

Introduced: 2/24/77
Referred: Resources and
Finance

1 IN THE HOUSE

BY GARDINER

2 SC HOUSE BILL NO. 264 Fin (Res) am S
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fisheries enhancement; and providing
7 for an effective date."

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

9 * Section 1. AS 16.10.375 is amended to read:

10 Sec. 16.10.375. REGIONAL PLAN FOR SALMON ENHANCEMENT. The com-
11 missioner shall designate regions of the state for the purpose of en-
12 hancing salmon production and shall develop and amend as necessary a
13 comprehensive salmon enhancement plan for each region for both public
14 and private nonprofit hatchery systems. Comprehensive salmon enhance-
15 ment plans shall be developed in conjunction with and approved by the
16 [COOPERATION WITH] appropriate qualified regional associations formed
17 under sec. 380 of this chapter.

18 * Sec. 2. AS 16.10.400(a), (e), and (f) are amended to read:

19 (a) The commissioner or his designee may issue or renew a permit,
20 subject to the restrictions [HE CONSIDERS DESIRABLE OR THAT ARE] imposed
21 by statute or regulation under secs. 400 - 470 of this chapter, to a non-
22 profit corporation organized under AS 10.20, and subject to approval by
23 the qualified regional association for the area in which the hatchery is
24 to be operated, for the construction and operation of a salmon hatchery.

25 (e) A qualified regional association formed under sec. 380 of this
26 chapter, if it has become a nonprofit corporation under AS 10.20, has a
27 preference right to a permit if its proposed hatchery is provided for in
28 the comprehensive plan for that region developed under sec. 375 of this
29 chapter. Any other [A] local nonprofit hatchery corporation [ESTABLISHED

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1 OR APPROVED BY A QUALIFIED REGIONAL ASSOCIATION] has a secondary [AN
2 IDENTICAL] preference right.

3 (f) Except for permits issued before June 16, 1976, no permit may
4 be issued for construction or operation of a hatchery on an anadromous
5 fish stream unless the stream has been classified as suitable for en-
6 hancement purposes by the commissioner and the permit is approved by the
7 qualified regional association for the area in which the hatchery is to
8 be operated. The commissioner shall undertake to make such classifi-
9 cations in conjunction with the development of the comprehensive plan
10 under sec. 375 of this chapter.

11 * Sec. 3. AS 16.10.420(6) is amended to read:

12 (6) adult salmon be harvested by hatchery operators only at
13 specific locations as designated by the department and the qualified
14 regional association for the area in which the hatchery is operated;

15 * Sec. 4. AS 16.10.430(a) is amended to read:

16 (a) If a permit holder fails to comply with the conditions and
17 terms of the permit issued under secs. 400 - 470 of this chapter within
18 a reasonable period after notification of his noncompliance by the
19 department, his permit may be suspended or revoked, in the discretion of
20 the commissioner after the qualified regional association for the area
21 in which the hatchery is located is notified and granted an opportunity
22 to comment upon the proposed suspension or revocation.

23 * Sec. 5. AS 16.10.440(a) is amended to read:

24 (a) Fish released into the natural waters of the state by a
25 hatchery operated under secs. 400 - 470 of this chapter are available to
26 the people for common use and are subject to regulations under appli-
27 cable law in the same way as fish occurring in their natural state until
28 they return to the specific location designated by the department and
29 the qualified regional association for the area in which the hatchery is

1 located, for harvest by the hatchery operator.

2 * Sec. 6. AS 16.10 is amended by adding a new section to read:

3 Sec. 16.10.447. HARVEST OF SALMON RETURNING TO STATE-OPERATED
4 HATCHERIES. All salmon in excess of brood stock requirements returning
5 to state-operated hatcheries shall be harvested and disposed of by the
6 qualified regional associations of the area in which the state-operated
7 hatchery is located. If no qualified regional association exists in the
8 area, the proceeds from the sale in excess of the costs of harvesting
9 shall be deposited in the Alaska renewable resources permanent fund (AS
10 37.11.050 - 37.11.080).

