

Original sponsor: Rules Committee
by request (for the Special
Committee on Subsistence)

Offered: 5/4/78
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 960

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fish and game management."

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

8 * Section 1. INTENT. The legislature finds that there is a need to
9 develop a statewide policy on the utilization, development and conservation
10 of fish and game resources, and to recognize that those resources are not
11 inexhaustible and that preferences must be established among beneficial users
12 of the resources. The legislature further determines that it is in the
13 public interest to clearly establish subsistence use as the priority bene-
14 ficial use of Alaska's fish and game resources and to recognize the needs,
15 customs and traditions of Alaskan residents. The legislature further finds
16 that beneficial use of those resources by all state residents should be
17 carefully monitored and regulated, with as much input as possible from the
18 affected users, so that the viability of fish and game resources is not
19 threatened and so that resources are conserved in a manner consistent with
20 the sustained-yield principle.

21 * Sec. 2. AS 16.05.020(1) is amended to read:

22 (1) supervise and control the department, and, except as
23 provided under sec. 93 of this chapter, he may appoint and employ divi-
24 sion heads, enforcement agents, and the technical, clerical, and other
25 assistants necessary for the general administration of the department;

26 * Sec. 3. AS 16.05.090 is amended by adding a new subsection to read:

27 (c) There is established in the Department of Fish and Game a
28 division of subsistence hunting and fishing.

29 * Sec. 4. AS 16.05 is amended by adding new sections to read:

1 Sec. 16.05.093. DIRECTOR OF THE DIVISION OF SUBSISTENCE HUNTING
2 AND FISHING. The division of subsistence hunting and fishing shall be
3 administered by a director appointed by the governor.

4 Sec. 16.05.094. DUTIES OF DIVISION OF SUBSISTENCE HUNTING AND
5 FISHING. The division of subsistence hunting and fishing shall

6 (1) compile existing data and conduct studies to gather
7 information, including data from subsistence users, on all aspects of
8 the role of subsistence hunting and fishing in the lives of the resi-
9 dents of the state;

10 (2) quantify the amount, nutritional value, and extent of
11 dependence on food acquired through subsistence hunting and fishing;

12 (3) make information gathered available to other appropriate
13 agencies and the legislature in a form suitable for use in developing
14 policies relating to land, water or resource use;

15 (4) assist the legislature or the Board of Fisheries or the
16 Board of Game in determining what uses of fish and game, as well as
17 which users and what methods, should be termed subsistence uses, users,
18 and methods;

19 (5) evaluate the impact of state and federal laws and regu-
20 lations on subsistence hunting and fishing and, when corrective action
21 is indicated, make recommendations to the governor and the legislature;

22 (6) make recommendations to the Board of Game and the Board
23 of Fisheries regarding adoption, amendment and repeal of regulations
24 relating to subsistence hunting and fishing;

25 (7) contract with organizations or individuals capable of
26 assisting the division in carrying out its duties;

27 (8) participate with other divisions in the preparation of
28 statewide and regional management plans so that those plans reorganize
29 and incorporate the needs of subsistence users of fish and game.

1 * Sec. 5. AS 16.05.221 is amended to read:

2 Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes
3 of the conservation and development of the fishery resources of the
4 state, there is created the Board of Fisheries composed of nine [SEVEN]
5 members appointed by the governor, subject to confirmation by a majority
6 of the members of the legislature in joint session. The [APPOINTED]
7 members shall be residents of the state and shall be appointed without
8 regard to political affiliation [OR GEOGRAPHICAL LOCATION OF RESIDENCE].
9 The commissioner is not a member of the Board of Fisheries, but shall be
10 ex officio secretary.

11 (b) For purposes of the conservation and development of the game
12 resources of the state, there is created a Board of Game composed of
13 nine [SEVEN] members appointed by the governor, subject to confirmation
14 by a majority of the members of the legislature in joint session. The
15 [APPOINTED] members shall be residents of the state, and shall be ap-
16 pointed without regard to political affiliation [OR GEOGRAPHICAL LOCA-
17 TION OF RESIDENCE]. The commissioner is not a member of the Board of
18 Game, but shall be ex officio secretary.

