

1 IN THE SENATE

BY THE RESOURCES COMMITTEE
BY REQUEST

2 SENATE BILL NO. 523

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the boards of fisheries and game."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 16.05 is amended by adding new sections to read:

9 ARTICLE 2. BOARDS OF FISHERIES AND GAME.

10 Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes
11 of the conservation and development of the fishery resources of the
12 state, there is created the Board of Fisheries composed of seven members
13 appointed by the governor. The appointed members shall be residents
14 of the state and shall be appointed without regard to political
15 affiliation or geographical location of residence. The deputy commis-
16 sioner of fisheries is not a member of the Board of Fisheries, but
17 shall be ex officio secretary. He may cast tie-breaking votes.

18 (b) For purposes of the conservation and development of the
19 game resources of the state, there is created a Board of Game composed
20 of seven members appointed by the governor. The appointed members
21 shall be residents of the state, and shall be appointed without regard
22 to political affiliation or geographical location of residence. The
23 deputy commissioner of game is not a member of the Board of Game, but
24 shall be ex officio secretary. He may cast tie-breaking votes.

25 Sec. 16.05.241. POWERS EXCLUDED. The boards have regulation-
26 making powers as set out in this chapter, but do not have administrative,
27 budgeting or fiscal powers.

28 Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES. The
29 Board of Fisheries may make regulations it considers advisable in

1 accordance with the Administrative Procedure Act (AS 44.62) for

2 (1) setting apart fish reserve areas, refuges and sanctuaries
3 in the waters of the state over which it has jurisdiction, subject to
4 the approval of the legislature;

5 (2) establishment of open and closed seasons and areas for
6 the taking of fish;

7 (3) setting quotas and bag limits on the taking of fish;

8 (4) establishment of the means and methods employed in the
9 pursuit, capture and transport of fish;

10 (5) establishment of marking and identification requirements
11 for means used in the pursuit, capture and transport of fish;

12 (6) classifying fish as commercial fish, sport fish or
13 predators or other categories essential for regulatory purposes;

14 (7) engaging in biological research, watershed and habitat
15 improvement, fish management, protection, propagation and stocking;

16 (8) investigating and determining the extent and effect of
17 predation and competition among fish in the state, exercising control
18 measures considered necessary to the resources of the state;

19 (9) entering into cooperative agreements with educational
20 institutions and state, federal, or other agencies to promote fish
21 research, management, education and information and to train men for
22 fish management;

23 (10) prohibiting the live capture, possession, transport, or
24 release of native or exotic fish or their eggs;

25 (11) establishing additional qualifications relating to the
26 eligibility requirements for gear licenses.

27 Sec. 16.05.255. REGULATIONS OF THE BOARD OF GAME. The Board of
28 Game may make regulations it considers advisable in accordance with
29 the Administrative Procedure Act (AS 44.62) for

1 (1) setting apart game reserve areas, refuges and sanctuaries
2 in the waters or on the lands of the state over which it has jurisdic-
3 tion, subject to the approval of the legislature;

4 (2) establishment of open and closed seasons and areas for
5 the taking of game;

6 (3) establishment of the means and methods employed in the
7 pursuit, capture and transport of game;

8 (4) setting quotas and bag limits on the taking of game;

9 (5) classifying game as game birds, song birds, big game
10 animals, fur bearing animals, predators or other categories;

11 (6) investigating and determining the extent and effect of
12 predation and competition among game in the state, exercising control
13 measures considered necessary to the resources of the state and desig-
14 nating game management units or parts of game management units in
15 which bounties for predatory animals shall be paid;

16 (7) engaging in biological research, watershed and habitat
17 improvement, and game management, protection, propagation and stocking;

18 (8) entering into cooperative agreements with educational
19 institutions and state, federal, or other agencies to promote game
20 research, management, education, and information and to train men for
21 game management;

22 (9) prohibiting the live capture, possession, transport, or
23 release of native or exotic game or their eggs;

24 (10) revoking, suspending or refusing issuance of master
25 guide, registered guide and assistant guide licenses.