11 * Sec. 7. AS 16.10.450 is amended to read:

12 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A
13 hatchery operator who sells salmon returning from the natural waters of
14 the state, or sells salmon eggs to another hatchery operating under
15 secs. 400 - 470 of this chapter, after utilizing the funds for reason-
16 able operating costs, including debt retirement, [OR] expanding its
17 facilities, or for costs of operating the qualified regional association
18 for the area in which the hatchery is located, shall expend the remain-
19 ing funds on fisheries research, salmon rehabilitation projects, or
20 other fisheries activities. Fish returning to [SOLD BY] hatcheries
21 and sold for human consumption shall be of comparable quality to fish
22 harvested by commercial fisheries in the area, and shall be sold at
23 prices commensurate with the current market.

24 * Sec. 8. AS 16.10.470 is amended to read:

25 Sec. 16.10.470. ANNUAL REPORT. A person who holds a permit for
26 the operation of a salmon hatchery under secs. 400 - 470 of this chapter
27 shall submit an annual report to the department and to the qualified
28 regional association of the area in which the hatchery is located to
29 include but not be limited to

1 [(1) A COMPLETE DESCRIPTION OF ALL SIGNIFICANT HATCHERY
2 OPERATIONS;]

3 (2) statistics on the numbers of eggs and fish handled by the
4 hatchery, whether for production or sale[;

5 (3) FUTURE RECOMMENDATIONS FOR MODIFICATIONS OF THE HATCHERY
6 PROGRAM;

7 (4) ANY OTHER RELEVANT DATA REQUIRED BY THE DEPARTMENT].

8 * Sec. 9. AS 16.10.500 is amended to read:

9 Sec. 16.10.500. DECLARATION OF POLICY. It is the policy of the
10 state, under secs. 500 - 550 of this chapter, to promote the enhancement
11 of the state's fisheries by means of grants for organizational purposes
12 to regional associations which have qualified under sec. 380 of this
13 chapter, and by means of long-term, low interest loans for hatchery
14 planning, [AND] construction, and operation.

15 * Sec. 10. AS 16.10.510(1) is amended to read:

16 (1) make loans to permit holders, under secs. 400 - 470 of
17 this chapter, including those holders issued permits before the effec-
18 tive date of this Act, for the planning, [AND] construction, and opera-
19 tion of hatchery facilities;

20 * Sec. 11. AS 16.10.510 is amended by adding a new paragraph to read:

21 (9) make grants for organizational purposes to qualified
22 regional associations which have formed a nonprofit corporation in
23 amounts not exceeding \$150,000 per region.

24 * Sec. 12. AS 16.10.520(a) and (c) are amended to read:

25 (a) A single fisheries enhancement loan may not exceed \$3,000,000
26 for a hatchery constructed under a permit granted to a qualified re-
27 gional association which has formed a nonprofit corporation [, OR TO A
28 LOCAL NONPROFIT CORPORATION ESTABLISHED OR APPROVED BY A QUALIFIED
29 REGIONAL ASSOCIATION]. A loan for any other nonprofit hatchery corpor-

1 ation project may not exceed \$300,000.

2 (c) All loans must be secured by collateral satisfactory to the
3 commissioner, including but not limited to a first deed of trust,
4 assignment of lease and leasehold improvements, sale of surplus fish
5 from the hatchery, or assessments from the fishermen levied under
6 sec. 530 [SECS. 530 - 540] of this chapter.

7 * Sec. 13. AS 16.10.530(a) is repealed and re-enacted to read:

8 (a) The commissioner of commerce and economic development, on
9 request of the qualified regional association for the area in which the
10 assessment is to be levied, shall establish areas in which an assessment
11 shall be levied on the sale of one or more species of salmon by persons
12 licensed under AS 16.05.540 - 16.05.600. An assessment levied under
13 this section shall be for the purpose of providing revenue for the
14 qualified regional association for the area in which the assessment is
15 made. The rate and conditions of assessments shall be stated by the
16 appropriate qualified regional association in conjunction with the
17 request to the commissioner of commerce and economic development under
18 this subsection.

