

HB

104

FISCAL NOTE

No: 1

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Version: CSHB 104 (FSH)
(H) Publish Date: 3/10/99

Revision Date/Time (Note if correction) _____ Dept. Affected: Fish and Game
 Title An Act revising the procedures and authority of the Alaska Commercial Fisheries Entry Commission, the Board of Fisheries, and ... BRU: Commercial Fisheries (Limited) Entry Commission
 Component: Limited Entry Program Administration
 Sponsor Rep. Hudson
 Requester Rep. Hudson - House Fisheries Committee COMPONENT SERIAL NO. 0471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact

Prepared by Roger Kolden Phone 790-6950
 Agency Commercial Fisheries (Limited) Entry Commission Date/Time 02/19/99

Approved by Commissioner Bruce Twomley Date: 2/22/99
 Agency Commercial Fisheries (Limited) Entry Commission

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(Rev 10/94) 9090form.124/OMB Page 1 of 1

COMMITTEE COPY



Alaska State Legislature

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99801-1182
(907) 465-3744
Fax (907) 465-2273

COMMITTEES
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Fisheries Committee
Utility Restructuring Committee
MEMBER
State Affairs Committee
Transportation Committee

Sponsor Statement

CSHB 104 (FSH)

Entry Moratorium on Participants and Vessels

CSHB 104 amends existing moratorium law to provide for a streamlined and effective process to better manage Alaska's fisheries resources.

A moratorium offers an alternative to moving a fishery straight from "open access" to limited entry. It is a tool to delay and possibly prevent the need to limit entry into a fishery by giving participants and regulators the time and opportunity to assess the resource and explore alternative management schemes. This provision will allow the Commercial Fisheries Entry Commission to act quickly and temporarily freeze participation in a fishery when participation by Alaskans is at its peak.

The current moratorium statute has proven cumbersome and unworkable. It prevents quick response in fisheries that are growing too rapidly to ensure effective management. As a result, both the resource and the economic livelihood of the participants could be jeopardized. In some situations, ADF&G's only recourse is to close the fishery or refuse to open a new fishery if effort cannot be controlled.

CSHB 104 allows petitioners to request a moratorium directly from the CFEC. A moratorium would be established if the CFEC found that it was necessary "to promote the conservation and sustained yield management of the resource and the economic health and stability of commercial fishing in the state."

Additionally, CSHB 104 allows the state to extend its moratorium authority to offshore fisheries adjacent to state waters when consistent with federal law. The bill also includes provisions authorizing the CFEC to extend the current moratoria on the Korean Hair Crab and Weathervane Scallop fisheries for an additional two years if necessary. These moratoria were established by the Legislature several years ago and would only be extended if no effective management scheme is in place when the moratoria lapse.

Alaska State Legislature

MAY 12 1999

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Rep. Fred Dyson
Rep. John Harris
Rep. Carl Morgan
Rep. John Whitaker
Rep. Mary Kapsner
Rep. Harold Smalley

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State Capitol
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Special Committee on Fisheries

March 11, 1999

TO: Senator Rick Halford
Chair, Senate Resources Committee

FROM: Representative Bill Hudson *Bill*
Chair, House Fisheries Committee

RE: Committee Hearing for HB 104

HB 104 passed the House unanimously on Saturday, May 8th. I would appreciate it if you could schedule a hearing in Senate Resources as soon as practicable.

Attached is a sponsor statement and supporting documentation.

Thank you for your consideration.

HOUSE COMMITTEE REPORT

3-10-99
Resources

6
(7)

Date Referred to Committee: February 19, 1999

FURTHER REFERRALS:

Date of Committee Action: March 8, 1999

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 104

HOUSE BILL NO. 104

ENTRY MORATORIA ON PARTICIPANTS/VESSELS

"An Act revising the procedures and authority of the Alaska Commercial Fisheries Entry Commission, the Board of Fisheries, and the Department of Fish and Game to establish a moratorium on participants or vessels, or both, participating in certain fisheries; and providing for an effective date."

recommends it be replaced with the following committee substitute CSHB 104(FSH) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) F&G zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<u>Thary Kapsner</u>	Kapsner	✓			
<u>[Signature]</u>	MORGAN	✓			
<u>[Signature]</u>	WHITAKER	✓			
<u>Bill Hudson</u>	HUDSON	✓			
		(4)			