26 * Sec. 2. AS 16.05.260 is repealed and re-enacted to read:

27 Sec. 16.05.260. ADVISORY COMMITTEES. The Board of Fisheries and
28 the Board of Game may make rules and regulations they consider advisable
29 in accordance with the Administrative Procedure Act (AS 44.62)

1 establishing, at places in the state designated by the individual boards,
2 advisory committees to be composed of persons well informed on the
3 fish or game resources of the locality. The boards shall set the
4 number and terms of each of the members of the advisory committees,
5 shall delegate one member of each committee as chairman, and shall give
6 him authority to hold public hearings on fish or game matters. Recor-
7 mendations from the advisory committees shall be forwarded to the
8 appropriate board for their consideration but if the Board of Fisheries
9 or the Board of Game chooses not to follow the recommendations of the
10 local advisory committees the appropriate board shall inform the
11 appropriate advisory committee of this action and state the reasons for
12 not following the recommendations. The commissioner shall delegate
13 authority to advisory committees for emergency closures during estab-
14 lished seasons. The commissioner may countermand and make null and void
15 any authority delegated or order issued under this section but he
16 shall advise the appropriate committee of this action and state the
17 reasons for overturning the advisory committee's action. The appropri-
18 ate board shall establish the necessary rules governing such closures.

19 * Sec. 3. AS 16.05.270 is amended to read:

20 Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER. For
21 the purpose of administering secs. 251 and 255 [250 AND 260] of this
22 chapter, each [THE] board may delegate authority to the commissioner
23 to act in its behalf. If there is a conflict between the board and
24 the commissioner on proposed rules and regulations, public hearings
25 shall be held concerning the issues in question. If, after the public
26 hearings, the board and the commissioner continue to disagree, the
27 issue shall be certified in writing by the board and the commissioner
28 to the governor who shall make a decision. The decision of the
29 governor is final.

1 * Sec. 4. AS 16.05.290 is amended to read:

2 Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of
3 a [THE] board is entitled to travel expenses and per diem allowed by
4 law for each day going to and from and for each day in actual attendance
5 at board meetings and other meetings or conferences authorized by a
6 [THE] board.

7 * Sec. 5. AS 16.05.300 is amended to read:

8 Sec. 16.05.300. BOARD MEETINGS. Each [THE] board shall hold at
9 least one meeting a year and as many other meetings as it considers
10 necessary. Each [THE] board shall select the time and place in the
11 state for the transaction of business. Each [THE] board shall maintain
12 its office at the principal office of the department.

13 * Sec. 6. AS 16.05 is amended by adding a new section to read:

14 Sec. 16.05.305. CLERICAL ASSISTANCE FOR BOARDS. The Board of
15 Fisheries and the Board of Game are authorized to hire and set the
16 compensation for one clerical assistant for each board.

17 * Sec. 7. AS 16.05 is amended by adding a new section to read:

18 Sec. 16.05.307. SCOPE OF ANNUAL BOARD MEETINGS. The Board of
19 Fisheries and the Board of Game may consider the entire field of fish
20 regulations or game regulations on an alternate year basis if the
21 respective boards consider it necessary to review all of the regulations.
22 The Board of Fisheries shall exercise this alternative at its first
23 general board meeting after the effective date of this Act. The Board
24 of Game may review those regulations of an emergency nature at its
25 first general board meeting after the effective date of this Act. The
26 procedure outlined in this section shall govern board meetings held
27 thereafter.

28 * Sec. 8. AS 16.05.310 is amended to read:

29 Sec. 16.05.310. SPECIAL BOARD MEETINGS. A [THE] board may meet

1 at any time upon the call of the commissioner or upon the request of
2 two board members.

3 * Sec. 9. AS 16.05 is amended by adding a new section to read:

4 Sec. 16.05.315. JOINT BOARD MEETINGS. The boards of fisheries
5 and game may hold a joint meeting upon the call of the commissioner
6 or a board to resolve any conflicts in regulations of the boards and
7 to consider matters, as determined by the commissioner or a board,
8 which require the consideration of both boards.

9 * Sec. 10. AS 16.05.320 is amended to read:

10 Sec. 16.05.320. QUORUM. A majority of the members of a [THE]
11 board constitutes a quorum for the transaction of business, for the
12 performance of any duty, and for the exercise of any power. However,
13 a majority of the full board membership [OF 10 MEMBERS] is required
14 to carry all motions, regulations and resolutions. A majority of the
15 members of the boards of fisheries and game constitutes a quorum for
16 the transaction of business in a joint board meeting. A majority of
17 the membership of the boards is required to carry all joint motions,
18 regulations and resolutions of the boards.

