to Section 14.

Section 16 Conforms to Section 14.

Section 17 Allows Commissioner of DNR to renew or extend AS 38.05.083 leases. Establishes a 1-year time limit to grant or deny a lease application. Ecotourism and educational uses are not prohibited. Prohibits DNR from charging additional use fees other than the permit fee.

Section 18 Nonprofit Income Tax exemption for AS 16.12 permit holders.

Mr. Scott spoke to Section 17 and explained that there was a number of aquatic farmers in Southeast Alaska that were finding interest from tourism. He furthered that the Alaska Sea Grant program was interested in bringing high school and college students to aquatic farm sites, which was not currently allowed. Another provision in Section 17 would prohibit DNR from charging additional use fees.

[9:54:49 AM](#)

Mr. Scott continued to address the Sectional Analysis:

Section 18 Nonprofit Income Tax exemption for AS 16.12 permit holders.

Section 19 Nonprofit Income Tax exemption for AS 16.12 permit holders. Duplicated to conform with the AS 43.20.012(a) sunset and reenactment (SB 83 2013).

Section 20 Seafood Development Tax exemption for shellfish harvested under a CFEC special harvest area permit.

Section 21 DNR and ADF&G report and recommendations for permitting process improvements.

Section 22 Applicability of Section 2.

Section 23 ADF&G authority to adopt regulations.

Section 24 Immediate effective date for Section 23.

Section 25 Effective date of 1-year time limit, Section 17.

Section 26 Delayed effective date for Section 19.

Mr. Scott noted that there was an amendment to remove subparagraph 3 on page 17, lines 11 through 13.

[9:57:31 AM](#)

Co-Chair Stedman opened up the meeting for questions. He referenced Senator Hoffman's earlier question about funding for marketing.

Senator Hoffman reiterated that salmon fishermen taxed themselves to fund promotions by ASMI. He did not think the fishermen should subsidize any other marketing. He asked why the bill would give ASMI the authority for marketing of shellfish when there was no revenue to do so. He asked where the funds would come from.

JEREMY WOODROW, EXECUTIVE DIRECTOR, ALASKA SEAFOOD MARKETING INSTITUTE (via teleconference), thought Senator Hoffman had brought up a great question and informed that the topic had been discussed at length. He pointed out that that the ASMI bylaws clearly stated that priority was given to those that paid into the voluntary self-assessment, and priority would continue to be given to the wild-capture fisheries that paid into the assessment. When the bill had been brought to ASMI the previous year there had been

discussions with the Mariculture Task Force about what the industry needed. It was such a small industry that there was not much to self-assess. The ASMI Board had agreed that it made sense to change the statutes without a funding mechanism in place, knowing that there were numerous opportunities for federal grants to help with marketing.

10:00:34 AM

Senator Hoffman asked if there would be an objection if there were a change in the bill to signify that the funds charged by the salmon industry would not be used for shellfish marketing.

Mr. Woodrow thought Senator Hoffman was discussing a "tricky area" based on how ASMI currently used its funding. He shared that currently ASMI did not divvy up the funding for different species that paid in. He furthered that about 50 percent of ASMI's assessment was comprised of pollack and salmon, but 50 percent of efforts did not go towards the two species alone. He thought the matter needed to come before the ASMI Board.

Senator Hoffman wanted to consult with the fishermen in Bristol Bay to see if they agreed with Mr. Woodrow's assessment. He assumed the response would be negative.

Co-Chair Stedman asked if ASMI members had been involved in discussion on the subject, and if there was documentation of support.

Mr. Woodrow relayed that the bill was brought forth to the board on November 21, 2019. There had been a motion passed unanimously that supported change to ASMI statutes to include powers to market aquatic farm products. The board was supportive of the current version of the bill.

Senator Hoffman questioned whether salmon fishermen in the state would support the version of the bill, or if they would rather have their taxes excluded for use in marketing shellfish. He asked if ASMI had received feedback from any of the numerous salmon fisheries associations in the state.

Mr. Woodrow relayed that ASMI had not reached out to salmon associations specifically. He was happy to reach out to a couple of the groups to get input.

10:04:01 AM

Senator Wielechowski asked about page 3, line 5; which related to augmenting the yield and harvest of shellfish indigenous to state water. He asked if the bill allowed for shellfish indigenous to one part of the state to be transferred to another part of the state.

