

SB

69

SENATE COMMITTEE REPORT

DATE: 3/26/03

FURTHER:

DATE TURNED
IN TO OFFICE: 3-29-04

Resources Committee considered **SENATE BILL NO. 69**

SB 69 BOARD OF FISHERIES CONFLICTS OF INTEREST

"An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB69 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>				

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: S.B. 69
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Relating to Participation in Matters RDU Administration and Support
Before the Board of Fisheries by Component Boards of Fisheries and Game
Sponsor Senator Wagoner
Requester Senate Resources Component No. 2048

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
Passage of this legislation would have no fiscal impact.

Prepared by: Diana Cote, Executive Director Phone 465-6095
Division Board of Fisheries Date/Time 2/4/04 5:17 PM
Approved by: Commissioner Kevin Duffy Date 2/4/2004
Agency Alaska Department of Fish & Game



SENATOR SCOTT OGAN

23RD Alaska State Legislature

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek * Fairview Loop

Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

State Capitol, Room 103, Juneau Alaska 99801 * (907) 465-3878 * 1 (800) 862-3878 * Fax (907) 465-3265

Senator_Scott_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogan

FACSIMILE TRANSMITTAL SHEET

TO: Leg. Legal FROM: Linda Hay - Sen Resources
 COMPANY: DATE: 3-28-04
 FAX NUMBER: TOTAL NO. OF PAGES INCLUDING COVER: 3
 PHONE NUMBER: RE: CS for SB 69

- URGENT
- FOR REVIEW
- PLEASE COMMENT
- PLEASE REPLY
- PLEASE RECYCLE

NOTES/COMMENTS:

Please prepare a final CS for SB 69 based on the attached amendment as adopted by the Senate Res. Comm. The bill moved out of Comm. as amended.

Call if there are questions —
 Thank you

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR WAGONER

TO: SB 69

1 Page 2, following line 1:

2 Insert a new bill section to read:

3 **** Sec. 3.** AS 39.52.120(c) is amended to read:

4 (c) In addition to other provisions of this section, a public officer who is a
5 member of the Board of Fisheries or the Board of Game may not act on a matter
6 before the board if the public officer has not disclosed in the manner set out in
7 AS 39.52.220 all personal or financial interests in a business or organization relating
8 to fish or game resources."
9

10 Renumber the following bill sections accordingly.

11

12 Page 2, following line 10:

13 Insert a new bill section to read:

14 **** Sec. 5.** AS 39.52.120(e) is repealed."
15

16 Renumber the following bill section accordingly.

17

18 Page 2, line 11:

19 Delete "Tnis Act takes"

20 Insert "Sections 1, 2, and 4 of this Act take"
21

22 Page 2, following line 11:

23 Insert a new bill section to read:

1 "* Sec. 7. Sections 3 and 5 of this Act take effect June 30, 2009."



ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

VICE-CHAIR, SENATE RESOURCES COMMITTEE

SPONSOR STATEMENT

Senate Bill 69

"An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

Alaska is unique in its vastness and abundant resources, yet its number of inhabitants is few. To effectively assure that our lay boards and commissions are comprised of qualified individuals, appointments are made through the governor and confirmed by the legislature. Because of the small number of inhabitants in our state, it often becomes difficult for a board to operate in a manner that utilizes the full extent of its make-up.

The current conflict of interest policy, as applied to the Alaska Board of Fisheries, works against its productivity. It is not in the best interest of the state to have board members disqualify themselves from participation in matters in which they may have a direct interest, because it follows that these areas would be the ones in which members have the most expertise.

If the same policy were applied to state legislators, seldom would there be a piece of legislation that would not find some members disqualified from participation. This bill mandates full personal disclosure on matters related to the subject for eligible participation, but requires a board member to actively participate in the discussion and vote.



ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER
CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
VICE-CHAIR, SENATE RESOURCES COMMITTEE

Senate Bill 69

Sectional Analysis

"An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

INTENT

To have Board of Fisheries' members disclose any personal or financial interests on the record, participate in discussion of all proposals before the board, and vote on these proposals.

SECTIONAL ANALYSIS

Section 1.

- Amends the uncodified law to state the purpose of the Act. That purpose is to preserve and enhance the ability of the Board of Fisheries to act as a lay board.

Section 2.

- Amends AS 39.52.120(c) by removing the Board of Fisheries.

Section 3.

- Amends AS 39.52.120 to require Board of Fisheries' members to disclose a personal or financial interest on the record before participating in matters before the board. Disclosure of personal or financial interests does not disqualify a member from participating in matters before the board.

Section 4.

- Establishes an immediate effective date.




ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER
CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
VICE-CHAIR, SENATE RESOURCES COMMITTEE

March 27, 2003

MEMORANDUM

To: Senator Scott Ogan, Chairman
Senate Resources Committee

From: Senator Thomas Wagoner 

Subject: SB 69 – Committee Hearing Request

I would appreciate your hearing Senate Bill 69 in the Senate Resources Committee at your earliest convenience.

I have attached a sponsor statement, sectional analysis and other information pertaining to this bill.

If you have any questions, please contact my office. Thank you for your time and consideration.



UNITED FISHERMEN OF ALASKA

March 17, 2003

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

Senator Scott Ogan
Chair
Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Senator Ogan,

Re: SB 69 Board of Fisheries Conflict of Interests

United Fishermen of Alaska supports passage of this bill to provide for Board members to participate in matters before the Board if they declare their personal or financial interest in a fishery.

Members are on the Board for their expertise in some aspect of fishing. Due to the limited size of the board and the wide range of fisheries in the state, it is vital that all Board members be able to participate in the decision making process.

The thirty-four members groups of UFA would appreciate your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

Thomas M. Gemmell
Executive Director

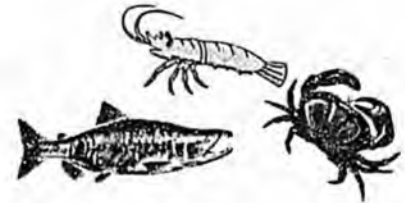
Copy: Senator Ben Stevens
Senator Tom Wagoner
Senator Fred Dyson
Senator Ralph Seekins
Senator Kim Elton
Senator Georgianna Lincoln

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Druggers Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • At-sea Processors Association • Bristol Bay Reserve
Chignik Regional Aquaculture Association • Chignik Seiners Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United
Crab Rationalization and Buyback Group • Douglas Island Pink and Chum • Groundfish Forum • Ken Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association
Kodiak Seiners Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Old Harbor Fishermen's Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters • Western Gull of Alaska Fishermen

Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway
Juneau, AK 99801



Phone 907-586-6652

Fax 907-586-5648

E-mail: seafa@gci.net

March 25, 2003

Senator Gary Stevens, Chair
Senate State Affairs Committee
Alaska State Legislature
State Capitol, Room 211
Juneau, AK 99801

RE: Support SB 69

The Southeast Alaska Fishermen's Alliance (SEAFA) strongly supports SB 69, which would allow a Board of Fish member to fully participate in the Board process. Currently, a Board of Fish member who has the most information and knowledge in a specific fishery because he participates in the fishery is unable to fully share his knowledge with the remainder of the committee. He must remain silent during deliberations because the Board member has been conflicted out of the discussion.

For example this year during the Southeast Board of Fish meeting in Ketchikan, one of the Board members was conflicted out and unable to participate in the deliberations of the net proposals for salmon because his son owned a seine permit and his brother owned a gillnet permit. This member had in the past participated in both fisheries and had a through understanding of the issues; he would not have personally benefited financially but was still barred from participating in the deliberations based on the advice of the Board's attorney. If a Board member states on the record his conflict and then provides the information on the region/fishery he has to other board members, the conflict just disclosed is current in the other board member's minds and they are able to listen to the information provided allowing for the bias contained in the information.

We hope with the passage of this legislation, that commercial fishermen will be more willing to serve on this important board. Fishermen are disinclined to go through the process of being appointed to the Board, if they are conflicted out of participating in the deliberations on the fisheries they most know and understand.

SEAFA believes in the importance of a lay board. This type of Board provides us with the best chance of having a diversity of interests and the knowledge and expertise of the different fisheries and regions around the State. It is also important that the Legislature and the Governor appoint Board of Fish members of a high caliber with sufficient interest in the fisheries and a commitment to do the work and then be allowed to do the work unhindered.

Thank you for considering our testimony and if we can be of any additional help on fishery issues please give us a call.

Sincerely,

Kathy Hansen,
Executive Director

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Petersburg Vessel Owners Association

P.O. Box 232
Petersburg, Alaska 99833
Phone (907) 772-9323 Fax (907) 772-4495

March 25, 2003

Senator Gary Stevens, Chairman
Senate State Affairs Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: Support SB69 Board of Fisheries Conflict of Interest

Petersburg Vessel Owners Association is a group of commercial fishermen who participate in many fisheries statewide. We support passage of this bill that would allow members of the Board of Fisheries who have a conflict of interest in a matter before the board to declare the conflict, then participate in deliberations and vote on the matter.

Generally, members of the Board of Fisheries are appointed because they have expertise in fisheries issues. It is inevitable that some of this expertise must be gained from participation in a fisheries business of some sort. The current statute prohibits board members with a conflict of interest from participating in discussions or voting. At times, this has resulted in the board member with the greatest expertise in the particular area or fishery being prohibited from providing important information to the board.