CHAIR'S SIGNATURE Bill Hudson
Hudson

HOUSE COMMITTEE REPORT

5-6-99
Ruled

(9)
Date Referred to Committee: March 10, 1999

FURTHER REFERRALS:

Date of Committee Action: 5-5-99

The RESOURCES Committee considered:

HB 104

HOUSE BILL NO. 104

ENTRY MORATORIA ON PARTICIPANTS/VESSELS

"An Act revising the procedures and authority of the Alaska Commercial Fisheries Entry Commission, the Board of Fisheries, and the Department of Fish and Game to establish a moratorium on participants or vessels, or both, participating in certain fisheries; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 104 (FSH) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) DF+G 3-10-99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Scott Dan</u> Ogan			✓	
<u>Jerry Sanders</u> Sanders			✓	
<u>Volger</u> Morgan	✓			
<u>John Harris</u> Harris	✓			
<u>M. Whitaker</u> Whitaker	✓			
<u>Ruggie</u> Joule			✓	
	(3)		(3)	

CO' CHAIR'S SIGNATURE Scott Dan Jerry Sanders
Ogan Sanders

House SPECIAL COMMITTEE ON FISHERIES Minutes



HOUSE SPECIAL COMMITTEE ON FISHERIES

March 8, 1999

5:09 p.m.

HB 104 - ENTRY MORATORIA ON PARTICIPANTS/VESSELS

Number 0125

CHAIRMAN HUDSON announced the first order of business was House Bill No. 104, "An Act revising the procedures and authority of the Alaska Commercial Fisheries Entry Commission, the Board of Fisheries, and the Department of Fish and Game to establish a moratorium on participants or vessels, or both, participating in certain fisheries; and providing for an effective date."

CHAIRMAN HUDSON announced there is a committee substitute for House Bill No. 104, and asked for a motion to adopt it.

REPRESENTATIVE WHITAKER made a motion to adopt the proposed committee substitute for HB 104 [1-LS0394-I, Utermohle, 03/08/99]. There being no objection, it was so adopted.

CHAIRMAN HUDSON called on Elizabeth Cabrera, staff to Representative Hudson who is the sponsor of HB 104, to present the sponsor statement.

Number 0199

ELIZABETH CABRERA, Researcher, Representative Bill Hudson, Alaska State Legislature, read the following sponsor statement into the record:

HB 104 amends the existing moratorium law to provide for a streamlined and effective process to better manage Alaska's fisheries resources. The current process involves multiple steps whereby a fisherman seeking a moratorium must first go to the Commissioner of Fish and Game, who, in turn, must seek authorization from the Board of Fisheries. If the Fish Board authorizes the Commissioner to go forward, the Commissioner may then petition CFEC (Commercial Fisheries Entry Commission) to provide a moratorium. CFEC is then authorized to go forward if it can make findings as required by statute. Unfortunately, the standards set forth in statute are difficult to understand and mutually inconsistent.

HB 104 allows petitioners to request a moratorium directly from CFEC. A moratorium would be established if CFEC found that it was necessary "to promote the conservation and sustained yield management of the resource and the economic health and stability of commercial fishing in the state." The purpose of a moratorium is to quickly put a lid on participation levels in order to buy time to develop better management tools.

HB 104 authorizes CFEC to implement a moratorium on entry of new vessels into a fishery as well as participants. This new authority provides an additional management tool where there are a number of different skippers used on one vessel. Additionally, HB 104 allows the state to extend its moratorium

authority to offshore fisheries adjacent to state waters when consistent with federal law.

The committee substitute specifically differs from the original bill by authorizing CFEC to extend the moratorium on both the Korean hair crab and weathervane scallop fisheries. Also, I would note that a similar bill passed the House last session with overwhelming support. Improving the moratorium law is consistent with our concern for developing and protecting jobs, as well as streamlining government and resource protection.

Number 0378

CHAIRMAN HUDSON asked if there were questions regarding the sponsor statement. Hearing none, he opened the meeting to public testimony.

Number 0459

MARY McDOWELL, Commissioner, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish and Game, provided testimony in support of HB 104 on behalf of CFEC. It is the belief of CFEC, she stressed, that having a workable moratorium statute is very important for sound management of the fisheries. She explained that the moratorium provisions currently in statute are so cumbersome that they are counterproductive, and could result in harm to a fishery by generating "a rush" of new participants. She informed the committee that HB 104 would create a workable process whereby massive growth could be temporarily controlled in a quickly developing fishery. This would allow time to work with the Alaska Department of Fish and Game (ADF&G), the Board of Fisheries and individuals involved in the fishery to assess the best route for the future.

