

Original sponsor: Rules/Governor

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Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 198 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the promotion of the marketing of
7 seafood."

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

9 * Section 1. FINDINGS. The legislature finds that a cooperative effort
10 by the state and private industry to stabilize and develop the seafood
11 industry of Alaska, promote quality control within the industry, and foster
12 expansion of the market for Alaska seafoods throughout the state, nation,
13 and world is in the public interest and is a valid public purpose. The
14 legislature further finds that such a cooperative effort would inure to the
15 benefit of the seafood industry in Alaska, and that some of the costs of
16 maintaining such an effort should be borne by the industry. The legislature
17 further recognizes that assessments which seafood processors levy upon them-
18 selves under this Act are levied to reimburse the state for the industry's
19 rightful share of the seafood marketing effort, while reserving its right
20 under the state constitution to spend the money so collected for any
21 purpose. The legislature finds that public financing of this program in
22 excess of the amounts realized from the assessment during the development
23 phases of the program is appropriate.

24 * Sec. 2. PURPOSE. The purposes of this Act are to

25 (1) encourage the seafood industry in the state to make greater
26 use of the seafood resources in the coastal and freshwater areas of the
27 state;

28 (2) expand the range of species of seafood harvested by the
29 seafood industry in the state;

1 (3) enable the seafood industry to maintain and enhance the
2 quality and purity of seafood harvested and processed by fishermen and
3 processors in the state;

4 (4) enable the seafood industry in the state to stimulate
5 consumer identification of Alaska seafood to increase the use and
6 consumption of seafood harvested and processed in the state;

7 (5) stabilize and diversify the distribution of seafood products
8 processed and harvested in the state by encouraging consumers to purchase
9 Alaska seafood;

10 (6) provide for the reimbursement to the state, through assess-
11 ments made on seafood processors, a part of the financial assistance
12 provided by the state to maintain the seafood marketing effort provided for
13 under this Act;

14 (7) create an effort which will be financed jointly by the state
15 and by seafood processors.

16 * Sec. 3. AS 16 is amended by adding a new chapter to read:

17 CHAPTER 51. ALASKA SEAFOOD MARKETING INSTITUTE.

18 Sec. 16.51.010. ALASKA SEAFOOD MARKETING INSTITUTE ESTABLISHED.

19 There is established the Alaska Seafood Marketing Institute. The
20 institute is a public corporation of the state. It is an instrumental-
21 ity of the state in the Department of Commerce and Economic
22 Development, but has a legal existence independent of and separate from
23 the state. Exercise by the institute of the powers conferred by this
24 chapter is an essential governmental function of the state.

25 Sec. 16.51.020. BOARD OF DIRECTORS. (a) The governing body of
26 the institute is a board of directors.

27 (b) The board shall consist of 18 voting members appointed by the
28 governor.

29 (c) The board shall also include the following three nonvoting

1 members:

2 (1) one member of the senate appointed by the president of
3 the senate at the beginning of each legislature;

4 (2) one member of the house of representatives appointed by
5 the speaker of the house of representatives at the beginning of each
6 legislature;

7 (3) the commissioner of commerce and economic development or
8 his designee.

9 (d) A member of the board appointed under (b) of this section may
10 not

11 (1) be engaged in commercial fishing, fish processing, or
12 financing of commercial fishing or processing;

13 (2) be associated by legal contract with a person who
14 engages in commercial fishing, fish processing, or the financing of
15 commercial fishing or processing except as a consumer of goods or
16 services provided by that person;

17 (3) have a direct financial interest in commercial fishing,
18 fish processing, or the financing of commercial fishing or processing.

19 (e) The board shall annually elect a chairman and other necessary
20 officers from among its members.

21 Sec. 16.51.030. TERM OF OFFICE. (a) The members of the legisla-
22 ture appointed to the board under AS 16.51.020(c) serve for the d
23 uration of the legislature during which they were appointed.

24 (b) The members of the board appointed by the governor under
25 AS 16.51.020(b) serve three-year terms and may be reappointed. Terms
26 shall be staggered. An appointee to fill a vacancy shall hold office
27 for the balance of the term for which his predecessor on the board was
28 appointed.

