

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

February 11, 2019

3:30 p.m.

**MEMBERS PRESENT**

Senator Chris Birch, Chair  
Senator John Coghill, Vice Chair  
Senator Cathy Giessel  
Senator Lora Reinbold  
Senator Click Bishop  
Senator Scott Kawasaki  
Senator Jesse Kiehl

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 22

"An Act relating to management of enhanced stocks of shellfish; authorizing certain nonprofit organizations to engage in shellfish enhancement projects; relating to application fees for salmon hatchery permits; and providing for an effective date."

- MOVED CSSB 22(RES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 22

SHORT TITLE: SHELLFISH ENHANCE. PROJECTS; HATCHERIES

SPONSOR(S): SENATOR(S) STEVENS

01/16/19	(S)	READ THE FIRST TIME - REFERRALS
01/16/19	(S)	RES, FIN
01/30/19	(S)	RES AT 3:30 PM BUTROVICH 205
01/30/19	(S)	Heard & Held
01/30/19	(S)	MINUTE(RES)
02/04/19	(S)	RES AT 3:30 PM BUTROVICH 205
02/04/19	(S)	<Bill Hearing Postponed>
01/30/19	(S)	RES AT 3:30 PM BUTROVICH 205
02/11/19	(S)	RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

TREVOR FULTON, Staff  
Senator Birch  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed the committee substitute for SB 22, version M.

SAM RABUNG, Director  
Commercial Fisheries Division  
Alaska Department of Fish and Game  
Juneau, Alaska

**POSITION STATEMENT:** Explained the need for changes made by the CS regarding statutory hatchery meetings.

TIM LAMKIN, Staff  
Senator Stevens  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Addressed the sponsor's affirmative position on the CS for SB 22.

#### **ACTION NARRATIVE**

[3:30:17 PM](#)

**CHAIR CHRIS BIRCH** called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Kiehl, Coghill, Giessel, Bishop, Reinbold and Chair Birch.

#### **SB 22-SHELLFISH ENHANCEMENT PROJECTS; HATCHERIES**

[3:30:45 PM](#)

**CHAIR BIRCH** announced the consideration of Senate Bill 22 (SB 22). He said a committee substitute (CS) is before the committee for adoption.

[3:31:03 PM](#)

**SENATOR COGHILL** moved to adopt the CS for SB 22, work order 31-LS0335\M, as the working document.

[3:31:26 PM](#)

**SENATOR GIESSEL** objected for discussion purposes.

[3:31:39 PM](#)

**TREVOR FULTON**, Staff, Senator Birch, Alaska State Legislature, Juneau, Alaska, explained that the CS was drafted in response to

concerns brought up the last time SB 22 was before the committee and during individual conversations with user groups since the bill last heard. He said recognizing the already robust permitting process shellfish hatcheries would be subject to, the changes in the CS were drafted with the aim of creating an annual review and public input process involving both the Department of Fish and Game, and the Board of Fisheries while minimizing the burden to the hatchery operators.

MR. FULTON explained the changes from the CS for SB 22 as follow:

1. Title change:

- o Removes reference to "application fees for salmon hatchery permits" from the title, as recommended by the bill drafter.
- o Adds terms relating to mariculture, the Board of Fisheries, and the commissioner of Fish and Game to accommodate new Section 1.

2. New Section 1:

- o Adds a new subsection to AS 16.05.300, which is existing law relating to meeting of the Board of Fisheries.
- o This new subsection requires that the Board of Fisheries hold at least one annual meeting where the Department of Fish and Game presents an update on the status of the mariculture industry, including shellfish hatcheries; that meeting must be open to the public and provide adequate public notice.

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SENATOR KAWASAKI joined the committee meeting.

[3:33:32 PM](#)

SENATOR KIEHL asked what was the substantive difference that required the title reference to "enhancement of shellfish" be taken out and "management of 'enhanced' shellfish" was added.

MR. FULTON answered that "management of enhanced stocks of shellfish" still appears in the title as noted on page 1, line 2.

SENATOR GIESSEL noted that she had seen the 2002 document from the Board of Fisheries regarding the joint protocol on salmon enhancement which noted updates were to be provided at meetings. She asked if the protocol also automatically applies to

mariculture hatcheries and questioned the necessity to put the requirement into statute.

MR. FULTON answered that the need to put the requirement into statute was based on concerns that were brought up since the bill's original hearing.

SENATOR GIESSEL asked if the concerns could be explained.

MR. FULTON explained that in 2002 there was an existing process worked out between the Department of Fish and Game, and the Board of Fisheries to talk jointly about hatchery management. The process may have "fizzled out" and putting the requirement in statute would solve the problem by making the procedure more permanent.