CHAIRMAN HUDSON asked whether a moratorium was for purposes of biological conservation or to "save the scales of economy of those who participate in the fisheries."

Number 0600

MS. McDOWELL responded that the two mandates of a limited entry act are conservation of the resource and protecting the economic health of the fishery itself. She explained that a moratorium is an interim step to "getting a handle on" a fishery while assessing whether limitation is the way to go.

CHAIRMAN HUDSON sought clarification as to whether HB 104 would simply streamline CFEC's existing authority to employ a moratorium.

MS. McDOWELL said yes. She added that the current provision for employing a moratorium is a convoluted process, involving petitioning the Commissioner of ADF&G, who would then go to the Board of Fisheries "if and when they can get on the agenda." The Board of Fisheries would then sanction the Commissioner of ADF&G to approach CFEC to request a moratorium. She stressed that this process would take so much time that it is equivalent to waving a flag and telling individuals, "You might want to rush into this fishery because we might be putting a lid on it." This would be absolutely the opposite of what CFEC would want to do at that particular point, she said. She clarified that CFEC would continue to work with ADF&G and the Board of Fisheries in this process, but HB 104 would allow anyone to come directly to CFEC to petition the moratorium.

CHAIRMAN HUDSON next introduced Amy Daugherty, former legislative assistant to Representative Alan Austerman, and former House Special Committee on Fisheries committee aide for four years.

Number 0788

AMY DAUGHERTY, Pacific Associates, Inc., came forward to testify in support of HB 104. She is currently working on the Korean hair crab vessel moratorium and the scallop moratorium. She indicated that the language in the proposed committee substitute was clear and specific. She expressed support for the bill in its entirety, but particularly supported the provision to extend the moratorium.

Number 0869

JOE KYLE, Pacific Associates, Inc., came forward to testify in support of HB 104. He mentioned that he is a member of the North Pacific Fishery Management Council (NPFMC), but he clarified that he was not speaking on their behalf. He declared that anything that could be done to give better management tools to ADF&G or CFEC would protect the interests of Alaska. He stipulated that many things overlap and intertwine between state and federal fishery management; however, the federal fishery managers in Alaska are currently in better shape with their budget than the state fishery managers.

MR. KYLE added that there are times, from his perspective as a member of NPFMC, when the state could be delegated more power over some of the fisheries, but not having the management tools in place acts as an inhibitor to that. He reminded the committee that HB 104 had a zero fiscal note, and would give the state fishery managers improved tools to manage their fisheries. He stressed that the greatest issue currently facing fishery management worldwide is overcapitalization. If the state is not able to address that issue in a timely and productive manner, he added, federal fisheries organizations may preempt state fishery issues. He urged the committee to move HB 104 as a means of giving the state of Alaska the ability to take control of its destiny with regard to state fisheries.

CHAIRMAN HUDSON asked if anyone from ADF&G would like to testify.

Number 1049

GERON BRUCE, Legislative Liaison, Office of the Commissioner, Alaska Department of Fish and Game, came forward to testify on behalf of ADF&G in support of HB 104, and he explained that ADF&G worked with CFEC to develop it. He stated he was available to answer any questions.

Number 1122

RAYMOND CAMPBELL testified via teleconference from Ketchikan in opposition to HB 104. He felt that HB 104 seemed to be a resurgence of HB 204 in 1998, and he referred to it as "the Santa Claus program." He argued, "The Commercial Fisheries Entry Commission (CFEC) wants the process of giving away our resources streamlined so they can be Santa Claus and give our resources away to people that got their hand out and want something for nothing. We've had a bill -- we put our dive fisheries in Southeast in a moratorium here about three years ago, and we put people out of business who were actively fishing in those fisheries, and we allowed people to come into the fisheries that had never touched urchins before, and never touched some of the other fisheries... I think this is a bad bill. If it goes through, I would like to

see it changed like the bill in last session which was 204. I'd like to see the transferability of permits be eliminated, and I think, if you took the transferability of permits out of it and made it into a 'not a give-away' program, I think the support would dry up."