29 Sec. 16.51.040. REMOVAL AND VACANCIES. The members of the board

1 appointed by the governor under AS 16.51.020(b)(1) serve at his plea-
2 sure. A vacancy on the board occurring other than by expiration of
3 term shall be filled in the same manner as the original appointment but
4 for the unexpired term only.

5 Sec. 16.51.050. QUORUM. Nine members of the board appointed
6 under AS 16.51.020(b) constitute a quorum for the transaction of busi-
7 ness and the exercise of the powers and duties of the board.

8 Sec. 16.51.060. COMPENSATION OF BOARD MEMBERS. Board members
9 receive no salary, but are entitled to per diem and travel expenses
10 authorized by law for other state boards and commissions under AS 39.-
11 20.180.

12 Sec. 16.51.070. MEETINGS. The board shall meet at least once a
13 year. A meeting of the board shall occur at the call of the chairman,
14 or upon the written request of two members of the board.

15 Sec. 16.51.080. EMPLOYMENT OF PERSONNEL. The board may employ
16 and determine the salary of an executive director. The executive
17 director may, with the approval of the board, select and employ addi-
18 tional staff as necessary. The executive director and all employees of
19 the board are in the exempt service under AS 39.25.

20 Sec. 16.51.090. POWERS. In carrying out the powers of the insti-
21 tute, the board may

- 22 (1) adopt, alter, and use a corporate seal;
23 (2) prescribe, adopt, amend, and repeal bylaws;
24 (3) sue and be sued in the name of the institute;
25 (4) enter into any agreements necessary to the exercise of
26 its powers and functions;
27 (5) cooperate with a public or private board, organization,
28 or agency engaged in work or activities similar to the work or activi-
29 ties of the institute, including entering into contracts for joint

1 programs of consumer education, sales promotion, quality control,
2 advertising and research in the production, processing, or distribution
3 of seafood;

4 (6) conduct, or contract for, scientific research to develop
5 and discover health, dietetic, or other uses of seafood harvested and
6 processed in the state;

7 (7) receive contributions of money from persons;

8 (8) establish offices in the state and otherwise incur
9 expenses incidental to the performance of its duties;

10 (9) appear on behalf of the institute before boards, commis-
11 sions, departments, or other agencies of municipal, state, or federal
12 government;

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

15 (11) establish and maintain one or more bank accounts for the
16 transaction of the institute's business;

17 (12) prepare market research and product development plans
18 for the promotion of any species of seafood and their by-products which
19 may be harvested in the state and processed for sale;

20 (13) do everything necessary or desirable to carry out the
21 purposes of the institute.

22 Sec. 16.51.095. EXECUTIVE BUDGET ACT. The operating budget of
23 the institute shall be prepared and submitted in accordance with the
24 Executive Budget Act (AS 37.07).

25 Sec. 16.51.100. DUTIES. The board shall

26 (1) conduct programs of education, research, advertising, or
27 sales promotion designed to accomplish the purposes of this chapter;

28 (2) promote all species of seafood and their by-products
29 which are harvested in the state and processed for sale;

1 (3) propose quality control programs including product
2 quality standards for seafood harvested and processed in the state;

3 (4) prepare market research and product development plans
4 for the promotion of all species of seafood and their by-products which
5 are harvested in the state and processed for sale; and

6 (5) submit an annual report to the governor and the legisla-
7 ture describing the activities of the institute.

8 Sec. 16.51.110. PROHIBITED PROMOTIONS. The board may not promote
9 or make a contact which promotes seafood by

10 (1) geographic origin other than from the state generally;

11 (2) geographic region of the state; or

12 (3) specific brand name.

13 Sec. 16.51.120. SEAFOOD MARKETING ASSESSMENT. (a) A seafood
14 marketing assessment shall be levied on seafood products purchased in
15 Alaska as provided in (b), (c), or (d) of this section if an election
16 is held in accordance with AS 16.51.140 in which the assessment is
17 approved by eligible processors who together purchase at least 51
18 percent of the value of seafood purchased in Alaska in the calendar
19 year.