Due to the small size of the board and the complex nature of fisheries in this state, it is crucial that all board members, especially those with specific knowledge of the issues being discussed, be allowed to participate in discussions. We would like to note that this affects commercial fishermen, sport fishermen, processors, and charter boat operators that sit on the board.

We appreciate your attention to these comments and hope you will support this bill. If we can assist you in any way, please feel free to contact us.

Respectfully,



Cora Crome
Director

CC: Senator Wagoner

STATE OF ALASKA

Matanuska/Susitna Valley Fish & Game Advisory Committee

Frank H Murkowski, Governor

Wayne Kubat, Chair
PO Box 874867
Wasilla, Alaska 99687
ph. & fax: 376-9568
email: args@mtaonline.net

March 25th, 2004

Senator Lyda Green, Fax: 465-3805
Senator Scott Ogan, Fax: 465-3265
Representative Carl Gatto, Fax: 465-2381
Representative Vic Kohring, Fax: 465-3818
Representative Beverly Masek, Fax: 465-4822
Representative Bill Stoltze, Fax: 465-4928

Dear Valley Legislators,

The Mat-Su Fish and Game advisory committee would like to weigh in on the following bills, which we discussed and voted on at our March 24th, 2004 advisory committee meeting.

- We **support** Senate Bill 318: An Act relating to the individual right of Alaska residents in the consumptive use of fish and game. "BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA: * **Section 1.** AS 16.05 is amended by adding a new section to read: **Sec. 16.05.005. Policy.** It is the policy of the state that the consumptive use of wild fish and game resources by individual Alaska residents is a very important and fundamental individual right when considering the management and allocation of those resources. This bill would give Alaskans first priority for our fish and game resources as required by the State Constitution, at a time when an increasing number of groups are trying to stop Alaskans from harvesting our own food supplies and trapping our own furs.
- We **oppose** Senate Bill 69. The purpose of this Act is to preserve and enhance the ability of the Board of Fisheries to act as a lay board. To accomplish this goal, this Act requires members of the board to participate in the issues that come before the board even though the members have a personal or financial interest in the matter by virtue of their participation in a fishery. We think it would be difficult for members of the Boards to vote impartially on matters that directly effect their livelihood or that of family members.
- We **oppose** House Bill 396: An Act relating to management of salmon and other fish stocks and salmon fisheries and to the use of funds received by an enhancement facility from the sale of fish." The **bill states** "the state shall be managed consistent with **maximum sustained yield of important and dominant salmon stocks and with** sustained yield of **other** wild fish stocks and may be managed consistent with sustained yield of enhanced fish stocks." This bill is written in such a way as to allow one species of salmon to take priority over all other stocks. For example in Cook Inlet, this bill will allow for the maximum harvest of red salmon at the expense of other salmon stocks. Our stock in upper Cook Inlet would suffer drastically under this management style and other areas of Alaska at the tail end of salmon runs will suffer too!

Thank you for your support on these and other wildlife matters!

Sincerely,

Wayne Kubat - Chairman

Subject: SB69- Board of Fisheries- Conflict of Interest Declaration exemption; SB318 Resident Consumption of Fish and Game

Date: Wed, 24 Mar 2004 21:33:10 -0900

From: Phil Cutler <filcut@ak.net>

To: Senator_Scott_Ogan@legis.state.ak.us

Dear Senator Ogan,

I want you to know that the Alaska Sportfishing Association opposes SB69. Simply put, if it ain't broken, why "fix" it. The present system of declaring a potential conflict of interest and then having the situation discussed in open forum works fine; just as it goes with the Board of Game--and the legislature, in fact. I have been unable to find out what Sen. Waggoner's agenda on this is so I can't discuss why he sponsored this bill.

We do support Sen. Seekins' bill SB318 which provides for Alaska residents' needs of fish and game be paramount in making management and allocation decisions. This one looks like a "no brainer" to us.

Thanks for your time and your hard work,

Phil Cutler, President

Alaska Sportfishing Association



KAWERAK, INC. • P.O. Box 948 • Nome, AK 99762



TEL: (907) 443-5231 • FAX: (907) 443-4452



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WHITE MOUNTAIN

Senator Scott Ogan, Chair
Senate Resources Committee
State Capitol Room 103
Juneau, AK 99801-1182
Fax: 907 465 3265

3/26

Regarding: Senate Bill 69: Board of Fisheries Conflict of Interest

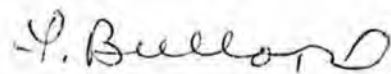
This letter is in opposition to Senate Bill 69: Board of Fisheries Conflicts of Interest.

