

S B

4 9 4

# HOUSE COMMITTEE REPORT

(9)

Date referred: 5/5/88

FURTHER REFERRALS:

576  
Rules

DATE: 5-6-88

The Resources Committee has considered CSSB 494(Fin)

"An Act relating to the salmon enhancement tax and to salmon enhancement authorities; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published 5/3/88
- zero with analysis

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

Adelheid Herrman  
Mike [unclear]  
[unclear]  
[unclear]  
[unclear]  
[unclear]  
[unclear]  
[unclear]  
[unclear]  
[unclear]

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Adelheid Herrman  
 CO Chairman's signature

**JOHN SUND, REPRESENTATIVE**


*2504 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552*

---

*While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919*

MEMORANDUM

To: House Resources Committee  
Representative Adelheid Herrmann - Cochair  
Representative Sam Cotton - Cochair

From: Representative John Sund 

Date: May 5, 1988

Re: Senate bill 494 - "An Act relating to the salmon enhancement tax and to salmon enhancement authorities; and providing for an effective date."

---

Senate Bill 494 repeals reference in state statutes to regional salmon enhancement authorities, and exempts the regional aquaculture association special harvest areas from the salmon enhancement tax.

The regional salmon enhancement authority is a concept currently in state statutes that has never been used and is not workable. The regional associations support its removal. The attached letter from the Southern Southeast Regional Aquaculture Association provides background information on this issue.

The special harvest areas are special areas designated by the Board of Fisheries in which the regional associations harvest the surplus salmon returning to their facilities and use the proceeds to cover operating costs. It seems purposeless for the associations to pay a tax on their salmon harvests when the tax will just be returned to them. The Department of Revenue has never collected this tax.

the project equal either through a other means ap-ubsection, "total ts for the facility st 10 years. The basis.

tory to the com- of trust, assign-urplus fish from levied under AS

lence of perfor- or preliminary ion.

any fiscal year by statute. The for fiscal year SLA 1976; am § 5, 6 ch

5086, 5142), 646

rest on loans. principal on a he loan. Inter- loes not accrue n, the "initial y the commis- ears from the

is made under AS 4, 1976.

n. [Repealed,

of salmon. der AS 16.43, olding entry enefited by a om among its

members for the purpose of securing and repaying a loan made under AS 16.10.510.

(b) Upon satisfactory demonstration to the commissioner that an assessment levied under this section may reasonably be relied upon to secure and repay a loan to be made under AS 16.10.510, the commissioner may make the loan.

(c) [Repealed, § 33 ch 14 SLA 1987.] (§ 1 ch 190 SLA 1976; am § 9 ch 59 SLA 1979; am § 33 ch 14 SLA 1987)

Effect of amendments. — The 1987 amendment at the beginning of subsection (a) substituted "An" for "In place of or in addition to an assessment levied under AS 16.10.530, an," at the end of subsection (b) deleted "without requiring an assessment under AS 16.10.530," and de-

leted former subsection (c), which read "If an assessment made under this section fails to satisfy the payments required on the principal and interest due on the loan the commissioner may negotiate with the regional association to levy an assessment under AS 16.10.530."

Sec. 16.10.550. Sale or transfer of mortgages and notes. [Repealed, § 14 ch 122 SLA 1980.]

Sec. 16.10.555. Disposal of property acquired by default or foreclosure. The Department of Commerce and Economic Development shall dispose of property acquired through default or foreclosure of a loan made under AS 16.10.500 — 16.10.620. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years. (§ 13 ch 79 SLA 1985)

Sec. 16.10.560. Definitions. In AS 16.10.500 — 16.10.560

(1) "commissioner" means the commissioner of commerce and economic development;

(2) "hatchery" means a facility for the artificial incubation of salmon eggs which may include means for the rearing of juvenile salmon. (§ 1 ch 190 SLA 1976)

Cross references. — For further definitions, see AS 16.05.940.

Sec. 16.10.600. Creation of authorities. (a) An association qualified under AS 16.10.380 as a regional association is given the authority to form a regional salmon enhancement authority. There is created with respect to each of the associations qualified under AS 16.10.380 a public body corporate and politic as a political subdivision of the state to function in the operating areas of the individual associations. Each authority may exercise all powers conferred by AS 16.10.600 — 16.10.620.

(b) A regional salmon enhancement authority may not transact business or exercise powers granted to it until the governing body of

the association has, by resolution, declared there is a need for the authority to function, given it the authority to function and appointed persons to serve as the board of commissioners of the authority. The number of members of the board of commissioners, their terms of office and the filling of vacancies in office shall be determined by resolution of the governing body of the association.

