

Introduced: 2/20/75  
Referred: Resources

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a Board of Fish and Game under  
7 sec. 26, Art. III, Alaska Constitution, and relating to  
8 the administration of the Department of Fish and  
9 Game."

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

11 \* Section 1. AS 16.05.010 is amended to read:

12 Sec. 16.05.010. COMMISSIONER OF THE DEPARTMENT OF FISH AND GAME.

13 (a) The commissioner is the principal executive officer of the  
14 Department of Fish and Game. The commissioner is appointed by the  
15 Board of Fish and Game, subject to the approval of the governor. The  
16 commissioner shall be appointed for a five year term, and shall be  
17 chosen without regard for political affiliation. The commissioner may  
18 be removed by the board only for cause, as defined in this section. [  
19 [THE COMMISSIONER SHALL BE A QUALIFIED EXECUTIVE WITH KNOWLEDGE OF THE  
20 REQUIREMENTS FOR THE PROTECTION, MANAGEMENT, CONSERVATION, AND RESTORA-  
21 TION OF THE FISH AND GAME RESOURCES OF THE STATE. THE COMMISSIONER  
22 SHALL BE APPOINTED FOR A TERM OF FIVE YEARS.]

23 (b) The commissioner shall be a qualified executive with knowledge  
24 of the requirements for the protection, management, conservation, and  
25 restoration of the fish and game resources of the state. Minimum  
26 qualifications for a person to serve as commissioner include a bachelor  
27 of science or equivalent degree in a biological science or other  
28 science concerned with living resources, and a minimum of 10 years  
29 professional experience with an agency responsible for the management

1 of renewable resources. Education resulting in an advanced degree in  
2 fish and wildlife management or a related field may be substituted for  
3 up to three years of experience on a year-to-year basis. Employment  
4 including self-employment with a firm, industry, or business involved  
5 directly with fish and game resources may be substituted for up to  
6 three years of experience on a year-to-year basis.

7 (c) Where the commissioner's removal for cause is proposed under  
8 (a) of this section, the board shall furnish the commissioner a written  
9 copy of the charges. He shall also be given a public hearing before  
10 the board upon at least 10 days notice by registered mail. The  
11 commissioner has the right to confrontation by and cross-examination  
12 of all witnesses against him. Upon removal, the board shall file a  
13 complete statement of all charges made against the commissioner and  
14 its findings in the proper state office.

15 (d) As used in this section, "cause" means:

16 (1) incompetency, which is the inability or the intentional  
17 or unintentional failure to perform the duties of the office; or

18 (2) malfeasance or misfeasance in office which includes,  
19 but is not limited to, the failure to comply with the regulations or  
20 resolutions adopted by the board.

21 \* Sec. 2. AS 16.05.030 is amended to read:

22 Sec. 16.05.030. STATUS OF COMMISSIONER. The commissioner is not  
23 a member of the board, but shall be ex-officio secretary. [HE MAY  
24 CAST TIE-BREAKING VOTES.]

25 \* Sec. 3. AS 16.05.220 is amended to read:

26 Sec. 16.05.220. THE BOARD OF FISH AND GAME. (a) There is  
27 created at the head of the Department of Fish and Game a Board of Fish  
28 and Game composed of 7 [12] members having experience, interest, and  
29 knowledge regarding the fish and game resources of the state. [A

1 GENERAL KNOWLEDGE OF THE FISH AND GAME RESOURCES OF THE STATE AND  
2 SELECTED WITHOUT REGARD TO POLITICAL AFFILIATION OR SPECIAL INTEREST.]  
3 Each member of the board shall be a United States citizen and a resident  
4 of the state. Members of the board are appointed by the governor,  
5 subject to confirmation by a majority of the members of the legislature  
6 in joint session. In appointing board members, the governor shall  
7 consider recommendations made by fish and game advisory committees  
8 created under sec. 260 of this chapter.

9 (b) No person may serve on the board if:

10 (1) that person has a financial interest related to fish or  
11 game resources which profits in direct response to the allocation,  
12 distribution, condition, or market prices of fish or game resources;  
13 and

14 (2) that person's membership on the board would provide him  
15 with a distinct influence over his financial interests, which influence  
16 is unavailable to a nonmember with similar or identical financial  
17 interests.

18 (c) Not more than four members of the board may be of the same  
19 political party as the governor. Members of the board serve at the  
20 pleasure of the governor. No board member may be a candidate for  
21 partisan political office while serving as a member of the board.