SAM RABUNG, COMMERCIAL FISHERIES DIVISION, ALASKA DEPARTMENT OF FISH AND GAME (via teleconference), informed that Department of Fish and Game (DFG) had a genetic policy that applied to fin fish, that prohibited the transport of indigenous stocks around the state; and the department required the use of local stocks. The rule was applied to all species excepting the geoduck, which was allowed to be transported contiguous to the Gulf of Alaska.

Senator Wielechowski asked if any of the scientists or biologists at DFG had expressed any concerns over the bill.

Mr. Rabung stated that there had been some concerns only to ensure that safeguards were in place. He emphasized that every time there was a permit application it would be reviewed by biologists, pathologists, and geneticists before a recommendation was made to the commissioner on whether to approve the permit or not. He reminded that permits were issued on a case by case basis, based on the appropriateness of the plan.

Co-Chair Stedman asked if DFG had a position on the bill.

Mr. Rabung replied that he had been told by the administration that the department was neutral.

Senator Wielechowski asked if Mr. Rabung believed DFG had the resources and tools available to ensure that native species in the area would be protected and the changes proposed would not harm the local ecosystem.

Mr. Rabung affirmed that the safety of the ecosystem and local species would be the main charge of the department in consideration of each application that was submitted, as when other permits were issued. He stated that aquatic farming currently allowed for culturing of the organisms around the state under positive control.

10:08:00 AM

Senator Wilson asked if there was anyone from Department of Environmental Conservation (DEC) available for questions.

Co-Chair Stedman observed that there was not.

Senator Wilson recalled that DEC did the testing for shellfish. He thought it would be hard to determine the revenues from the industry. He thought if the shellfish industry was worried about paying for testing, he was concerned about affordability, marketing, and continuation of the industry.

Representative Ortiz thought the funding aspect of testing and permitting had received much attention and discussion. He reminded that the industry was just beginning, and the overall sentiment was that the state needed to be a facilitator in the process. He thought the prospects for the industry were limitless, but the state needed to provide the regulatory framework to get the industry up and running. He thought there was no question that once the industry was up and running, the businesses would have sufficient revenue to be active participants in self-assessment and pay into the process.

Representative Ortiz continued his remarks. He thought in the initial phase there was recognition by all parties that the state needed to be onboard wherever possible to get the industry up and running. He thought the support might include some initial monetary outlay that would likely be covered by the industry in the future.

Senator Wilson wanted to emphasize the complexity of the industry, which he thought touched on four or five state agencies.

Representative Ortiz thought there might be someone from the Mariculture Task Force to add to the discussion.

Co-Chair Stedman thought there would be time to discuss matters with the bill sponsor and the department before the bill was brought back to committee.

[10:12:45 AM](#)

AT EASE

[10:13:32 AM](#)

RECONVENED

Co-Chair Stedman relayed that the sponsor would leave the meeting and his staff would speak to the bill.

Senator Bishop MOVED to ADOPT Conceptual Amendment 1.

Co-Chair Stedman OBJECTED for discussion.

[10:14:28 AM](#)

AT EASE

[10:15:04 AM](#)

RECONVENED

Mr. Scott spoke to Conceptual Amendment 1:

- 1 Page 2, line 23, following "actual"
- 2 DELETE "regulatory"

- 3 INSERT "permit application processing"
- 4
- 5 Page 2, line 25, following "department's"
- 6 DELETE "regulatory"
- 7
- 8 Page 5, line 28, following "source of"
- 9 INSERT "wild"
- 10
- 11 Page 14, lines 30, following "lease"
- 12 DELETE "under this section, AS 38.05.075, or 38.05.801"
- 13
- 14 Page 15, lines 19-22
- 15 DELETE ALL MATERIAL
- 16
- 17 Page 17, lines 10, following ";" through line 13
- 18 DELETE ALL MATERIAL
- 19 INSERT "and"
- 20 Renumber sections accordingly

Mr. Scott explained that there were six amendments within the conceptual amendment. He noted that all the changes reflected in the amendment were at the request of DFG and DNR. He mentioned a proposed change that would affect the renewal process for aquatic farm permits and would be identical to language in HB 116 [a bill related to the

renewal or extension of site leases for aquatic farming and aquatic plant and shellfish hatchery operations].

Co-Chair Stedman WITHDREW his OBJECTION.

Senator Wielechowski was curious if the proposed amendment would have an impact on the fiscal notes.

Mr. Scott stated that if the fifth part of the amendment did not go through, there would be a large fiscal note.

Co-Chair Stedman asked for more detail.