(c) The regional salmon enhancement authority has jurisdiction to operate in all or part of the operating area of the individual association as determined by resolution of the governing body of the association. (§ 17 ch 154 SLA 1977)

**Sec. 16.10.610. Tax exemption.** (a) A salmon enhancement authority is exempt from payment of taxes or assessments for a period of 20 years from June 24, 1977 on property owned by the authority which is used for salmon enhancement purposes.

(b) All obligations or liabilities of a regional salmon enhancement authority remain its own and are not obligations or liabilities of the state. (§ 17 ch 154 SLA 1977)

**Sec. 16.10.620. Powers of the authority.** A salmon enhancement authority has the general power to

- (1) adopt, alter and use a corporate seal;
- (2) prescribe, adopt, amend and repeal bylaws;
- (3) sue and be sued in its own name;
- (4) appoint officers, agents and employees and vest them with powers and duties and to fix, change and pay compensation for their services as the authority may determine;
- (5) borrow money, make and issue notes and other evidences of indebtedness of the authority for any of its corporate purposes and to secure payment of its obligations by pledge of or lien on all or any of its assets, contracts, revenue and income;
- (6) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of its powers and functions, including contracts with any person, firm, corporation, government agency or other entity;
- (7) receive, administer and comply with the conditions and requirements of an appropriation, gift, grant or donation of property or money;
- (8) invest or reinvest money or funds held by the authority in obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or funds not required for immediate disbursement, and in certificates of deposits or time deposits;
- (9) acquire, hold, use, lease, sell or otherwise dispose of property of any kind, real, personal or mixed or any interest in it;

(10) do all acts and things necessary, convenient or desirable to carry out the powers granted or implied in AS 16.10.600 — 16.10.620;  
 (11) adopt, amend and repeal regulations necessary. (§ 17 ch 154 SLA 1977)

*Secs. 16.10.650 — 16.10.720. Fishermen's mortgage and note program. [Repealed, § 72 ch 113 SLA 1982.]*

**Chapter 15. Fisheries Experimental Laboratory.**

*[Repealed, § 29 ch 132 SLA 1984.]*

**Chapter 20. Conservation and Protection of Alaskan Wildlife.**

**Article**

1. State Game Refuges (§§ 16.20.010 — 16.20.030)
2. Walrus Islands State Game Sanctuary (§§ 16.20.090 — 16.20.140)
3. McNeil River State Game Sanctuary (§§ 16.20.160 — 16.20.170)
4. Endangered Species (§§ 16.20.180 — 16.20.210)
5. State Range Areas (§§ 16.20.300 — 16.20.360)
6. Fish and Game Critical Habitat Areas (§§ 16.20.500 — 16.20.690)

**Article 1. State Game Refuges.**

**Section**

10. Legislative recognition
20. Purpose
30. Refuges established
32. Palmer Hay Flats State Game Refuge
34. Mendenhall Wetlands State Game Refuge
36. Susitna Flats State Game Refuge
38. Trading Bay State Game Refuge

**Section**

39. Creamer's Field Migratory Waterfowl Refuge
40. Regulations
50. Multiple land use
60. Submission of plans and specifications
70. Relationship to other laws
80. Definitions

*Opinions of attorney general. — For a discussion of the authority of the Department of Natural Resources and the Department of Fish and Game, see November 8, 1985 Op. Att'y Gen.*

**Sec. 16.20.010. Legislative recognition.** The legislature recognizes that

- (1) the state has jurisdiction over all fish and game in the state except in those areas where it has assented to federal control;
- (2) the state has not assented to federal control of fish and game in those areas which were set apart as National Bird and Wildlife Refuges while the state was a United States territory;

**SOUTHERN SOUTHEAST REGIONAL  
AQUACULTURE ASSOCIATION, INC.**

1621 Tongass Ave., #103

Ketchikan, Alaska 99901

(907) 225-9605

Representative C.E. Swackhammer  
Alaska State House of Representatives  
P.O. Box 417  
Soldotna, AK 99669

December 17, 1987

Dear Representative Swackhammer:

I recently received a copy of the memorandum to you from legislative analyst, Brad Pierce, dated November 2, 1987 regarding the possibility of an enhancement authority as a long-term funding mechanism for Alaska's ocean ranching program. Are you or do you know of anyone who will propose legislation initiating a statewide salmon enhancement authority during the 1988 legislative session? I am writing to express the opposition of the Southern Southeast Regional Aquaculture Association (SSRAA) to any legislation that proposes a statewide salmon enhancement authority.

SSRAA, along with the other major regional aquaculture associations, jointly developed a position statement in 1987 on the possible transfer of state fish hatcheries to regional associations. This is still the position of SSRAA, and SSRAA strongly encourages the state to operate the FRED salmon hatcheries using general funds of the state. If the state salmon hatcheries are providing an economic benefit to the residents of Alaska beyond the cost of operating them, then the state should continue to operate the facilities. If, however, it is the view of the legislature that it is not in the state's best interest to continue the operation of the FRED hatcheries, but if the hatcheries provides a positive economic benefit to commercial fishermen, then the option of having the regional aquaculture associations operate the state hatcheries should be continued.