Number 1225

CHAIRMAN HUDSON noted that he worked on a bill last year to try to open up the urchin dive fishery, and he asked if that was working at the present time.

MR. CAMPBELL replied, "Not for the people who were diving and got cut out. It hasn't worked for me. It financially destroyed me... I was down here diving for urchins and I was thrown out of the fishery so people who had never touched an urchin before could have the opportunity to do it, and this bill right here is going to give CFEC the right to give people the opportunity to go into a moratorium who have never been in a moratorium before, and it will give them the right to cut people who are fishing in a fishery out, so people who haven't been in the fishery can get into it, just like it happened with the dive fisheries here in Southeast."

CHAIRMAN HUDSON declared he did not believe that would be the end result of this legislation; rather, HB 104 is aimed at the Korean hair crab and scallop industries. He added, "I don't think that it's going to provide any more effort for mischief on the part of CFEC in the dive fisheries down here." He asked Mary McDowell from CFEC to again come forward to address Mr. Campbell's concerns.

Number 1340

MS. McDOWELL advised the dive moratorium was not imposed by the CFEC, but by legislative statute. She explained that there was a provision inserted in that legislation, by the legislature, that allowed some fishermen who had not yet participated in certain species to participate in all dive fisheries during the moratorium. She explained that an individual needed to have participated a certain number of years in a dive fishery to be "grandfathered in" to other species.

CHAIRMAN HUDSON reiterated that the dive moratorium was a legislative action, and he asked Ms. McDowell if she saw anything in HB 104 that would adversely affect Mr. Campbell's interest in getting involved in the dive fisheries.

MS. McDOWELL said she did not. The only connection between the dive moratorium and HB 104, she explained, was that the committee substitute of HB 104 would provide for the ability to extend Korean hair crab and scallop fishery moratoriums for two more years, if that much time was needed to gather data and decide upon a course. She stressed that it was the belief of CFEC that a sound public process, where the fishermen are involved in establishing the rules through the regular public process, is a good way to go.

CHAIRMAN HUDSON invited Mr. Campbell to send him his written observations, and his concerns would be addressed. However, he pointed out that he did not believe HB 104 would have any affect on the issues Mr. Campbell raised.

Number 1514

MR. CAMPBELL agreed to do that. He further addressed a question to CFEC, "Does that mean, if this bill goes through, they won't be able to extend the moratorium on dive fisheries for another two

years? It seems to me like you...you are saying that it is directed at the Korean hair crab and the scallop fishery, but it seemed to me like the dive fisheries would be in there, too."

MS. McDOWELL explained there was nothing in HB 104 that would prohibit CFEC from extending the dive moratorium for two additional years; however, she stressed that CFEC would never want to use an extension provision unless there was a very specific reason for doing so. She added, "People need certainty in their lives and we know that. At a certain point, you need to make a decision and let people know whether they are in or out of a fishery and get on with it, so we'd be very careful about extending any moratorium any longer than we absolutely needed to."

CHAIRMAN HUDSON once again reassured Mr. Campbell that they would look into his written concerns, perhaps communicating through Representative Carl Morgan's office. He invited the next witness on teleconference to testify.

Number 1639

DONALD WESTLUND testified via teleconference from Ketchikan on HB 104. He mentioned he had some concerns, but added that CFEC really needs some type of moratorium that is quick and responsive. He cited his personal experience of having just gone through the issuance of shrimp limitations, and attending three public meetings on this issue. He related that there were 137 active fishermen at the first meeting he attended. The next meeting had an attendance of 243, and the following year there were 332. He stressed that some type of stabilization of the fishery was needed when petitioners file a petition with CFEC and "get a stop." He argued that ADF&G should not, as was done in his area, advertise, "If you have not fished in this year, you need to make a delivery so you can fish in the next coming year or you will have a moratorium or you will not be able to fish." He indicated that some type of ground rules were needed, and that a moratorium would help in certain circumstances.

Number 1769

MR. WESTLUND continued by stating that there was a five-month fishery originally and historically, and some years it is a five-week season. Stability of the fishery is needed, he stressed, and parts of the limited entry buy-back program should be addressed as well. He argued that there are too many participants in a fishery, almost double the number in his case, and that something needs to be done.

CHAIRMAN HUDSON reassured the witness that the committee was looking for ways to streamline the public process, and give the needed tools to CFEC and others to balance conservation with the economy. He agreed that too many participants in a fishery would, not only not make money, but deplete the resources; however, he added that this has not always been easy to balance.