According to current regulations, the Board of Fisheries is charged with making allocative decisions based on biological and socioeconomic information provided by the ADFG, public comment and guidance from the Alaska Department of Public Safety and the Alaska Department of Law. The reasoning behind allowing Board members with conflicts of interest to participate and to vote due to their expertise in the field is flawed because all information required to make informed decisions should be provided at the meetings and if more information is required, the Board members are able to request it at any time. Indeed, experts, in the form of Alaska Department of Fish and Game Biologists and US Fish and Wildlife Service Biologists, are present and are willing and able to provide unbiased biological facts to aid in the decision-making process. As well, many members of the public have vested interest in speaking for or against proposals due to their own "expertise", or interest, in the matter. Therefore, we argue that it is not necessary, and may be detrimental to the public process, to have Board members participate in discussions and vote for or against proposals in which they have conflicts of interest.

Some proposals before the Board of Fish could result in immense economic consequences to various groups of people, including Board of Fish members, and it would be impossible for the Board of Fish to represent all users if conflicts of interest were present. We also argue that allowing members with conflicts of interest to vote on proposals before the Board of Fish would allow the public process to disintegrate and has the potential to widen the gap between commercial and subsistence users and interests in the Board of Fish process. The interests of Subsistence Users are under represented on the Board of Fish as compared to commercial interests.

Therefore, we ask your consideration of these issues when you take action on Senate Bill 69. Kawerak also spoke in opposition to Senate Bill 69 during the public teleconference on March 19, 2004. If you require any additional information, please contact Karen Dunmall, Fisheries Biologist, at 907 443 4384.

Sincerely,
KAWERAK, INC.


Loretta Bullard, President



Alaska Outdoor Council
Alaska Fish and Wildlife Conservation Fund



PO Box 73902
Fairbanks, AK 99707-3902
Tel: (907) 455-4AOC // Fax : (907) 455-4262
e-mail: aoc@alaska.net
www.alaskaoutdoorcouncil.org

23 March, 2004

**Board of
Directors**

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Dick Bishop
Fairbanks

Sec./Treas.

Susan Grasser
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1st Vice Pres.

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Brett Huber
Anchorage

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Byron Haley
Fairbanks

Executive

Director

Jennifer Yuhas
Fairbanks

Senator Scott Ogan, Chairman
Senate Resources Committee
Room 103
State Capitol Building
Juneau, Alaska 99801

Dear Senator Ogan,

The Alaska Outdoor Council, on behalf of its 54 member clubs and a collective membership of nearly 12,000 Alaskans, strongly opposes SB69: "An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

The existing policy for exclusion from voting based on conflict of interest has served the public and the board process extremely well. Currently, board members are appropriately excluded from voting on issues which may affect their personal financial interests. The existing process does however allow those members excluded from voting to share their expertise and experience through the board committee process and interact with other board members. To alter this policy as proposed by SB 69 would serve only to attract board applicants who wish merely to obtain stronger influence over their own financial affairs at the detriment to the public and board process.

Board of Fish decisions now are often contentious and highly scrutinized. Adoption of SB 69 will likely jeopardize the integrity of the existing process as individual members will have the opportunity to vote on issues which may benefit them financially.

Please reject this unnecessary and unwarranted alteration of an existing policy that has served Alaska well until this point.

Thank you.

Sincerely,

Jennifer Yuhas, Executive Director
Alaska Outdoor Council

Bristol Bay Economic Development Corporation

P.O. Box 1464 • Dillingham, Alaska 99576 • (907) 842-4370 • Fax (907) 842-4336 • 1-800-478-4370



March 19, 2004
SENT VIA FACSIMILE

Senator Scott Ogan, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801-1182

Dear Senator Ogan:

The Bristol Bay Economic Development Corporation (BBEDC) is a community development quota organization representing seventeen communities in Bristol Bay.

BBEDC strongly supports the passage of SB 69 "An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date". We feel this legislation is long overdue and its passage is an integral component of creating a strong and effective board of fisheries.

As a former board of fisheries member I can personally attest to the need to have experienced and knowledgeable members on the board. SB 69 would allow members who have a conflict of interest to declare the conflict and to participate in the deliberations and vote on the matter.

There are many fishery regions in Alaska and the issues can be highly specialized and complicated in nature. A board member from Bristol Bay, Cook Inlet, Kodiak or wherever, is likely the most knowledgeable about the dynamics in that fishery -- and they should be allowed to share this expertise with the board, and just as importantly -- cast their vote on the matter.

BBEDC urges you to support moving SB 69 out of the committee today. Please contact me if I can provide any further information.

Respectfully,

H.R. Robin Samuelsen, Jr.
BBEDC President/CEO