Mr. Scott relayed that the section would require DNR and the permitting staff to deny or approve an 083 permit and additional staff would be required to meet a timeline set by the legislature.

Senator Wielechowski thought a year seemed like a long time to approve or deny a permit request.

Mr. Rabung stated that the portion of the bill pertained to DNR.

[10:20:33 AM](#)

CHRISTY COLLES, CHIEF OF OPERATIONS, DIVISION OF MINING LAND AND WATER, DEPARTMENT OF NATURAL RESOURCES (via teleconference), spoke to Senator Wielechowski's question. She acknowledged that the department had a significant backlog of applications, and there was a required public process component which took quite a bit of time. She continued that the department recently got two new adjudicators to review applications. She continued that once the backlog was diminished, the process would be more timely. The time frame was concerning because if the department could not meet the public process requirement, it would then be forced to deny the application to meet the deadline.

Senator Wielechowski wondered if there was fiscal impact from the first change outlined in Conceptual Amendment 1, which would delete the word "regulatory" and insert the words "permit application processing."

Mr. Rabung thought there should not be any fiscal impact from the proposed change. The department had requested the

change because the term "regulatory" could be broadly interpreted to mean things other than the application process.

Co-Chair Stedman WITHDREW his OBJECTION. There being NO further OBJECTION, Conceptual Amendment 1 was ADOPTED.

Senator Hoffman MOVED to ADOPT a conceptual amendment. He wanted to insert wording to say that ASMI may only use grant funds to market the enhancement of aquatic shellfish.

Co-Chair Stedman OBJECTED for discussion.

Co-Chair Stedman explained that the committee would not be moving the bill during the meeting, so members should consider working with the bill's sponsor on any proposed changes. The committee could consider additional amendments the next time the bill was brought before the committee.

[10:24:35 AM](#)

AT EASE

[10:26:07 AM](#)

RECONVENED

Senator Hoffman stated he would work with the bill sponsor to get the issue addressed in proper form.

Senator Hoffman WITHDREW his conceptual amendment. There being NO OBJECTION, it was so ordered.

Co-Chair Stedman asked committee members to consider holding off on proposing amendments till later in the day so that members could work with the bill sponsor. He thought there was several amendments to consider, some with duplicative numbers. He asked to slow the process down and re-visit the issue after working with the bill sponsor. He stated that the action did not preclude the members from proposing additional amendments. He thought a more orderly process would create a more refined product.

Senator Olson supported Co-Chair Stedman's remarks.

Senator Wielechowski asked if there had been concerns expressed by scientists regarding inter-breeding of species.

Mr. Rabung stated that DFG policy required the use of local stocks, so the organisms would be derived from other animals they may interbreed with. The species were not to be changed in any way whatsoever but would be protected during the vulnerable juvenile life stage and then placed in the same area or an adjacent area with depleted or extirpated stock. He believed the department had genetic policy and safeguards in place.

Senator Wielechowski asked if Mr. Rabung thought there was enough wild crab stock to give brood stock to hatcheries.

Mr. Rabung thought there was most likely not enough to provide brood stock everywhere. He reminded that crabs mated in the wild, and the impregnated females would be collected and held until the crab released. The larvae would be protected, and the crabs could be re-released from where they were collected if pathology approved.

[10:30:16 AM](#)

Senator Wielechowski observed that there were two zero fiscal notes. He asked if DFG had enough funds to protect the resource.

Mr. Rabung answered in the affirmative. He noted that every new fiscal year brought the topic into question. The department had permitting people in place and the new applications were similar to others that were already in existence. He did not expect that there would be many permit applications since costs were very high and there was no guarantee of cost recovery.

Co-Chair Stedman referenced concerns of members and stated there were several amendments to consider. He asked the sponsor to work with members on amendments.

Co-Chair Stedman set the bill aside. He asked the sponsor if he had comments or concerns to share.

Representative Ortiz affirmed that he would communicate with members and staff to explore questions and further discussion. He understood the topic of the bill merited further discussion.

Co-Chair Stedman reminded that the CS had been adopted and Conceptual Amendment 1 had been adopted.

Co-Chair Stedman reminded that the session was close to ending and the committee was trying to take action on bills as needed. He anticipated that many pieces of legislation would be taken up the following session.

10:35:02 AM

RECESSED

[Co-Chair von Imhof adjourned the meeting at 4:43 p.m.]

#

ADJOURNMENT

4:43:00 PM

The meeting was adjourned at 4:43 p.m.