19 * Sec. 6. AS 16.05.251 is amended by adding a new subsection to read:

20 (b) The Board of Fisheries shall adopt regulations in accordance
21 with the Administrative Procedure Act (AS 44.62) permitting the taking
22 of fish for subsistence uses unless the board determines, in accordance
23 with the Administrative Procedure Act, that adoption of such regulations
24 will jeopardize or interfere with the maintenance of fish stocks on a
25 sustained-yield basis. Whenever it is necessary to restrict the taking
26 of fish to assure the maintenance of fish stocks on a sustained-yield
27 basis, or to assure the continuation of subsistence uses of such re-
28 sources, subsistence use shall be the priority use. If further restric-
29 tion is necessary, the board shall establish restrictions and limita-

1 tions on and priorities for these consumptive uses on the basis of the
2 following criteria:

3 (1) customary and direct dependence upon the resource as the
4 mainstay of one's livelihood;

5 (2) local residency; and

6 (3) availability of alternative resources.

7 * Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

8 (b) The Board of Game shall adopt regulations in accordance with
9 the Administrative Procedure Act (AS 44.62) permitting the taking of
10 game for subsistence uses unless the board determines, in accordance
11 with the Administrative Procedure Act, that adoption of such regulations
12 will jeopardize or interfere with the maintenance of game resources on a
13 sustained-yield basis. Whenever it is necessary to restrict the taking
14 of game to assure the maintenance of game resources on a sustained-yield
15 basis, or to assure the continuation of subsistence uses of such re-
16 sources, subsistence use shall be the priority use. If further restric-
17 tion is necessary, the board shall establish restrictions and limita-
18 tions on and priorities for these consumptive uses on the basis of the
19 following criteria:

20 (1) customary and direct dependence upon the resource as the
21 mainstay of one's livelihood;

22 (2) local residency; and

23 (3) availability of alternative resources.

24 (c) No regulations permitting the taking of game may be adopted
25 unless the game is edible at the time of year when the taking is to be
26 permitted.

27 * Sec. 8. AS 16.05.257(a) is amended to read:

28 (a) The Board of Game, at its regularly scheduled annual meeting,
29 shall consider and may adopt regulations providing for subsistence

1 hunting in a game management unit or subunit or a portion of a unit or
2 subunit upon

3 (1) recommendation of the department, based on biological
4 evidence;

5 (2) the recommendation [MAJORITY VOTE] of the active local
6 advisory committees for that game management unit or subunit or a por-
7 tion of a unit or subunit;

8 (3) the written petition of not less than 100 interested
9 residents of that game management unit or subunit; or

10 (4) the written petition of not less than 25 interested
11 residents of an area which is requested for establishment as a subsis-
12 tence area within a game management unit or subunit.

13 * Sec. 9. AS 16.05.257(c) is repealed and re-enacted to read:

14 (c) No regulations may be adopted by the Board of Game under (a),
15 (b) or (f) of this section unless, in addition to the requirements of AS
16 44.62.180 - 44.62.290, the department

17 (1) holds public hearings, after reasonable notice, at least
18 30 days before the meeting at which the regulation is to be adopted,
19 with at least one of the hearings being held in close proximity to the
20 area potentially affected;

21 (2) presents at the hearings the information provided for in
22 (e) of this section;

23 (3) makes the information provided for in (e) of this section
24 available to the appropriate advisory committees and to petitioners if
25 consideration of adoption of regulations was prompted by petitions under
26 (a)(3) or (4) of this section; comments shall be received by the board
27 until 10 days before any adoption of regulations.

28 * Sec. 10. AS 16.05.257(d) is amended to read:

29 (d) A petition submitted under (a)(3) - (4) of this section shall

1 contain a complete description of the area requested as a subsistence
2 area and a specification of the species within the area considered
3 necessary for subsistence use. A petition or request made under (a)(2),
4 (3) or (4) of this section must be filed with the department at least
5 75 days before the next scheduled meeting of the board.

