

Original sponsor: Rules Committee

Offered: 4/30/80
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 969 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to salmon fisheries enhancement."

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

8 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

9 (1) regional aquaculture associations qualified under AS 16.10.380
10 have been organized in many areas of the state and have initiated salmon
11 enhancement programs which will result in a general benefit to the state and
12 a direct benefit to the commercial, subsistence, and sport fisheries;

13 (2) commercial salmon harvesters in most regions where the regional
14 aquaculture associations are established have initiated self-imposed systems
15 of harvest assessments to provide financing of efficient regional salmon
16 enhancement programs;

17 (3) harvest assessments initiated in the regions are either volun-
18 tary or mandatory, depending on the choice of the commercial salmon harvesters
19 of each region;

20 (4) the mandatory assessment method initiated by many of the
21 regional aquaculture associations under the authorization of state law is
22 currently involved in protracted litigation;

23 (5) in order to ensure the uninterrupted continuation of the
24 current salmon enhancement programs, it is essential that a revenue source
25 for regional aquaculture associations be developed before a final judicial
26 determination of the constitutionality of the mandatory assessments;

27 (6) while future legislatures cannot be legally bound to return
28 revenues to each region based on the harvest assessments initiated in the
29 regions, this legislature clearly recognizes this duty.

1 (b) It is the purpose of this Act to provide a means for continuing a
2 mandatory method of revenue collection from commercial harvesters of salmon,
3 and to continue revenue distribution to those regional aquaculture associa-
4 tions which desire to use this means of ensuring that efficient salmon en-
5 hancement programs have the necessary financial resources to continue.

6 (c) It is also the purpose of this Act to establish as a legislative
7 policy the policy of making appropriations to the Department of Commerce and
8 Economic Development to provide financing for qualified regional associa-
9 tions, and to base those appropriations on the revenue received from the
10 collection of the salmon enhancement tax. The legislature may base an appro-
11 priation for a region on the value of fisheries resources caught in the
12 region rather than the value of the fisheries resources sold in the region
13 when those values differ. This section does not constitute a limitation on
14 the use which the legislature may make of the proceeds of the salmon enhance-
15 ment tax collected under this chapter.

16 * Sec. 2. AS 43 is amended by adding a new chapter to read:

17 CHAPTER 76. SALMON ENHANCEMENT TAX.

18 Sec. 43.76.010. THREE PERCENT SALMON ENHANCEMENT TAX. (a) A
19 person holding a limited entry permit under AS 16.43.010 - 16.43.380
20 shall pay a salmon enhancement tax at the rate of three percent of the
21 value of salmon, as defined in AS 43.75.140(7), that the person sells to
22 a processor licensed under AS 43.75.011. The processor shall collect
23 the salmon enhancement tax at the time of the sale.

24 (b) A three percent salmon enhancement tax may only be levied or
25 collected under (a) of this section

26 (1) in a region designated by the commissioner of fish and
27 game for the purpose of salmon production under AS 16.10.375;

28 (2) if there exists in that region an association determined
29 by the commissioner of fish and game to be a qualified regional associa-

1 tion under AS 16.10.380; and

2 (3) if the qualified regional association approves the three
3 percent salmon enhancement tax under AS 43.76.015.

4 Sec. 43.76.011. TWO PERCENT SALMON ENHANCEMENT TAX. (a) A person
5 holding a limited entry permit under AS 16.43.010 - 16.43.380 shall pay
6 a salmon enhancement tax at the rate of two percent of the value of
7 salmon, as defined in AS 43.75.140(7), that the person sells to a pro-
8 cessor licensed under AS 43.75.011. The processor shall collect the
9 salmon enhancement tax at the time of the sale.

10 (b) A two percent salmon enhancement tax may only be levied or
11 collected under (a) of this section

12 (1) in a region designated by the commissioner of fish and
13 game for the purpose of salmon production under AS 16.10.375;

14 (2) if there exists in that region an association determined
15 by the commissioner of fish and game to be a qualified regional associa-
16 tion under AS 16.10.380; and

17 (3) if the qualified regional association approves the two
18 percent salmon enhancement tax under AS 43.76.015.