19 * Sec. 14. AS 16.10.530(c) and (d) are amended to read:

20 (c) The commissioner and the appropriate qualified regional asso-
21 ciation must agree on a means of collection of the assessment [BEFORE A
22 LOAN IS MADE,] and the commissioner may, by regulation, require its
23 collection by buyers of the salmon upon the sale of which an assessment
24 is levied.

25 (d) The assessment shall terminate upon request of the qualified
26 regional corporation when all financial obligations relating to the
27 loans have been met [THE PRINCIPAL AND INTEREST ON THE LOAN IS PAID].

28 * Sec. 15. AS 16.10.400(d) and 16.10.520(b) are repealed.

29 * Sec. 16. AS 16.10.510(8) is repealed and re-enacted to read:

1 (8) no repayment of principal may be required for an initial
2 period of six years, and the loan does not bear interest during that
3 period.

4 * Sec. 17. AS 16.10 is amended by adding new sections to read:

5 Sec. 16.10.600. CREATION OF AUTHORITIES. (a) An association
6 qualified under sec. 380 of this chapter as a regional association is
7 given the authority to form a regional salmon enhancement authority.
8 There is created with respect to each of the associations qualified
9 under sec. 380 of this chapter a public body corporate and politic as a
10 political subdivision of the state to function in the operating areas of
11 the individual associations. Each authority may exercise all powers
12 conferred by secs. 600 - 690 of this chapter.

13 (b) A regional salmon enhancement authority may not transact
14 business or exercise powers granted to it until the governing body of
15 the association has, by resolution, declared there is a need for the
16 authority to function, given it the authority to function and appointed
17 persons to serve as the board of commissioners of the authority. The
18 number of members of the board of commissioners, their terms of office
19 and the filling of vacancies in office shall be determined by resolution
20 of the governing body of the association.

21 (c) The regional salmon enhancement authority has jurisdiction to
22 operate in all or part of the operating area of the individual associa-
23 tion as determined by resolution of the governing body of the associa-
24 tion.

25 Sec. 16.10.610. TAX EXEMPTION. (a) A salmon enhancement author-
26 ity is exempt from payment of taxes or assessments for a period of 20
27 years from the effective date of this Act on property owned by the
28 authority which is used for salmon enhancement purposes.

29 (b) All obligations issued under secs. 600 - 690 of this chapter

1 are issued by a body corporate and public which is a political sub-
2 division of the state and for an essential public and governmental
3 purpose, and the obligations, and the interest and income on and from
4 the obligations, and all fees, charges, funds, revenues, income and
5 other money pledged or available to pay or secure the payment of the
6 obligations or interest are exempt from taxation for a period of 20
7 years from the effective date of this Act, except for transfer, inheri-
8 tance and estate taxes.

9 (c) All obligations or liabilities of a regional salmon enhance-
10 ment authority remain its own and are not obligations or liabilities of
11 the state.

12 Sec. 16.10.620. POWERS OF THE AUTHORITY. A salmon enhancement
13 authority has the general power to

- 14 (1) adopt, alter and use a corporate seal;
- 15 (2) prescribe, adopt, amend and repeal bylaws;
- 16 (3) sue and be sued in its own name;
- 17 (4) appoint officers, agents and employees and vest them with
18 powers and duties and to fix, change and pay compensation for their
19 services as the authority may determine;
- 20 (5) borrow money, make and issue bonds, notes and other
21 evidences of indebtedness of the authority for any of its corporate
22 purposes and to secure payment of its bonds and of other obligations
23 by pledge of or lien on all or any of its assets, contracts, revenue and
24 income;
- 25 (6) make and issue bonds for the purpose of funding, refund-
26 ing, purchasing, paying or discharging any of the outstanding bonds or
27 obligations issued or assumed by it or bonds or obligations the princi-
28 pal or interest of which is payable in whole or in part from its revenue;
- 29 (7) make and execute agreements, contracts and other instru-

1 ments necessary or convenient in the exercise of its powers and func-
2 tions, including contracts with any person, firm, corporation, government
3 agency or other entity;