6 * Sec. 11. AS 16.05.257(e) is repealed and re-enacted to read:

7 (e) The department shall investigate every petition or request
8 made under (a)(2), (3) or (4) of this section and provide the following
9 information: (1) the concentration and carrying capacity of the species
10 to be affected; (2) the concentration of other species; (3) the extent
11 of competition of other species with the affected species in the area;
12 (4) the current hunting practices in the area, including numbers of
13 animals taken and by what methods and means, whether the take is sub-
14 sistence or recreational, and characteristics of the hunters; (5) the
15 past and present dependence of persons in the area for subsistence use
16 of a species; (6) the biomass of the species to be affected; (7) the
17 population trends in the area; and (8) whether the population is able to
18 support a nonsubsistence harvest.

19 * Sec. 12. AS 16.05.257(h)(1) is amended to read:

20 (1) "subsistence hunting" means the taking of game animals by
21 a state resident for subsistence uses by means defined by the Board of
22 Game [FOOD OR CLOTHING FOR PERSONAL OR IMMEDIATE FAMILY USE];

23 * Sec. 13. AS 16.05.257(h)(2) is repealed and re-enacted to read:

24 (2) "subsistence hunting area" means an area in which only
25 subsistence hunting of the affected species is permitted and which is
26 managed for maximum food potential.

27 * Sec. 14. AS 16.05.257 is amended by adding a new subsection to read:

28 (i) The Board of Game may make no decision denying, creating or
29 changing a subsistence hunting area unless based on specific written

1 findings of fact regarding all the information provided in accordance
2 with (e) of this section. No subsistence hunting area may be created if
3 the board determines that creation of such an area will jeopardize or
4 interfere with the maintenance of game populations on a sustained-yield
5 basis.

6 * Sec. 15. AS 16.05.290 is amended to read:

7 Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of a
8 board is entitled to travel expenses, [AND \$100] per diem, and \$100 in
9 compensation for each day going to and from and for each day in actual
10 attendance at board meetings and other meetings or conferences author-
11 ized by a board.

12 * Sec. 16. AS 16.05.930 is amended by adding a new subsection to read:

13 (e) This chapter does not prevent the traditional barter of fish
14 and game taken by subsistence hunting or fishing, except that the com-
15 missioner may prohibit the barter of subsistence-taken fish and game by
16 regulation, emergency or otherwise, if a determination on the record is
17 made that the barter is resulting in a waste of the resource, damage to
18 fish stocks or game populations, or circumvention of fish or game
19 management programs.

20 * Sec. 17. AS 16.05.940 is amended by adding new paragraphs to read:

21 (26) "subsistence uses" means the customary and traditional
22 uses in Alaska of wild, renewable resources for direct personal or
23 family consumption as food, shelter, fuel, clothing, tools, or trans-
24 portation, for the making and selling of handicraft articles out of
25 nonedible by-products of fish and wildlife resources taken for personal
26 or family consumption, and for the customary trade, barter or sharing
27 for personal or family consumption; for the purposes of this paragraph,
28 "family" means all persons related by blood, marriage, or adoption, and
29 any person living within the household on a permanent basis;

1 (27) "barter" means the exchange or trade of fish or game
2 taken for subsistence uses for valuable consideration other than money.

3 * Sec. 18. AS 24.20 is amended by adding new sections to read:

4 Sec. 24.20.600. SUBSISTENCE COMMITTEE ESTABLISHED. The Subsistence
5 Committee is established as a permanent interim committee of the
6 legislature. The establishment of the committee is a recognition that
7 continuous and intensive legislative study and involvement in the subsistence
8 lifestyle is necessary to insure that the subsistence lifestyle
9 remains a viable way of life for those who live it through choice or
10 necessity.

11 Sec. 24.20.610. MEMBERSHIP. The Subsistence Committee is composed
12 of three members of the house appointed by the speaker of the house, and
13 three members of the senate appointed by the president of the senate;
14 however, two of the three members from each house shall be the chairman
15 of the standing resources committee or his designee and one other member
16 of the committee. The membership from each house shall include at least
17 one member from each of the two major political parties. The committee
18 elects a chairman from among its members.

19 Sec. 24.20.620. TERM OF MEMBERSHIP. The Subsistence Committee
20 shall be organized within 15 days after the organization of each legislature.
21 Members serve for the duration of the legislature during which
22 they are appointed. If they are reelected or their term of office extends
23 into the next succeeding legislature, they continue to serve until
24 reappointed or the appointment of their successor.

