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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 198 (Finance)

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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; and providing for an effective date."

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

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* 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.

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

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(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;

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(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 consumer
5 identification of Alaska seafood to increase the use and consumption of
6 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 provided
12 by the state to maintain the seafood marketing effort provided for under
13 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 instrumentality
21 of the state in the Department of Commerce and Economic Development,
22 but has a legal existence independent of and separate from the state.
23 Exercise by the institute of the powers conferred by this chapter is an
24 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. The board consists of 18 voting
27 members appointed by the governor. In making appointments to the board
28 the governor shall consider, but need not appoint, nominees presented
29 by persons engaged in fish processing, the financing of fish processing,

1 or commercial fishing.

2 (b) Twelve members of the board shall be seafood processors:
3 eight of the seafood processors must have an annual payroll in the
4 state of \$1,000,000 or more; four of the seafood processors must have
5 an annual payroll in the state of \$50,000 - \$1,000,000. Five members
6 of the board must be engaged in commercial fishing. One member of the
7 board shall be a lay person selected by the governor.

8 (c) The board shall annually elect a chairman and other necessary
9 officers from among its members.

10 Sec. 16.51.030. TERM OF OFFICE. The members of the board ap-
11 pointed by the governor under AS 16.51.020 serve three-year terms and
12 may be reappointed. Terms shall be staggered. An appointee to fill a
13 vacancy shall hold office for the balance of the term for which his
14 predecessor on the board was appointed.

15 Sec. 16.51.040. REMOVAL AND VACANCIES. The members of the board
16 appointed by the governor under AS 16.51.020 serve at his pleasure. A
17 vacancy on the board occurring other than by expiration of term shall
18 be filled in the same manner as the original appointment but for the
19 unexpired term only.

20 Sec. 16.51.050. QUORUM. Nine members of the board appointed
21 under AS 16.51.020 constitute a quorum for the transaction of business
22 and the exercise of the powers and duties of the board.

23 Sec. 16.51.060. COMPENSATION OF BOARD MEMBERS. Board members
24 receive no salary, but are entitled to per diem and travel expenses
25 authorized by law for other state boards and commissions under AS 39.-
26 20.180.

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

1 Sec. 16.51.080. EMPLOYMENT OF PERSONNEL. The board may employ
2 and determine the salary of an executive director. The executive
3 director may, with the approval of the board, select and employ addi-
4 tional staff as necessary. The executive director and all employees of
5 the board are in the exempt service under AS 39.25.

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

8 (1) adopt, alter, and use a corporate seal;

9 (2) prescribe, adopt, amend, and repeal bylaws;

10 (3) sue and be sued in the name of the institute;

11 (4) enter into any agreements necessary to the exercise of
12 its powers and functions;

13 (5) cooperate with a public or private board, organization,
14 or agency engaged in work or activities similar to the work or activi-
15 ties of the institute, including entering into contracts for joint
16 programs of consumer education, sales promotion, quality control,
17 advertising and research in the production, processing, or distribution
18 of seafood;

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

22 (7) receive contributions of money from persons;

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

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

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

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

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

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

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

11 Sec. 16.51.100. DUTIES. The board shall

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

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

16 (3) develop market-oriented quality specifications for
17 Alaska seafoods to be used in developing a high quality image for
18 Alaska seafood in world markets, and adopt and distribute recommenda-
19 tions regarding the handling of seafood from the moment of capture to
20 final distribution;

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

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

26 Sec. 16.51.110. PROHIBITED PROMOTIONS. The board may not promote
27 or make a contract which promotes seafood by

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

29 (2) geographic region of the state; or

1 (3) specific brand name.

2 Sec. 16.51.120. SEAFOOD MARKETING ASSESSMENT. (a) A seafood
3 marketing assessment shall be levied on seafood products purchased in
4 Alaska as provided in (b), (c), (d), or (e) of this section if an elec-
5 tion is held in accordance with AS 16.51.140 in which the assessment is
6 approved by eligible processors who together purchase at least 51 per-
7 cent of the value of seafood purchased in Alaska in the calendar year.

8 (b) Each processor who purchases at least \$50,000 or more of
9 seafood products in Alaska shall pay a seafood marketing assessment of
10 .1 percent of the value paid by the processor.

11 (c) Each processor who purchases at least \$50,000 or more of
12 seafood products in Alaska shall pay a seafood marketing assessment of
13 .2 percent of the value paid by the processor.

14 (d) Each processor who purchases at least \$50,000 or more of
15 seafood products in Alaska shall pay a seafood marketing assessment of
16 .3 percent of the value paid by the processor.

17 (e) Each processor who purchases at least \$50,000 or more of
18 seafood products in Alaska shall pay a seafood marketing assessment of
19 .4 percent of the value paid by the processor.

20 (f) An election under (a) of this section shall be held if the
21 proposed election for the levying of an assessment under AS 16.51.120-
22 (b), (c), (d), or (e) is approved by a majority of the whole membership
23 of the board at a regularly scheduled meeting.