4 (8) receive, administer and comply with the conditions and
5 requirements of an appropriation, gift, grant or donation of property or
6 money;

7 (9) invest or reinvest money or funds held by the authority
8 in obligations or other securities or investments in which banks or
9 trust companies in the state may legally invest funds held in reserves
10 or sinking funds or funds not required for immediate disbursement, and
11 in certificates of deposits or time deposits;

12 (10) acquire, hold, use, lease, sell or otherwise dispose of
13 property of any kind, real, personal or mixed or any interest in it;

14 (11) do all acts and things necessary, convenient or desirable
15 to carry out the powers granted or implied in secs. 600 - 690 of this
16 chapter;

17 (12) adopt, amend and repeal rules and regulations necessary
18 for the exercise and performance of its powers and duties.

19 Sec. 16.10.630. BONDS AND NOTES. (a) The authority, by board
20 of commissioners resolution, may issue bonds and bond anticipation notes
21 in order to provide funds to carry out and effectuate its purposes.

22 (b) The principal and interest on these bonds or notes is payable
23 from authority funds. Bond anticipation notes may be payable from the
24 proceeds of the sale of bonds or from the proceeds of sale of other bond
25 anticipation notes or, if bond or bond anticipation note proceeds are
26 not available, such notes may be paid from other funds or assets of the
27 authority. Bonds or notes may be additionally secured by a pledge of a
28 grant or contribution from the federal or state government, a corpora-
29 tion, association, institution or person, or a pledge of money, income,

1 or revenues of the authority from any source.

2 (c) Bonds or bond anticipation notes may be issued as provided by
3 board resolution, in one or more series and shall (1) be dated; (2) bear
4 interest at the prescribed rate per year or within the maximum rate; (3)
5 be in a certain denomination or form, either coupon or registered; (4)
6 carry the conversion or registration provisions; (5) have rank or
7 priority; (6) be executed in a certain manner and form; (7) be payable
8 from the sources in the medium of payment and place or places inside or
9 outside the state; (8) be subject to authentication by a trustee or
10 fiscal agent; and (9) be subject to terms of redemption, with or without
11 premium. Bond anticipation notes mature at a time determined by the
12 authority. Bonds mature at a time, not exceeding 50 years from the date
13 of their issuance, as determined by the authority. Before the prepara-
14 tion of definitive bonds or bond anticipation notes, the authority may
15 issue interim receipts or temporary bonds or bond anticipation notes,
16 without or without coupons, exchangeable for bonds or bond anticipation
17 notes when the definitive bonds or bond anticipation notes have been
18 executed and are available for delivery.

19 (d) Bond or bond anticipation notes may be sold in the manner, on
20 the terms, and at the price the authority determines.

21 (e) If an officer whose actual or facsimile signature appears on
22 any bonds or notes or coupons attached to them ceases to be an officer
23 before the delivery of the bond, note or coupon, his signature is valid
24 as if he had remained in office until delivery.

25 (f) In a resolution by the board of commissioners of the authority
26 authorizing or relating to the issuance of bonds or bond anticipation
27 notes, the authority may, with the holders of the bonds or bond antici-
28 pation notes,

29 (1) pledge to any payment or purpose all or any part of

1 revenues to which it is or will be entitled to and similarly pledge the
2 money derived from the revenues, and the proceeds of any bonds or notes;

3 (2) covenant against pledging all or any part of its revenues,
4 or against permitting or suffering a lien on the revenues or its pro-
5 perty;

6 (3) covenant as to the use and disposition of any and all
7 payments of principal or interest received by the authority on mortgage
8 loans, construction loans or other investments held by the authority;

9 (4) covenant as to establishment of reserves or sinking funds
10 and the making of provision for and the regulation and disposition of
11 the reserves or sinking funds;

12 (5) covenant with respect to or against limitations on a
13 right to sell or otherwise dispose of property of any kind;

14 (6) covenant as to bonds and notes to be issued, and their
15 limitations, terms and conditions, and as to the custody, application
16 and disposition of the proceeds of the bonds and notes;

