

SCOMM

#17.1

LIMITED ENTRY
(JOINT Interim Committee)

Members: Rep. Nels A. Anderson, Jr., CHAIRMAN

Rep. Terry Gardiner
Rep. Margaret Branson
Sen. Bill Sumner
Sen. Bob Mulcahy
Sen. John C. Sackett

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Pat McCorcle

Introduced: 2/6/79
Referred: Resources and
Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 HOUSE BILL NO. 141

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Legislative Limited Entry
7 Study Committee; and providing for an effective date."

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

9 * Section 1. (a) There is established as a special committee of the
10 legislature the Legislative Limited Entry Study Committee. The committee is
11 composed of the following members:

12 (1) three members of the house of representatives appointed by the
13 speaker of the house;

14 (2) three members of the senate appointed by the president of the
15 senate.

16 (b) The purpose of the Legislative Limited Entry Study Committee is to
17 complete a legal, social, and economic review of Alaska's experience with
18 limited entry in common property fisheries, and to report its findings to the
19 Second Session, Eleventh Alaska Legislature.

20 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
21 070(c).

Funding Information
General Fund \$125,000
Other Funds -0-
\$125,000

Introduced: 2/6/79
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1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 HOUSE BILL NO. 142

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Legisla-
7 tive Affairs Agency for the Limited Entry Study Commit-
8 tee; and providing for an effective date."

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

10 * Section 1. (a) The sum of \$125,000 is appropriated from the general
11 fund to the Legislative Affairs Agency for the expenses of the Legislative
12 Limited Entry Study Committee.

13 * Sec. 2. The unexpended and unobligated portion of this appropriation
14 lapses into the general fund June 30, 1980.

15 * Sec. 3. This Act takes effect upon the effective date of a version of
16 an Act entitled "An Act establishing the Legislative Limited Entry Study
17 Committee; and providing for an effective date."

LIMITED ENTRY STUDY GROUP

BUDGET

Staff Director	(\$3,000/month, 8 months).....	\$24,000
Support Staff	(\$1,800/month, 8 months).....	\$14,400
Travel		\$20,000
Contractual		\$60,000
Misc.		\$ 6,600
		<u>\$125,000</u>

Study group is a legislative special committee consisting of 6 members: 3 appointed by the Speaker of the House; 3 appointed by the President of the Senate.

Committee staff to be located in legislative office space in Juneau.

SPECIAL LEGISLATIVE LIMITED ENTRY STUDY COMMITTEE

PURPOSE--PLAN OF WORK

The overall goal of the special legislative committee on limited entry is to recommend changes to the limited entry law which would improve the present system of commercial fisheries entry limitation. It is evident that the people of Alaska still want the program and that the intended impact is being realized; but there exists a need for the regulatory structure to better fit the actual circumstances and conditions inherent to Alaska's fisheries.

There are particular aspects of the present system which have aroused special concerns; the rapidly increasing value of permits beyond the purchasing of financing power of many Alaskans; the inability of many resident Alaskans to enter the salmon fisheries while substantial numbers of non-residents remain and continue to enter the fisheries; and the administrative burdens realized both by fishermen and the state in implementing the present limited entry schemes. While it is our intent to encourage a full scale reexamination of the Alaska limited entry system the strengths of our existing limited entry system such as intra-family transferrability provisions and the maintenance of equal opportunity to enter commercial fishing are very important to retain. The committee should look specifically at the problem areas previously mentioned, and to the greatest extent possible attempt to design a program which has the flexibility to adapt to the varied circumstances present in the various regions of Alaska. Lastly, any recommendation for changes to the limited entry system must be thoroughly, legally researched to be defensible in court.

The budget of the special committee is designed to minimize the costs of this investigation. The committee should take advantage of existing expertise in the Commercial Fisheries Entry Commission, the Alaska Department of Fish and Game, the Legislative Affairs Agency, and the Department of Commerce and Economic Development. Detailed legal analysis and related needs should be arranged through contracts.