Number 1880

GERRY MERRIGAN, Petersburg Vessel Owners Association, testified via teleconference from Petersburg on behalf of his organization. He indicated that they would generally endorse HB 104 as providing two new tools, one being a more timely way to institute moratoriums. The other benefit from HB 104, he added, would be "adding in vessels in cases where if you limited, say, permit holders, you might be increasing the harvesting capacity by giving it to the skippers...The larger-vessel fisheries, such as hair crab, you

might be increasing the catching power." He summarized by stating that HB 104 should move forward.

Number 1950

DALE BONDURANT testified via teleconference from Soldotna. He stated he thought there was a problem in our fisheries with overcapitalization; although, he admitted that he did not know how HB 104 would deal with this issue. He pointed out that the Board of Fisheries passed a resolution last year addressing overcapitalization; however, he was told at a meeting in the Soldotna/Kenai area that the legislature "black-holed it." He urged the legislature to institute a program that would not expand the fisheries anymore, and to recognize their responsibility to protect the users of these resources.

CHAIRMAN HUDSON thanked the witness for his testimony, and expressed understanding of his concerns. He clarified that HB 104 related more towards streamlining bureaucracy by instituting a process whereby CFEC would possess moratorium capabilities. He reassured Mr. Bondurant that the committee would be open to looking into his concerns at a future date.

Hearing no further questions from committee members or further testimony from witnesses, CHAIRMAN HUDSON asked to entertain a motion to move the committee substitute for HB 104 out of the committee.

Number 2139

REPRESENTATIVE WHITAKER made a motion to move CS HB 104 out of committee with individual recommendations and the attached zero fiscal note. There being no objection, it was so ordered.

Bill Root: Display History/Action Clear Bill Root

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BASIS Last Updated 5/06/99 9:15 AM



May 14, 1999

Senator Halford
State Capitol
Room 121
Juneau, Alaska 99801

Dear Senator Halford,

My name is Dennis Watson. I am the mayor of the City of Craig and the President of the Southeast Regional Dive Fishery Association (SARDFA).

I would like to offer a few thoughts on HB 104. I am in favor of this bill in its original form, not because it is a prelude to limited entry but because it offers (CFEC) / (ADFG) a simple interim solution to manage a quickly expanding open access fishery. It can be used to protect the viability of the target species and the economic benefit of the fishery. What it also does is buy time for rational consideration of what long term means of controlling access best suits the particular fishery, be it standard limited entry or any number of other innovative approaches that can pass the test of usability and the law.

I would like to go over what the passage of HB 104 could mean to the southeast dive fishery. The Southeast dive fishery currently under the Representative Williams moratorium with the Senator Mackie amendment, this bill will sunset next year. The Williams moratorium was to stem the rapid increase of entry into this fishery. There were thousands of inquiries to ADFG about participation.

Another benefit of the William's bill was allowing enough time to pass the necessary legislation to create (SARDFA), which would in turn provide a unique management tool and source of program receipts to help cover the costs of managing the fishery. Organizing (SARDFA) was a far slower process than we had anticipated. We are a year or more behind schedule, though we are now fully functional and moving ahead quickly.

HB 104 could extend the moratorium on this fishery allowing (SARDFA) and (ADFG) to complete development of management plans for primary dive fishery species and to work on an acceptable access plan.

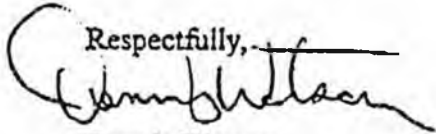
Currently a diver has circulated and filed a petition to limit entry into the Geoduct fishery. Geoducts are a primary target species in the dive fisheries and the species with

the most economic potential and the least amount of inventory work on their geographic extent and their numbers, preliminary estimates suggest the numbers are substantial.

Almost half of the signatures on the Geoduct petition were non-resident. This represents an unacceptable loss of the economic benefit of this resource to southeast communities. I should mention that the waters around Craig and Western Prince of Wales Island area are estimated to have one of the largest Geoduct populations.

Passage of HB 104 could buy us the time to develop acceptable solution for entry into The Geoduct and other dive fisheries and realize the maximum possible benefit to southeast communities.

Respectfully,



Dennis Watson
Mayor

CC Representative Hudson
Senator Mackie