19 Sec. 43.76.015. ELECTION TO APPROVE OR TERMINATE SALMON ENHANCE-
20 MENT TAX. (a) A qualified regional association may conduct an election
21 under this section after the commissioner of commerce and economic
22 development approves

23 (1) the form of the notice to be published by the qualified
24 regional association;

25 (2) the form of the ballot to be used in the election; and

26 (3) the registration and voting procedure for the approval or
27 termination of the salmon enhancement tax.

28 (b) The salmon enhancement tax is levied under AS 43.76.010 or
29 43.76.011 in a region on the effective date stated on the ballot if

1 (1) it is approved by a majority vote of the eligible interim-
2 use permit and entry permit holders voting in an election held under
3 this section in the region; and

4 (2) the election results are certified by the commissioner of
5 commerce and economic development.

6 (c) In conducting an election under this section, a qualified
7 regional association shall adopt the following procedures:

8 (1) The qualified regional association for the region shall
9 hold at least one public meeting not less than 30 days before the date
10 on which ballots must be postmarked to be counted in the election to
11 explain the reason for the proposed salmon enhancement tax and to ex-
12 plain the registration and voting procedure to be used in the election.
13 The qualified regional association shall provide notice of the meeting
14 by

15 (A) mailing the notice to each eligible interim-use
16 permit and entry permit holder;

17 (B) posting the notice in at least three public places
18 in the region; and

19 (C) publishing the notice in at least one newspaper of
20 general circulation in the region at least once a week for two
21 consecutive weeks before the meeting.

22 (2) The qualified regional association shall mail two ballots
23 to each eligible interim-use permit and entry permit holder. The first
24 ballot shall be mailed no more than 45 days before the date ballots must
25 be postmarked to be counted in the election. The second ballot shall be
26 mailed no less than 15 days before the date ballots must be postmarked
27 to be counted in the election. The qualified regional association shall
28 adopt procedures to insure that only one ballot from each eligible
29 interim-use permit and entry permit holder is counted in the election.

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(3) The ballot shall

(A) indicate whether the election relates to a salmon enhancement tax under AS 43.76.010 or to a salmon enhancement tax under AS 43.76.011;

(B) ask the question whether the salmon enhancement tax shall be levied;

(C) indicate the boundaries of the region in which the salmon enhancement tax will be levied;

(D) provide an effective date for the levy of the salmon enhancement tax; and

(E) indicate the date on which returned ballots must be postmarked in order to be counted.

(4) The ballots shall be returned by mail and shall be counted by the commissioner of commerce and economic development or by a person approved by the commissioner of commerce and economic development.

(d) The commissioner of commerce and economic development shall certify the results of an election under this section if he determines that the requirements of (a) and (c) of this section have been satisfied.

(e) Except as provided in AS 43.76.020(b)(2), an election to terminate a salmon enhancement tax shall be conducted under the same procedures established under (a) and (c) - (d) of this section for an election to approve a salmon enhancement tax.

(f) In this section, "eligible interim-use permit and entry permit holder" means an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the Alaska Commercial Fisheries Entry Commission as the legal owner of an interim-use permit or an entry permit which authorizes him to fish commercially in an administrative area, established by the

1 Alaska Commercial Fisheries Entry Commission under AS 16.43.200, which
2 is included, in whole or in part, in the region in which the election is
3 held.

4 Sec. 43.76.020. TERMINATION OF SALMON ENHANCEMENT TAX. (a) The
5 salmon enhancement tax levied under AS 43.76.010 may be terminated by
6 the commissioner of revenue upon majority vote at an election held under
7 AS 43.76.015 in the region in which the salmon enhancement tax is
8 levied.

