

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) am
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; and
7 providing for an effective date."

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

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

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

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

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

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

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

28 (6) while future legislatures cannot be legally bound to return
29 revenues to each region based on the harvest assessments initiated in the

1 regions, this legislature clearly recognizes this duty.

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

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

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

18 CHAPTER 76. SALMON ENHANCEMENT TAX.

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

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

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

29 (2) if there exists in that region an association determined

1 by the commissioner of fish and game to be a qualified regional associa-
2 tion under AS 16.10.380; and

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

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

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

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

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

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

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

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

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

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

29 (b) The salmon enhancement tax is levied under AS 43.76.010 or

1 43.76.011 in a region on the effective date stated on the ballot if

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

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

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

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

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

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

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

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

1 interim-use permit and entry permit holder is counted in the election.

2 (3) The ballot shall

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

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

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

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

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

14 (4) The ballots shall be returned by mail and shall be
15 counted by the commissioner of commerce and economic development or by a
16 person approved by the commissioner of commerce and economic develop-
17 ment.

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

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

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

1 him to fish commercially in an administrative area, established by the
2 Alaska Commercial Fisheries Entry Commission under AS 16.43.200, which
3 is included, in whole or in part, in the region in which the election is
4 held.

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

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

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

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

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

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

1 ceived.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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