22 (d) The board shall elect a chairman from among its members, who  
23 shall hold office at the pleasure of the board.

24 \* Sec. 4. AS 16.05.230 is amended to read:

25 Sec. 16.05.230. TERM OF OFFICE. (a) The term of office for  
26 members of the board is four years. The first members appointed serve  
27 as follows: one member for one year, two members for two years, two  
28 members for three years, and two members for four years. Initial  
29 terms date from the first of February immediately preceding appointment.

1 [IF A VACANCY OCCURS, THE GOVERNOR SHALL FILL IT BY APPOINTMENT FOR  
2 THE UNEXPIRED TERM. THE APPOINTMENT SHALL BE SUBMITTED TO THE LEGIS-  
3 LATURE FOR CONFIRMATION AT THE NEXT REGULAR OR SPECIAL SESSION.]

4 (b) A member of the board may act and may receive compensation  
5 prior to action by the legislature on his confirmation.

6 (c) A vacancy occurring during a term of office is filled in the  
7 same manner as the original appointment. An appointment to fill a  
8 vacancy shall be submitted to the legislature for confirmation at the  
9 next regular or special session. A member appointed by the governor  
10 to fill a vacancy serves for the unexpired term of the member he  
11 succeeds.

12 \* Sec. 5. AS 16.05 is amended by adding a new section to read:

13 Sec. 16.05.241. POWERS OF THE BOARD. The board has regulation-  
14 adopting powers as set out in this chapter. In addition, the board  
15 may undertake any administrative, budgeting, or fiscal power vested in  
16 the commissioner under state law by adopting a resolution in the form  
17 of a direction to the commissioner. The commissioner may disregard  
18 wholly or partially a resolution adopted by the board on grounds of  
19 serious impracticability, or because changed conditions have sub-  
20 stantially altered the facts upon which the resolution was based and  
21 a different course of action is appropriate. If a resolution is  
22 disregarded, the commissioner shall submit a written explanation to  
23 the board at its next meeting.

24 \* Sec. 6. AS 16.05.250(4) is amended to read:

25 (4) setting quotas, [AND] bag limits, and size limits.  
26 on the taking of fish and game;

27 \* Sec. 7. AS 16.05.250(7) is amended to read:

28 (7) engaging in biological research, watershed and habitat  
29 improvement, fish and game management, protection, propagation and

1        stocking in the interest of the economy and general well-being of the  
2        state;

3        \* Sec. 8. AS 16.05.250 is amended by adding a new paragraph to read:

4                (15) authorizing the commissioner to carry out a program  
5        under terms and conditions prescribed by the commissioner.

6        \* Sec. 9. AS 16.05.260 is amended to read:

7                Sec. 16.05.260. ADVISORY COMMITTEES. (a) The board may make  
8        rules and regulations it considers advisable in accordance with the  
9        Administrative Procedure Act (AS 44.62) establishing [, AT PLACES IN  
10       THE STATE DESIGNATED BY THE BOARD,] advisory committees to be composed  
11       of persons well informed on the fish and game resources of the locality.  
12       The board shall set the number and terms of each of the members of the  
13       advisory committees, shall designate [DELEGATE] one member of each  
14       committee as chairman, and shall give him authority to hold public  
15       hearings on fish and game matters. Regulations of the board governing  
16       organizational meetings of advisory committees shall provide for a  
17       high level of local public participation. [RECOMMENDATIONS FROM THE  
18       ADVISORY COMMITTEES SHALL BE FORWARDED TO THE BOARD FOR ITS CONSIDERA-  
19       TION. THE COMMISSIONER SHALL DELEGATE AUTHORITY TO ADVISORY COMMITTEES  
20       FOR EMERGENCY CLOSURES DURING ESTABLISHED SEASONS. THE COMMISSIONER  
21       MAY COUNTERMAND AND MAKE NULL AND VOID ANY AUTHORITY DELEGATED OR  
22       ORDER ISSUED UNDER THIS SECTION. THE BOARD SHALL ESTABLISH THE NECES-  
23       SARY RULES GOVERNING SUCH CLOSURES.]

24                (b) For the purposes of establishing advisory committees, the  
25        board shall divide the state into a maximum of twelve regions, with  
26        regional boundaries coinciding with fish and game regulatory area  
27        boundaries wherever possible. The board shall establish a maximum of  
28        six advisory committees within each region.