19 * Sec. 11. AS 16.05.070 is amended to read:

20 Sec. 16.05.070. [RULES AND] REGULATIONS AS EVIDENCE. Regulations
21 [RULES AND REGULATIONS] of the boards of fisheries and game [BOARD]
22 and of the commissioner, including emergency openings and closures,
23 are admissible as evidence in the courts of the state in accordance
24 with the Administrative Procedure Act (AS 44.62).

25 * Sec. 12. AS 16.05.080 is amended to read:

26 Sec. 16.05.080. LIMITATION OF POWER. Nothing in this chapter
27 authorizes the department or the boards of fisheries and game [BOARD]
28 to change the amount of fees or licenses.

29 * Sec. 13. AS 16.05.800 is amended to read:

1 Sec. 16.05.800. PUBLIC NUISANCES. A net, seine, lantern, snare,
2 device, contrivance, and material while in use, had and maintained for
3 the purpose of catching, taking, killing, attracting, or decoying fish
4 or game, contrary to law or rule or regulation of a [THE] board or the
5 commissioner, is a public nuisance and is subject to abatement.

6 * Sec. 14. AS 16.05.940(1) is amended to read:

7 (1) "a board" means either the Board of Fisheries [FISH] or
8 [AND] the Board of Game;

9 * Sec. 15. AS 44.62.330 is amended by adding new subsections to read:

10 (33) Board of Fisheries

11 (34) Board of Game.

12 * Sec. 16. AS 39.05.060 is amended to read:

13 Sec. 39.05.060. APPOINTMENT, QUALIFICATIONS, AND TERMS OF OFFICE
14 OF MEMBERS OF DEPARTMENTAL BOARDS, COUNCILS, OR COMMISSIONS. Each
15 member of the Local Boundary Commission, Alcoholic Beverage Control
16 Board, Employment Security Advisory Council, Alaska State Housing
17 Authority, Board of Fisheries, Board of Game [FISH AND GAME], and the
18 Commission for Northern Operations of Rail Transportation and Highways,
19 shall be a citizen of the United States. The governor shall appoint
20 each member on the basis of interest in public affairs, good judgment,
21 knowledge and ability in the field of action of the department for
22 which appointed, and with a view to providing diversity of interest
23 and points of view in the membership. Appointments are subject to
24 confirmation by a majority of the members of the legislature in joint
25 session. Initial appointments of members are as follows: (1) in the
26 case of three-member boards, for one, two and three years; (2) in the
27 case of five-member boards, for one, two, three, four and five years;
28 (3) in the case of six-member boards, two members serve for one year,
29 two for two years, and two for three years; (4) in the case of

1 eight-member boards, two members serve for one year, two for two years,
2 two for three years, and two for four years; (5) and in the case of
3 10-member boards, two members serve for one year, two for two years,
4 two for three years, two for four years, and two for five years. Initial
5 terms date from February 1 before appointment. A vacancy occurring
6 during a term of office is filled in the same manner as the original
7 appointment is made and for the balance of the unexpired term. Each
8 member holds office at the pleasure of the governor notwithstanding
9 the member's term.

10 * Sec. 17. AS 44.39.030 is amended to read:

11 Sec. 44.39.030. APPOINTMENT AND TERM OF OFFICE OF COMMISSIONER.
12 The governor shall appoint the commissioner of fish and game from a
13 list of qualified persons nominated by the Board of Fisheries and the
14 Board of Game meeting in joint session [FISH AND GAME], subject to the
15 right of the governor to request additional nominations. The appoint-
16 ment shall be confirmed by a majority of the members of the legislature
17 in joint session. The commissioner of fish and game serves for a term
18 of five years.

19 * Sec. 18. AS 44.39.050 is amended to read:

20 Sec. 44.39.050. REMOVAL OF COMMISSIONER. The Board of Fisheries
21 and the Board of Game [FISH AND GAME] may submit a resolution to the
22 governor requesting the removal of the commissioner. The resolution
23 shall set out the grounds for the request and the governor shall give
24 the commissioner and the boards [BOARD] an opportunity to be heard.

25 * Sec. 19. The following laws are repealed: AS 16.05.030; 16.05.220
26 16.05.250.