Rep. Anderson

SPECIAL LEGISLATIVE LIMITED ENTRY STUDY COMMITTEE

PURPOSE--PLAN OF WORK

The overall goal of the special legislative committee on limited entry is to recommend changes to the limited entry law which would improve the present system of commercial fisheries entry limitation. It is evident that the people of Alaska still want the program and that the intended impact is being realized; but there exists a need for the regulatory structure to better fit the actual circumstances and conditions inherent to Alaska's fisheries.

There are particular aspects of the present system which have aroused special concerns; namely the rapidly increasing value of permits and the administrative burdens realized both by fishermen and the state in implementing the present limited entry schemes. While it is our intent to encourage a full scale reexamination of the Alaska limited entry system, we are mindful of the importance of the inter-family transferrability provisions, the maintenance of equal opportunity to enter commercial fishing, the importance of achieving to the greatest extent possible a resident Alaskan fishing industry, and the necessity of maintaining a legally defensible program. We will look specifically at the problem areas previously mentioned, and will to the greatest extent possible attempt to design a program which has the flexibility to adapt to the varied circumstances present in the various regions of Alaska.

We have prepared the budget of the special committee so as to minimize the costs of this investigation. We fully intend to take advantage of existing expertise in the Commercial Fisheries Entry Commission, the Alaska Department of Fish and Game, the Legislative Affairs Agency, and the Department of Commerce and Economic Development. Detailed legal analysis and related needs will be arranged through contracts.

JW:dh

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION

P. O. BOX 181
DILLINGHAM, ALASKA 99576
TELEPHONE 842-5653

March 5, 1979

Representative Alvin Osterback
Co-Chairman, House Resources Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

I would like to comment on two bills before the House Resources Committee dealing with the Limited Entry legislation and problems relating thereto, namely: HB 290 and HB 141, and urge passage of these bills.

First, HB 141 is perhaps the most important of the Limited Entry bills before the legislature in view of problems I see developing with the system, the major problem being the high price of permits which eventually will lead, in my opinion, to a system where permits are controlled by speculators and those people with money, while those people traditionally reliant on fishing for their livelihoods will be disenfranchized from the only occupation they know. In one village in Bristol Bay alone, for example, four permits have already been sold to people residing outside of the Bay area.

While the state continually proposes more liberal loan programs to purchase permits, even to the extent of using the permit itself as collateral, I don't believe that this is the answer. Alternative systems ought to be investigated in depth before so much money has been invested in permits that it is too late, even for the legislature, to change the system. When the state sold the limited entry program to the people in 1975 the problem of the young fisherman getting into the fishery was repeatedly raised. The State's answer to the people was to get the program implemented and change it at a later time. That time has come. I urge passage of HB 141.

With respect to HB 290, I recognize the inequities of the system to those fishermen who have fished various administrative areas yet do not have sufficient pointage in any one area to qualify for a permit. HB 290 appears to be the equitable solution to that problem. While I don't believe HB 290 will benefit clients served by this office, as most fishermen we serve fish only in Bristol Bay, I realize that other areas of the state differ. I would therefore, support such legislation.

rec'd 3/9/79

Representative Alvin Osterback
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Reviewing HB 290, however, seems to pose a possible problem which calls for another legislative solution, that being the problem with late applications. Would a fisherman have had to apply for permits in all administrative areas in order to cumulate points from that area under the proposed HB 290? If so, some fishermen who did not apply in certain administrative areas would not be allowed to cumulate those points. How about other fishermen who may not have applied in any administrative area due to insufficiency of points, yet under HB 290 could perhaps have cumulated enough points to get a permit in one area? Would they be allowed to benefit from HB 290 because they did not apply in the first place?