According to sec. 16.10.600 of the Alaska Statutes and Regulations for private nonprofit salmon hatcheries, a qualified regional aquaculture association is given the authority to form a regional salmon enhancement authority. There is no mention of a statewide enhancement authority and the original legislative

**PRIVATE NON PROFIT HATCHERIES**

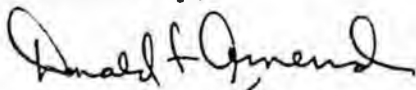
intent did not include state FRED hatcheries. It does not appear appropriate for the FRED Division or legislature to pursue the formation of an enhancement authority to encompass both the PNP programs and the state FRED programs.

It is SSRAA's opinion that a statewide authority would not work and would not be in the best interest of commercial fishermen. The primary objection would be the loss of regional control which is one of the reasons for the success of the regional associations. In addition, it would cost the fishermen more either through increased taxes or fees and they could receive less benefit depending on where the funds were spent. Furthermore, it would create another bureaucracy with all the associated inefficiencies. One of the primary reasons for the success of the regional associations has been the motivation of a private corporation and the effort of fishermen within the region. The more the fishermen are removed from the critical decisions which affect them, and the more the operational staff is restricted from trying innovative techniques, the greater will be the chance of failure, stagnation, and lack of cooperation.

Why put the successful programs of the regional associations at risk? Efforts should be pursued by the legislature to find alternative funding for the FRED facilities without increasing the tax burden on the commercial fishermen. They are already paying their fair share compared to other industries in Alaska through their permit fees, raw fish tax, vessel fuel tax, landing tax, and enhancement tax. If funds are not available from the general fund, if the FRED hatcheries can not be operated cost effectively, and if there is no benefit to the commercial fishermen through the transfer to the regional associations, then the best alternative is to shut them down.

SSRAA is encouraging all of the regional aquaculture associations and commercial fishing organizations to oppose any legislation which would create a statewide salmon enhancement authority.

Sincerely,



Donald F. Amend  
General Manager

cc: NSRAA	SE Alaska Seine Boat Owners and Operators
CIAA	Ketchikan Fishermen's Association's
PWSAA	Southeast Fish and Game Advisory Committees
KIAA	Representative John Sund
UFA	Representative Robin Taylor
ATA	Representative Peter Goll
USAG	Senator Lloyd Jones
Brian Ailee, FRED Director	

Revisor's notes. — Formerly AS 16.43.285. Renumbered in 1983.

**Article 6. Special Harvest Area Entry Permits.**

<p><b>Section</b>                  400. Special harvest area entry permits                  410. Terms and conditions of special harvest area entry permits</p>	<p><b>Section</b>                  420. Disposition of fish                  430. Authorized gear                  440. Adoption of regulations</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------

**Sec. 16.43.400. Special harvest area entry permits.** (a) In addition to entry permits, interim-use permits, and educational permits, the commission may issue special harvest area entry permits to holders of private, nonprofit hatchery permits issued by the Department of Fish and Game under AS 16.10.400 — 16.10.475.

(b) The commission may issue special harvest area entry permits notwithstanding the establishment of maximum or optimum numbers under AS 16.43.240 and 16.43.290. (§ 1 ch 64 SLA 1979)

Revisor's notes. — Formerly AS 16.43.335. Renumbered in 1983.

**Sec. 16.43.410. Terms and conditions of special harvest area entry permits.** (a) Special harvest area entry permits may be applied for on an annual basis and shall be issued for a term of one year. A permit is nontransferable.

(b) A special harvest area entry permit may only be issued for the applicable area designated by the Department of Fish and Game as a special harvest area.

(c) The annual fee for a special harvest area entry permit shall be specified by commission regulation under the authority of AS 16.43.160. (§ 2 ch 64 SLA 1979)

Revisor's notes. — Formerly AS 16.43.337. Renumbered in 1983.

**Sec. 16.43.420. Disposition of fish.** Fish caught under the authority of a special harvest area entry permit are the property of the permit holder. The permit holder may sell the fish if the proceeds are used in the manner described in AS 16.10.450. (§ 2 ch 64 SLA 1979)

Revisor's notes. — Formerly AS 16.43.339. Renumbered in 1983.

**Sec. 16.43.430. Authorized gear.** For the purposes of harvesting salmon, a special harvest area entry permit holder may employ any fishing gear designated as legal gear in the applicable special harvest area by the Board of Fisheries. (§ 2 ch 64 SLA 1979)