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

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

27 (1) an election is held in accordance with AS 16.51.140 in
28 which the termination is approved by eligible processors who together
29 purchase at least 51 percent of the total value of seafood products

1 purchased in Alaska during the calendar year; or

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

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

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

9 (2) a petition is presented to the director of the division
10 of elections requesting termination of the seafood marketing assessment
11 by eligible processors who together purchase at least 25 percent of the
12 total value of seafood products purchased in Alaska during the calendar
13 year.

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

18 (d) The seafood marketing assessment is terminated under AS 16.-
19 51.120 on the effective date stated on the ballot.

20 Sec. 16.51.140. PROCEDURES FOR AN ELECTION TO APPROVE OR TERMINATE
21 A SEAFOOD MARKETING ASSESSMENT. (a) The institute may conduct an
22 election under this section after the director of the division of
23 elections approves

24 (1) the notice to be published by the institute;

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

26 (3) the registration and voting procedures for the approval
27 or termination of the seafood marketing assessment.

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

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

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

12 (A) mailing the notice to each eligible processor; and

13 (B) publishing the notice in at least one newspaper of
14 general circulation in each region of the state at least two weeks
15 before the meeting.

16 (3) The institute shall mail ballots to each eligible proces-
17 sor not more than 45 days before the date specified as the date ballots
18 must be postmarked.

19 (4) The ballot shall

20 (A) indicate whether the assessment is to be levied
21 under AS 16.51.120(b), (c), (d), or (e) and shall state the per-
22 centage of the assessment;

23 (B) indicate the effective date of the levy of the
24 assessment or termination of the assessment;

25 (C) ask whether the assessment shall be levied or, if
26 the election is to terminate the assessment, whether the assess-
27 ment shall be terminated.

28 (5) The ballots shall be returned by mail and shall be
29 counted by the director of the division of elections or his representa-

1 tive.

2 (c) The director of the division of elections shall certify the
3 results of an election under this section if the director determines
4 that the requirements of (a) and (b) of this section have been satis-
5 fied.

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

10 Sec. 16.51.150. DETERMINATION OF VALUE. Upon request from the
11 director of the division of elections, the commissioner of revenue
12 shall determine

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

15 (2) whether the eligible processors approving the levy or
16 termination of a seafood marketing assessment together purchased at
17 least 51 percent of the total value of seafood products purchased in
18 Alaska during the calendar year; or

19 (3) whether the eligible processors petitioning for an
20 election under AS 16.51.130(b)(2) together purchased at least 25 percent
21 of the total value of seafood purchased in Alaska during the calendar
22 year.

23 Sec. 16.51.160. COLLECTION OF ASSESSMENTS AND DISPOSITION OF
24 PROCEEDS. (a) Processors shall remit to the Department of Revenue by
25 April 1 of each year the total amount of the assessment owed on the
26 value paid for seafood products by the processor in the previous cal-
27 endar year.

28 (b) The seafood marketing assessment collected under this chapter
29 shall be deposited in the general fund. The legislature may make

1 appropriations to the Department of Commerce and Economic Development
2 for the purpose of providing financing to the institute based on collec-
3 tions of the seafood marketing assessment, and may appropriate addi-
4 tional money beyond the assessment collected under AS 16.51.120 as need
5 is demonstrated by the institute.

6 Sec. 16.51.170. ENFORCEMENT OF ASSESSMENTS. The provisions of
7 AS 43.05 and AS 43.10 apply for the enforcement and collection of the
8 seafood marketing assessment.

9 Sec. 16.51.180. DEFINITIONS. In this chapter,

10 (1) "board" means the Board of Directors of the Alaska
11 Seafood Marketing Institute;

12 (2) "institute" means the Alaska Seafood Marketing Insti-
13 tute;

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

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

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

24 (6) "value" means the actual price paid for the fisheries
25 resource by the fisheries business, including indirect consideration
26 such as fuel, supplies, or gear, whether paid at the time of purchase
27 of the fisheries resource or tendered as a deferred or delayed payment,
28 except that "value" means the market value of the fishery resource if
29 the taking of the fishery resource is done in company-owned or company-

1 subsidized boats operated by employees of the fisheries business or in
2 boats that are operated under lease or other arrangement.

3 * Sec. 4. AS 39.25.110 is amended by adding a new paragraph to read:
4 (26) employees of the Alaska Seafood Marketing Institute.

5 * Sec. 5. AS 39.50.200(b) is amended by adding a new paragraph to read:
6 (44) Alaska Seafood Marketing Institute (AS 16.51.010).

7 * Sec. 6. AS 18.90 is repealed.

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

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

- 14 (1) six members shall serve for one year;
15 (2) six members shall serve for two years;
16 (3) six members shall serve for three years.

17 * Sec. 9. Section 6 of this Act takes effect July 1, 1981.
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