20 (b) Each processor who purchases at least \$50,000 or more of
21 seafood products in Alaska shall pay a seafood marketing assessment of
22 .2 percent of the value paid by the processor.

23 (c) Each processor who purchases at least \$50,000 or more of
24 seafood products in Alaska shall pay a seafood marketing assessment of
25 .4 percent of the value paid by the processor.

26 (d) Each processor who purchases at least \$50,000 or more of
27 seafood products in Alaska shall pay a seafood marketing assessment of
28 .6 percent of the value paid by the processor.

29 (e) An election under (a) of this section shall be held if the

1 proposed election for the levying of an assessment under AS 16.51.120-
2 (b), (c), or (d) is approved by a majority of the whole membership of
3 the board at a regularly scheduled meeting.

4 Sec. 16.51.130. TERMINATION OF THE SEAFOOD MARKETING ASSESSMENT.

5 (a) A seafood marketing assessment levied under AS 16.51.120(b), (c),
6 or (d) shall be terminated by the commissioner if

7 (1) an election is held in accordance with AS 16.51.140 in
8 which the termination is approved by eligible processors who together
9 purchase at least 51 percent of the total value of seafood products
10 purchased in Alaska during the calendar year; or

11 (2) the board, at a regularly scheduled meeting, adopts a
12 resolution approved by two-thirds of the voting membership of the board
13 requesting the commissioner of revenue to terminate the assessment.

14 (b) An election under (a)(1) of this section shall be held if

15 (1) the proposed election for the termination of the assess-
16 ment is approved by a majority of the whole membership of the board at
17 a regularly scheduled meeting; or

18 (2) a petition is presented to the director of the division
19 of elections requesting termination of the seafood marketing assessment
20 by eligible processors who together purchase at least 25 percent of the
21 total value of seafood products purchased in Alaska during the calendar
22 year.

23 (c) The institute shall provide notice of an election in accor-
24 dance with AS 16.51.140 within 60 days after receiving notice from the
25 director of the division of elections that a valid petition under
26 (b)(2) of this section has been received.

27 (d) The seafood marketing assessment is terminated under AS 16.-
28 51.120 on the effective date stated on the ballot.

29 Sec. 16.51.140. PROCEDURES FOR AN ELECTION TO APPROVE OR

1 TERMINATE A SEAFOOD MARKETING ASSESSMENT. (a) The institute may
2 conduct an election under this section after the director of the
3 division of elections approves

- 4 (1) the notice to be published by the institute;
5 (2) the ballot to be used in the election; and
6 (3) the registration and voting procedures for the approval
7 or termination of the seafood marketing assessment.

8 (b) In conducting the election under this section, the institute
9 shall adopt the following procedures:

10 (1) The proposed levy or termination of the assessment shall
11 be adopted at a regularly scheduled meeting of the board held not less
12 than 60 days before the date on which the ballots must be postmarked to
13 be counted unless the election is for termination of the assessment and
14 has been initiated by a petition under AS 16.51.130(b)(2).

15 (2) The institute shall hold at least one meeting, not less
16 than 30 days before the date on which ballots must be postmarked to be
17 counted, to explain the reason for the proposed seafood marketing
18 assessment or termination of the assessment and to explain the voting
19 procedure to be used in the election. The institute shall provide
20 notice of the meeting by

- 21 (A) mailing the notice to each eligible processor; and
22 (B) publishing the notice in at least one newspaper of
23 general circulation in each region of the state at least two weeks
24 before the meeting.

25 (3) The institute shall mail ballots to each eligible
26 processor not more than 45 days before the date specified as the date
27 ballots must be postmarked.

28 (4) The ballot shall

- 29 (A) indicate whether the assessment is to be levied

1 under AS 16.51.120(b), (c), or (d) and shall state the percentage
2 of the assessment;

3 (B) indicate the effective date of the levy of the
4 assessment or termination of the assessment;

5 (C) ask whether the assessment shall be levied or, if
6 the election is to terminate the assessment, whether the assess-
7 ment shall be terminated.

8 (5) The ballots shall be returned by mail and shall be
9 counted by the director of the division of elections or his representa-
10 tive.