29                (c) Recommendations from the advisory committees shall be

1 forwarded to the board for its consideration. The advisory committees  
2 in each region may, consistent with regulations adopted by the board,  
3 elect one advisory committee member from that region to attend board  
4 meetings and to present the recommendations of that region's advisory  
5 committees to the board. The person elected is entitled to expenses,  
6 travel, and per diem allowed by law for the time necessary to present  
7 the recommendations. Whenever the board fails to implement an advisory  
8 committee recommendation, it shall insure that the formal record of  
9 the board meeting reflects the reasons for its action.

10 (d) Advisory committee chairmen may make emergency closures  
11 within a region during established seasons. A season may be closed  
12 within a particular advisory committee region by a vote of the majority  
13 of the chairmen of advisory committees then existing within the region.  
14 The commissioner may countermand a closure order issued under this  
15 section. The board shall adopt the necessary regulations governing  
16 such closures.

17 \* Sec. 10. AS 16.05.270 is amended to read:

18 Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER. (a)  
19 For the purpose of administering secs. 250 and 260 of this chapter,  
20 the board may delegate authority to the commissioner to act in its  
21 behalf. [IF THERE IS A CONFLICT BETWEEN THE BOARD AND THE COMMISSIONER  
22 ON PROPOSED RULES AND REGULATIONS, PUBLIC HEARINGS SHALL BE HELD  
23 CONCERNING THE ISSUES IN QUESTION. IF, AFTER THE PUBLIC HEARINGS, THE  
24 BOARD AND THE COMMISSIONER CONTINUE TO DISAGREE, THE ISSUE SHALL BE  
25 CERTIFIED IN WRITING BY THE BOARD AND THE COMMISSIONER TO THE GOVERNOR  
26 WHO SHALL MAKE A DECISION. THE DECISION OF THE GOVERNOR IS FINAL.]  
27 The commissioner may obtain a delegation from the board by polling the  
28 members of the board by telephone or by mail if a meeting of the board  
29 in one location would be impractical or unnecessary.

1           (b) A delegation of authority under (a) of this section is not  
2 required for the commissioner to adopt, in accordance with the Admini-  
3 strative Procedure Act (AS 44.62) and secs. 250 or 260 of this chapter,  
4 regulations of a predominantly technical nature designed to correct  
5 existing regulations of the board which are incomplete, unclear, or  
6 inconsistent. These regulations shall be consistent with all expres-  
7 sions of board policy.

8           (c) A delegation of authority under (a) of this section is not  
9 required for the commissioner to adopt regulations in accordance with  
10 the Administrative Procedure Act (AS 44.62) and sec. 250 of this  
11 chapter, when they are immediately necessary to protect the fish and  
12 game resources of the state. These regulations shall, to the fullest  
13 extent practicable, be consistent with all expressions of board  
14 policy. The commissioner may utilize the powers in this subsection  
15 only if he has been unable to contact a quorum of board members to  
16 obtain a delegation of authority under (a) of this section within the  
17 time available.

18 \* Sec. 11. AS 16.05.290 is amended to read:

19           Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of  
20 the board is entitled to travel expenses and per diem allowed by law  
21 for each day going to and from and for each day in actual attendance  
22 at board meetings and other meetings or activities [CONFERENCES]  
23 authorized by the board.

24 \* Sec. 12. AS 16.05.320 is amended to read:

25           Sec. 16.05.320. QUORUM. A majority of the members of the board  
26 constitutes a quorum for the transaction of business, for the perfor-  
27 mance of any duty, and for the exercise of any power. However, a  
28 majority of the full membership of 7 [12] members is required to  
29 carry all motions, regulations and resolutions, to make a delegation

1 of authority, to appoint a commissioner, or to remove a commissioner  
2 for cause.

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

4       Sec. 16.05.325. LEGAL ASSISTANCE. The Department of Law shall  
5 provide all legal assistance to the board.

6 \* Sec. 14. All regulations, resolutions, motions, and delegations of  
7 authority adopted and any other actions taken under the authority of the  
8 board that are in effect on the effective date of this Act remain in effect  
9 until amended or revoked by the board or until they expire by their own  
10 terms.

11 \* Sec. 15. AS 16.05.240, 16.05.280, 39.05.060(a)(5) and 44.39.030 -  
12 44.39.050 are repealed.