25 Sec. 24.20.630. VACANCIES. When a vacancy occurs in the membership
26 of the Subsistence Committee, the presiding officer of the house
27 incurring the vacancy shall choose a successor.

28 Sec. 24.20.640. MEETINGS. The Subsistence Committee may meet
29 during sessions of the legislature and during the interim between ses-

1 sions at such times and places in the state as the chairman may deter-
2 mine. Members may receive, for the minimum time required to get to and
3 from meetings and for the period while attending meetings, the same
4 travel and per diem allowances provided by law for members of the legis-
5 lature when attending sessions, except that members of the committee
6 receive no per diem during the legislative sessions other than the per
7 diem allowance paid to other members of the legislature.

8 Sec. 24.20.650. STAFF. The Legislative Affairs Agency shall pro-
9 vide the Subsistence Committee with professional and clerical assistance
10 under the auspices of the Legislative Council.

11 Sec. 24.20.660. DUTIES. The Subsistence Committee shall

12 (1) gather information on all aspects of subsistence hunting
13 and fishing and the role of subsistence in the lives of the residents of
14 the state;

15 (2) monitor the activities of state officers and agencies
16 which affect the use of subsistence resources;

17 (3) evaluate the impact of federal laws, regulations, and
18 policies which affect subsistence;

19 (4) receive public comment on governmental action affecting
20 subsistence;

21 (5) review regulations adopted by the Board of Fish and the
22 Board of Game which affect subsistence.

23 Sec. 24.20.670. POWERS. (a) The Subsistence Committee has the
24 following powers:

25 (1) to organize and adopt rules for the conduct of its busi-
26 ness;

27 (2) to hold public hearings;

28 (3) to call upon all state officials, agencies, and insti-
29 tutions to give full cooperation to the committee and its staff by

1 collecting and furnishing information, conducting studies and writing
2 recommendations;

3 (4) to sponsor legislation in accordance with AS 24.30.-
4 060(b), including resolutions annulling regulations.

5 (b) Nothing in secs. 600 - 680 of this chapter authorizes the
6 referral by the presiding officer of either house of legislation to the
7 committee at regular or special sessions of the legislature.

8 Sec. 24.20.680. REPORTS. The Subsistence Committee shall submit a
9 summary report of its findings and recommendations to each legislature.

10 * Sec. 19. AS 24.30.060(b) is amended to read:

11 (b) Bills introduced by the Legislative Council shall be delivered
12 with a letter of explanation to the rules committee of either house and
13 bear the inscription "Rules Committee by Request of the Legislative
14 Council"; bills introduced by the Subsistence Committee shall be de-
15 livered with a letter of explanation to the rules committee of either
16 house and bear the inscription "Rules Committee by request of the Sub-
17 sistence Committee"; bills introduced by the Administrative Regulation
18 Review Committee shall be delivered with a letter of explanation to the
19 rules committee of either house and bear the inscription "Rules Commit-
20 tee by Request of the Administrative Regulation Review Committee"; bills
21 introduced by the Legislative Budget and Audit Committee shall be de-
22 livered with a letter of explanation to the rules committee of either
23 house and bear the inscription "Rules Committee by Request of the Legis-
24 lative Budget and Audit Committee." Bills presented by the governor
25 shall be delivered with a letter to the rules committee of either house
26 and bear the inscription "Rules Committee by Request of the Governor";
27 bills so presented and inscribed shall be received as bills carrying the
28 approval of the governor as to policy and budget impact. The governor
29 may submit a statement of purpose and effect with each bill and appear

1 personally or through a representative before any committee considering
2 legislation.

3 * Sec. 20. The permanent interim Subsistence Committee established in AS
4 24.20.600, enacted in sec. 18 of this Act expires December 31, 1984.

5 * Sec. 21. The governor shall appoint persons to the seats added under AS
6 16.05.221, amended in sec. 5 of this Act, to the Board of Fisheries and the
7 Board of Game within 30 days of the effective date of this Act.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

#