It would appear that HB 290 should be coupled with a legislative solution to the late application problem, which is particularly acute in the villages of the Bristol Bay and AYK areas. This office has failed in our attempt to achieve a judicial solution to this problem favorable to our clients and we ask for a legislative solution. While the Entry Commission may not necessarily agree, the major reason the problem is so acute in Bristol Bay and the AYK areas is because of the language and cultural differences of the people, and their lack of understanding of the system when it was first implemented.

Other than administrative problems attendant with a new application period, I can foresee two possible objections raised by the Commission for accepting late applications. First, the Commission may argue that they will have to issue more permits and thereby further exceed the maximum numbers initially established, and perhaps even threaten the fishery resource as a result. While it is true that maximum numbers would be further exceeded, these numbers are not etched in concrete and will eventually be revised either up or down when optimum numbers are established. I cannot see any threat to the fishery resource as Limited Entry, in my opinion, is only tangentially related to conservation purposes, that being with regard to easing the effect of errors in management of the resource by the Department of Fish and Game. Limited Entry is primarily an economic regulatory program which insures sufficient incomes for those people in the fishery to upgrade their vessels.

A late application bill would subject the applicants thereunder to the same point system as everyone else was subjected to. If the late applicant could not prove sufficient pointage then the applicant would simply not receive a permit.

Secondly, the Commission may further oppose a legislative solution to the late application problem particularly with respect to the set net fishery in Bristol Bay because permits are awarded at the zero (0) point level and because set net fishermen in Bristol Bay have begun what is called "leap frogging." There are two possible solutions to these problems. First, the Fish and Game Board could regulate against "leap frogging" so no matter how many set net permits were issued by the Commission there would be a natural limitation of fishermen by the numbers of sites available. Secondly, since the Commission lowered the point level at which permits would issue based upon the number of applications received, issuance of permits to late applicants could be restricted to those fisherpeople who achieve point levels on their applications within the top 813 applicants--the maximum number established by the Commission for the Bristol Bay set net fishery. For example, if the point level at which permits were issued to the highest-pointed 813 set net permit holders was 6 points, the denial level at which permits would initially be established would be 5 points, and the point level at which permits would issue would increase depending on the number of applications received during the application period. Only those late applicants, therefore, within the top 813 on the point scale would be issued permits.

Even though the Entry Commission has established interpretive regulations whereby some applicants who failed to file their applications timely can still get their applications accepted by the Commission and adjudicated under the point system, the restrictive interpretation of the regulations benefit only those people who can establish that they mailed their applications timely which was lost in the mail, or that they were ill-advised about the program by the Commission or its agents which directly caused that person not to submit an application. These regulations do not benefit Roy White of Egegik who returned in 1977 from four years of service in the Navy to find out that he could not fish anymore as a gear license holder; or William Wilson of Naknek who was released from jail in the fall of 1975 to learn the same; or those people who were away at school during the application period; or even those who simply did not plan to fish in 1975 in Bristol Bay because of poor predictions and did not understand nor had explained to them the difference between a permit and a gear license, the latter which was traditionally purchased on a year to year basis if that person planned to fish that year.

In summary, I strongly support HB 141 as the most important Limited Entry bill thus far proposed. In addition, recognizing the inequities of the system to fishermen who have

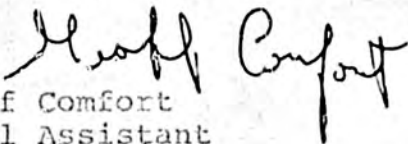
Alvin Osterback
March 5, 1979
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fished more than one administrative area yet cannot qualify for permits in any area, I support HB 290. I would, however, strongly urge a legislative resolution to the late application problem here in Bristol Bay.

I am available to more fully explain my views at your request.

Sincerely,

ALASKA LEGAL SERVICES CORP.


Geoff Comfort
Legal Assistant

CC:ilk

cc: Representative Terry Gardiner
Speaker of the House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Representative Nels Anderson, Jr.
House Majority Leader
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Representative Bill Miles
Co-Chairman, House Resources Committee
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