SENATOR GIESSEL asked if there are people that will speak to the **imparity** of the CS.

CHAIR BIRCH said Senator Giessel's question will be addressed.

SENATOR COGHILL remarked that he was glad Senator Giessel asked her question because his next inquiry is about the timing of Board of Fish meetings to be in a certain place.

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SAM RABUNG, Director, Commercial Fisheries Division, Alaska Department of Fish and Game, Juneau, Alaska, explained that salmon hatcheries are the state's only enhancement program. Hatchery meetings consistently occurred the first six or seven years, but interest waned, and meetings were not scheduled. He noted that an upcoming hatchery protocol meeting is scheduled in Anchorage on March 8, 2019.

SENATOR GIESSEL asked Mr. Rabung to verify that the hatchery protocol meetings are held separately from other Board of Fisheries meetings.

MR. RABUNG replied that the hatchery protocol meetings are tacked onto the statewide meetings. The board is playing catchup and meetings will eventually be half-day affairs when meetings are routinely scheduled.

SENATOR COGHILL asked Mr. Rabung to confirm that the change would separate salmon enhancement and mariculture enhancement, and his referenced "catchup" was directed at salmon hatchery meetings.

MR. RABUNG replied that the department has not had the authority to permit mariculture enhancement projects to date. The only program the department has been able to permit for enhancement programs is for salmon.

SENATOR GIESSEL asked to hear from bill's sponsor related to the CS.

[3:40:31 PM](#)

TIM LAMKIN, Staff, Senator Stevens, Alaska State Legislature, Juneau, Alaska, explained that the CS "on its face" clearly establishes an annual requirement to have a meeting on the subject "mariculture and shellfish enhancement projects." The meetings are a public-comment process and there is nothing in the language that suggests any formal action would be required to be taken. In the spirit of having the meetings' conversations held openly and, in the public, that presumably the action cannot be a bad thing and therefore Senator Stevens sends his blessing accordingly for the CS.

[3:41:30 PM](#)

SENATOR GIESSEL removed her objection to the CS.

[3:41:36 PM](#)

CHAIR BIRCH announced without further objection the CS is adopted. He asked if there were any further comments.

SENATOR KAWASAKI asked if the committee was moving SB 22.

CHAIR BIRCH replied that questions were concluded, the bill was previously heard on January 30, and public testimony was taken and closed. The intent would be to move the bill.

SENATOR KAWASAKI noted his concern with the legislation based on testimony heard at the bill's previous committee hearing. He specified his concern in section 4, subsection (e), where the verbiage "they may," or "they may not" are used rather than "they shall," or "they shall not." He said he had an amendment but the idea of moving the bill is fine.

CHAIR BIRCH asked Mr. Lamkin to address Senator Kawasaki's concern.

MR. LAMKIN replied that SB 22 is modeled precisely on existing statute for salmon enhancement and assumed that "the commissioner may not" is used relative to salmon enhancement. He

said Senator Kawasaki brings up an interesting point and asked that an attorney or the bill's drafter address if indeed the use of "may not" is a substantial reference made rather than "shall" on page 3, line 11.

SENATOR COGHILL asked that the committee hear from Mr. Rabung to shed light on Senator Kawasaki's concern regarding the practicality in the use of "may" versus "shall."

[3:44:57 PM](#)

MR. RABUNG explained that the bill is modeled almost exactly after the salmon hatcheries' statutes. There is some difference where there is no "regional planning team process" for mariculture species as is done with salmon. The use of "shall" is a requirement for the permitting process and the use of "may" is the criteria by which the commissioner could deny a permit. Regarding "substantial public benefit," an assumption is made because there is no proof until the enhancement is tried so that is where "may" comes in, the same applies to "jeopardized natural stocks" where a precautionary approach is used, but a negative cannot be proven and that is why the term "may" is used.

SENATOR KAWASAKI addressed testimony in the bill's previous hearing that raised concerns that pink salmon may be out competing natural stocks in the Cook Inlet. He said he is concerned that the legislation does not force the commissioner to not issue a permit when it says, "may."

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SENATOR COGHILL moved to report CSSB22(RES), [31-LS0335\M] from committee with individual recommendations and attached fiscal note(s).

[3:47:15 PM](#)

CHAIR BIRCH announced there being no objection, the motion carried.

[3:47:24 PM](#)

At ease.

[3:49:41 PM](#)

CHAIR BIRCH called the committee back to order.

[3:49:59 PM](#)

There being no further business to come before the committee,  
Chair Birch adjourned the Senate Resources Standing Committee  
meeting at 3:49 p.m.