17 (7) covenant as to the issuance of additional bonds or notes,
18 or as to limitations on the issuance of additional bonds or notes and
19 the incurring of the other debts;

20 (8) covenant as to the payment of the principal of or inter-
21 est on the bonds or notes, as to the sources and methods of the payment,
22 as to the rank or priority of the bonds or notes with respect to a lien
23 or security, or as to the acceleration of the maturity of the bonds or
24 notes;

25 (9) provide for the replacement of lost, stolen, destroyed or
26 mutilated bonds or notes;

27 (10) covenant against extending the time for the payment of
28 bonds or notes or interest on the bonds or notes;

29 (11) covenant as to the redemption of bonds or notes and

1 privileges of their exchange for other bonds or notes of the authority;

2 (12) covenant to create or authorize the creation of special
3 funds of money to be held in pledge or otherwise for operation expenses,
4 payment or redemption of bonds or notes, reserves or other purposes, and
5 as to use and disposition of the money held in the funds;

6 (13) establish the procedure, if any, by which the terms of
7 any contract or covenant with or for the benefit of the holders of bonds
8 or notes may be amended or abrogated, the amount of bonds or notes the
9 holders of which must consent to amendment or abrogation, and the manner
10 in which the consent may be given;

11 (14) covenant as to the custody of any of its properties or
12 investments, their safekeeping and insurance, and the use and disposi-
13 tion of insurance money;

14 (15) covenant as to the time or manner of enforcement or
15 restraint from enforcement of any rights of the corporation arising by
16 reason of or with respect to nonpayment of principal or interest of any
17 mortgage loans or construction loans;

18 (16) provide for the rights and liabilities, powers and duties
19 arising upon the breach of a covenant, condition or obligation, and to
20 prescribe the events of default and the terms and conditions upon which
21 any or all of the bonds, notes or other obligations of the authority
22 become or may be declared due and payable before maturity and the terms
23 and conditions upon which such a declaration and its consequences may be
24 waived;

25 (17) vest in a trustee or trustees inside or outside the state
26 property, rights, powers and duties in trust as the authority may
27 determine, which may include any or all of the rights, powers and duties
28 of a trustee appointed by the holders of bonds or notes, and to limit or
29 abrogate the right of the holders of bonds or notes of the authority to

1 appoint a trustee under secs. 600 - 690 of this chapter or limit the
2 rights, powers and duties of the trustee;

3 (18) pay the costs or expenses incident to the enforcement of
4 the bonds or notes or of the provisions of the resolution or of a
5 covenant or agreement of the authority with the holders of its bonds or
6 notes;

7 (19) agree with a corporate trustee which may be a trust
8 company or bank having the powers of a trust company inside or outside
9 the state as to the pledging or assigning of revenues or funds to which
10 or in which the authority has any rights or interest; and further pro-
11 vide for other rights and remedies exercisable by the trustee as may be
12 proper for the protection of the holders of any bonds or notes of the
13 authority and not otherwise in violation of law and may provide for the
14 restriction of the rights of an individual holder of bonds or notes of
15 the authority;

16 (20) appoint and provide for the duties and obligations of a
17 paying agent or other fiduciary, by resolution, inside or outside the
18 state;

19 (21) limit the rights of the holders of bonds or notes to
20 enforce a pledge or covenant securing bonds or notes;

21 (22) make covenants other than expressly authorized in this
22 section, of like or different character, and to make covenants as may be
23 necessary or desirable, to better secure bonds or notes or which, in the
24 discretion of the authority, will tend to make bonds or notes more
25 marketable, notwithstanding the fact that the covenants are not enumer-
26 ated in this section.

27 Sec. 16.10.640. VALIDITY OF PLEDGE. The pledge of assets or
28 revenues of the authority to the payment of the principal or interest of
29 obligations of the authority is valid and binding from the time the

1 pledge is made and assets or revenues pledged are immediately subject to
2 the lien of the pledge without physical delivery or further action. The
3 lien of a pledge is valid and binding against all parties having claims
4 of any kind in tort, contract or otherwise against the authority,
5 irrespective of whether those parties have notice of the lien of the
6 pledge. Nothing prohibits the authority from selling assets subject to
7 a pledge, except that a sale may be restricted by the trust agreement or
8 resolution providing for the issuance of the obligations.