11 (c) The director of the division of elections shall certify the
12 results of an election under this section if the director determines
13 that the requirements of (a) and (b) of this section have been satis-
14 fied.

15 (d) For the purposes of this section a ballot submitted by a
16 corporation is presumed valid if the ballot is signed by an individual
17 who is indicated to be an officer of the corporation and the ballot is
18 imprinted with the corporate seal.

19 Sec. 16.51.150. DETERMINATION OF VALUE. Upon request from the
20 director of the division of elections, the commissioner of revenue
21 shall determine

22 (1) the total value of seafood products purchased in Alaska
23 during any calendar year;

24 (2) whether the eligible processors approving the levy or
25 termination of a seafood marketing assessment together purchased at
26 least 51 percent of the total value of seafood products purchased in
27 Alaska during the calendar year; or

28 (3) whether the eligible processors petitioning for an
29 election under AS 16.51.130(b)(2) together purchased at least 25 percent

1 of the total value of seafood purchased in Alaska during the calendar
2 year.

3 Sec. 16.51.160. COLLECTION OF ASSESSMENTS AND DISPOSITION OF
4 PROCEEDS. (a) Processors shall remit to the Department of Revenue by
5 April 15 of each year the total amount of the assessment owed on the
6 value paid for seafood products by the processor in the previous cal-
7 endar year.

8 (b) The seafood marketing assessment collected under this chapter
9 shall be deposited in the general fund. The legislature may make
10 appropriations to the Department of Commerce and Economic Development
11 for the purpose of providing financing to the institute based on
12 collections of the seafood marketing assessment, and may appropriate
13 additional money beyond the assessment collected under AS 16.51.120 as
14 need is demonstrated by the institute.

15 Sec. 16.51.170. ENFORCEMENT OF ASSESSMENTS. The provisions of
16 AS 43.10 apply for the enforcement and collection of the seafood
17 marketing assessment.

18 Sec. 16.51.180. DEFINITIONS. In this chapter,

19 (1) "board" means the Board of Directors of the Alaska
20 Seafood Marketing Institute;

21 (2) "institute" means the Alaska Seafood Marketing Insti-
22 tute;

23 (3) "processor" means a person who engages in processing
24 seafood for sale by freezing, cooking, salting, or other method and
25 includes but is not limited to canneries, cold storages, freezer ships,
26 and processing plants;

27 (4) "promote or make a contract which promotes seafood"
28 means to advertise or publicize, or make a contract for advertising or
29 publicizing, the use, value, attractiveness, or quality of seafood;

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2 (5) "seafood" means fin fish, shellfish, and fish by-
3 products, including but not limited to salmon, halibut, herring,
4 flounder, crab, clam, cod, shrimp, and pollock;

5 (6) "value" means the actual price paid for the seafood by
6 the eligible processors, including indirect consideration such as fuel,
7 supplies, or gear, whether paid at the time of purchase of the seafood
8 or tendered as a deferred or delayed payment, except that "value" means
9 the market value of the seafood if the seafood is procured in company-
10 owned or company-subsidized boats operated by employees of the eligible
11 processors or in boats which are operated under lease or other arrange-
12 ment.

13 * Sec. 4. AS 39.25.110 is amended by adding a new paragraph to read:

14 (26) employees of the Alaska Seafood Marketing Institute.

15 * Sec. 5. AS 39.50.200(b) is amended by adding a new paragraph to read:

16 (44) Alaska Seafood Marketing Institute (AS 16.51.010).

17 * Sec. 6. AS 18.90 is repealed.

18 * Sec. 7. AS 16.51.095 added by sec. 3 of this Act applies to operating
19 budgets of the Alaska Seafood Marketing Institute for fiscal years beginning
20 after June 30, 1982.

21 * Sec. 8. Initial appointments to the Board of Directors of the Alaska
22 Seafood Marketing Institute under AS 16.51.020 enacted in sec. 3 of this Act
23 shall be made for the following terms:

24 (1) six members shall serve for one year;

25 (2) six members shall serve for two years;

26 (3) six members shall serve for three years.