9 (b) A salmon enhancement tax shall be terminated by the commis-
10 sioner of revenue under (a) of this section following an election in a
11 region if

12 (1) a petition is presented to the commissioner of commerce
13 and economic development requesting termination of the salmon enhance-
14 ment tax which is signed by at least 25 percent of the number of persons
15 who were qualified to vote under AS 43.76.015 in the election approving
16 the salmon enhancement tax in the region;

17 (2) an election is held in accordance with AS 43.76.015; the
18 ballot shall ask the question whether the salmon enhancement tax for the
19 region shall be terminated; the ballot shall be worded so that a "yes"
20 vote is for continuation of the salmon enhancement tax and a "no" vote
21 is for termination of the salmon enhancement tax;

22 (3) a majority of the eligible interim-use permit and entry
23 permit holders who vote in the election cast a ballot for the termina-
24 tion of the salmon enhancement tax;

25 (4) the qualified regional association provides notice of the
26 election in accordance with AS 43.76.015 within two months after re-
27 ceiving notice from the commissioner of commerce and economic develop-
28 ment that a valid petition under (1) of this subsection has been re-
29 ceived.

1 Sec. 43.76.025. COLLECTION OF TAX AND DISPOSITION OF PROCEEDS.

2 (a) A processor who buys fisheries resources which are subject to the
3 salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 shall col-
4 lect the salmon enhancement tax at the time of purchase, and shall remit
5 the total salmon enhancement tax collected during each month to the
6 Department of Revenue by the last day of the next month.

7 (b) A processor who collects the salmon enhancement tax shall

8 (1) maintain records reflecting the region designated under
9 AS 16.10.375 in which the fishery resource was caught; and

10 (2) report to the Department of Revenue by March 1 of each
11 year the total value, as defined in AS 43.75.140(7), of the salmon
12 caught in each region designated under AS 16.10.375 which the processor
13 has purchased during the preceding year.

14 (c) The salmon enhancement tax collected under this chapter shall
15 be deposited in the general fund. The legislature may make appropria-
16 tions based on this revenue to the Department of Commerce and Economic
17 Development for the purpose of providing financing for qualified re-
18 gional associations. The legislature may base an appropriation for a
19 qualified regional association operating within a region designated
20 under AS 16.10.375 on the value of the fisheries resources caught in
21 that region rather than the value of the fisheries resources sold in
22 that region if those values differ.

23 * Sec. 3. AS 16.10 is amended by adding a new section to read:

24 Sec. 16.10.385. ACCOUNTING OF FINANCING RECEIVED AS A RESULT OF
25 THE SALMON ENHANCEMENT TAX. A qualified regional association requesting
26 state financial assistance in accordance with AS 43.76.025(c) shall
27 submit an annual financial report to the Department of Commerce and
28 Economic Development on a form provided by the Department of Commerce
29 and Economic Development. The Department of Commerce and Economic

1 Development may, by regulation, require that a qualified regional asso-
2 ciation use a uniform system of accounting. A qualified regional asso-
3 ciation requesting state assistance shall submit an annual budget to the
4 Department of Commerce and Economic Development on or before a date
5 specified by the Department of Commerce and Economic Development.

6 * Sec. 4. The commissioner of commerce and economic development shall
7 direct that no further royalty assessments be collected under AS 16.10.530 on
8 or after the effective date of an election in the region of a qualified
9 regional association that approves a salmon enhancement tax in accordance
10 with AS 43.76.010 - 43.76.015.

11 * Sec. 5. The approval of a salmon enhancement tax in accordance with
12 AS 43.76.010 - 43.76.015 constitutes compliance with the requirements of
13 AS 16.10.530 for the imposition of a mandatory assessment on the sale of
14 salmon under AS 16.10.530.

15 * Sec. 6. Sections 1 and 4 of this Act, AS 43.76, and AS 16.10.385 are
16 repealed.

17 * Sec. 7. Sections 1 - 4 and 7 of this Act take effect immediately in
18 accordance with AS 01.10.070(c).

19 * Sec. 8. Sections 5, 6 and 8 of this Act take effect on the publication
20 date of a decision by the Alaska Supreme Court in the appeal of State of
21 Alaska v. Wayne Alex, et al (Supreme Court File No. 5065), if the decision
22 holds that AS 16.10.530 does not violate the Constitution of the State of
23 Alaska.

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