9 Sec. 16.10.650. REMEDIES. A holder of obligations or coupons
10 attached to them issued under the provisions of secs. 600 - 690 of this
11 chapter, and a trustee under a trust agreement or resolution authorizing
12 the issuance of the obligations, if not restricted by the trust agree-
13 ment or resolution, either at law or in equity, may enforce all rights
14 granted under the coupons or under the trust agreement or resolution, or
15 under any other contract executed by the authority under secs. 600 - 690
16 of this chapter, and may enforce and compel the performance of all
17 duties required by secs. 600 - 690 of this chapter or by the trust
18 agreement or resolution to be performed by the authority or by an officer
19 of it.

20 Sec. 16.10.660. NEGOTIABLE INSTRUMENTS. All obligations and
21 interest coupons attached to the obligations are negotiable instruments
22 under the laws of this state, subject only to applicable registration
23 provisions.

24 Sec. 16.10.670. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
25 issued under the provisions of secs. 600 - 690 of this chapter are
26 securities in which all public officers and public bodies of the state
27 and its political subdivisions, all insurance companies, trust companies,
28 banking associations, investment companies, executors, administrators,
29 trustees and other fiduciaries may properly and legally invest funds,

1 including capital in their control or belonging to them. These obliga-
2 tions may be deposited with the state or municipal officer of an agency
3 or political subdivision of the state for any purpose for which the
4 deposit of bonds, notes or obligations of the state is authorized by
5 law.

6 Sec. 16.10.680. REFUNDING OBLIGATIONS. (a) The authority may
7 provide for the issuance of refunding obligations for the purpose of re-
8 funding obligations then outstanding which have been issued under the
9 provisions of secs. 600 - 690 of this chapter, including the payment of
10 redemption premium on them and interest accrued or to accrue to the date
11 of redemption of the obligations. The issuance of the obligations, the
12 maturities and other details of them, the rights of the holders of them,
13 and the rights, duties and obligations of the authority in respect of
14 them are governed by the provisions of secs. 600 - 690 of this chapter
15 which relate to the issuance of appropriate obligations.

16 (b) Refunding obligations may be sold or exchanged for outstanding
17 obligations issued under secs. 600 - 690 of this chapter. If sold, the
18 proceeds may be applied, in addition to other authorized purposes, to
19 the purchase, redemption or payment of the outstanding obligations.
20 Pending the application of the proceeds of any such refunding obligations,
21 with any other available funds, to the payment of the principal (accrued
22 interest and any redemption premium on the obligations being refunded,
23 and, if so provided or permitted in the resolution authorizing the
24 issuance of the refunding obligations or in the trust agreement securing
25 them, to the payment of any interest on the refunding obligations and
26 any expenses in connection with the refunding), the proceeds may be
27 invested in direct obligations of, or obligations the principal of and
28 the interest on which are unconditionally guaranteed by, the United
29 States of America which mature or which will be subject to redemption,

1 at the option of the holders of them, not later than the respective
2 dates when the proceeds, together with the interest accruing on them,
3 will be required for the purposes intended.

4 Sec. 16.10.690. CREDIT OF STATE NOT PLEDGED. Obligations issued
5 under the provisions of secs. 600 - 690 of this chapter do not consti-
6 tute a debt, liability or obligation of the state or of any other
7 political subdivision of the state or a pledge of the faith and credit
8 of the state or a political subdivision of the state but are payable
9 solely from the revenues or assets of the authority. Each obligation
10 issued under secs. 600 - 690 of this chapter shall contain on its face a
11 statement that the authority is not obligated to pay it nor the interest
12 on it except from the revenues or assets pledged for it and that neither
13 the faith and credit nor the taxing power of the state or of a political
14 subdivision of the state is pledged to the payment of the principal of
15 or interest on the obligation.

16 * Sec. 18. This Act takes effect immediately in accordance with AS 01.10.-
17 070(c).