

SCOMM

95:19

HB 141

Sec. 2. Page 1 line 11:

delete "a successor is qualified to serve on the board" and replace with "an appointed successor's term begins"

Sec. 3. TRANSITION. Notwithstanding 16.05.221 (d):

(a) The expiration date of the terms of the persons serving on the Board of Fisheries on Jan. 1, 1995, is January 31 of the calendar year in which the term expires.

(b) The terms of members appointed to the Board after January 1, 1995, other than terms of members appointed to fill the balance of an unexpired term, shall begin upon the expiration of the predecessors term, and expire three calendar years later on June 30.

Post-It™ Fax Note		7671	Date		# of pages
To	GEORGE		From	AMY	
Co./Dept.			Co.		
Phone #			Phone #	4230	
Fax #	2029		Fax #	4956	

State of Alaska
Office of the Governor

TONY KNOWLES
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Bob King
Press Secretary
Claire Richardson
Deputy Press Secretary
907-465-3500
FAX: 907-465-3533

FOR IMMEDIATE RELEASE: March 29, 1996

96-077

KNOWLES SIGNS THREE BILLS INTO LAW

Three Strikes and You're Out, Crimes against Officers, Fish Board Terms

Governor Tony Knowles signed legislation today which would crack down on repeat criminal offenders, stiffen penalties for crimes against peace officers, and de-politicize fish board appointments. All three bills take effect June 26, 1996.

Known as the "three-strikes-and-you're-out" bill, **HB 38** would put third time convicts of the most serious crimes such as murder, rape and felony robbery, behind bars for up to 99 years. Sponsored by Rep. Con Bunde (R-Anchorage), **HB 38** passed the Senate unanimously and the House 29-8.

"This bill makes sure that criminals who have committed the most serious felonies stay behind bars," Knowles said during a bill signing ceremony in his office this morning. "But it's not automatically triggered. Unlike other states, our 'three strikes' provision requires prosecutors to carefully review a case before filing a notice of intent for the law to apply."

The governor also signed **HB 127** which increases penalties for crimes against police, correctional officers and firefighters. Sponsored by Rep. Pete Kelly, (R-Fairbanks), the measure will increase felony sentences from 5 to 7 years and sentences for fourth degree assault would increase from 30 to 60 days.

Knowles also signed **HB 141** which changes the appointment dates and terms of members of the Board of Fisheries to insulate them from political pressure. Sponsored by Rep. Alan Austerman (R-Kodiak), the bill changes the beginning date of fish board terms from February 1 to July 1. The change eliminates the current situation in which board members have to vote on issues prior to legislative confirmation, making their votes an issue in the confirmation process. **HB 141** was unanimously approved by both the House and the Senate.

"This needed change in the law was recommended by my transition team," Knowles said as he signed the bill. "I would like to thank Lt. Governor Fran Ulmer, my fisheries transition term co-chairs Ben Ellis, Kevin O'Leary and Mary Pete, and Stosh Anderson of Kodiak for spearheading that effort."

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 24, 1995

SUBJECT: Appointment of members of the Board of Fisheries
(Work Order No. 9-LS0105F)

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is a draft of a bill amending the procedure and timing for appointment of members to the Board of Fisheries.

This bill addresses a sensitive area of interaction between the executive branch and the legislative branch. The power to appoint is an executive function. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The power to confirm executive appointments is an executive power delegated to the legislature by the Alaska Constitution. Id. Article III, sec. 26 of the Alaska Constitution states:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

The extent of the legislative power in the area of appointments, confirmation, and removal will be narrowly construed.

Two provisions of this bill may impinge on the appointment power of the governor.

First, the establishment of dates by which the governor must make appointments to fill present or anticipated vacancies on the Board of Fisheries (sec. 2) may exceed the legislature's power by placing deadlines for appointment on the governor. On the other hand, the legislature certainly has a legitimate interest in a smooth and timely confirmation process and thus should

Representative Alan Austerman

January 24, 1995

Page 2

receive the names of appointees in time to conduct an appropriate review of the appointee before having to confirm the appointee.

Second, the transitional provision of the bill (sec. 3) extends the current terms of the present members of the Board of Fisheries by five months. This provision impinges on the governor's power by potentially requiring the governor to keep a member on the Board of Fisheries longer than otherwise would be necessary. Because the members of the board may be removed only for cause, the governor cannot remove them without a good reason. The governor is stuck with a member of board until his or her term expires. By extending the terms of the existing members of the board, there is a risk that the governor may be compelled to put up with a person on the board whom the governor wishes to replace. Though this problem will disappear once the terms of the present board members expire, within the three or four years after this bill takes effect, there is a possibility during this time that the governor may object to having one or more members of the board serve an additional five months on the board. It will be essential that the governor is content with how the transition from the present law to the new law is accomplished.

The conflicting interests at issue here will require close cooperation with the executive branch to reach a compromise that appropriately balances the interests of the two branches of government. Without the acquiescence of the governor to the provisions of this bill, there is a risk that the governor may veto this bill because it interferes with the powers of the executive branch

If I may be of further assistance, please advise.

GU:klb:pl
95-005.klb

Enclosure

STATE OF ALASKA - OFFICE OF THE GOVERNOR

Boards and Commissions Office

Membership Roster

(037) FISHERIES

Member	Appointed	Reappointed	Term Exp.
Trefon Angasan Public Bristol Bay Native Corporation P.O. Box 100220 Anchorage, AK 99510 Work Phone - (907) 278-3602 FAX - (907) 276-3924	01/31/92	02/09/95	01/31/98
Dick H. Bower, Sr. Public P.O. Box 3662 Soldotna, AK 99669 Home Phone - (907) 262-7132 FAX - (907) 262-7132	02/04/94		01/31/97
Larry Edfelt Public 1212 Pike Court Juneau, AK 99801 Home Phone - (907) 780-4780 FAX - (907) 463-3475	07/23/91	01/31/93	01/31/96
Larry J. Engel Public -- Vice-Chair P.O. Box 197 Palmer, AK 99645 Home Phone - (907) 745-4132	02/04/94		01/31/97
Dick Jacobsen Public P.O. Box 54 Sand Point, AK 99661 Home Phone - (907) 383-2042 FAX - (907) 383-5370	01/31/93		01/31/96
Frank Rue Commissioner/Fish and Game/ex officio secretary Acting Commissioner Department of Fish & Game P.O. Box 25526 Juneau, AK 99802-5526 Work Phone - (907) 465-4100	01/13/95		
Virgil L. Umphenour Public 2400 Davis Road Fairbanks, AK 99701 Work Phone - (907) 456-3885 FAX - (907) 456-3889	07/22/94		01/31/96
John R. White Public P.O. Box 190 Bethel, AK 99559	02/09/95		01/31/98



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

Press Release 3/11/96

CSHB 141 passed the House today unanimously in its final concurrence vote. "I am pleased," said Rep. Austerman, "the passage of this bill will help insulate the Board of Fisheries from the legislative politics which we've seen increase in recent years."

CSHB 141 changes the beginning service date of a Board of Fisheries member to July 1 and sets the appointment date closer to legislative confirmation. With CSHB 141, legislators will confirm an appointee based on qualifications, not voting record.

This change in appointment and term dates has had the support of fishing groups throughout the state. This concept was also unanimously endorsed by a group of former Board of Fisheries chairmen who met specifically to address what would help that board process.

"This bill has been endorsed by Governor Knowles and I expect him to sign it within the next couple of weeks," said Austerman.



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT

CSHB 141

CS House Bill 141 shifts the appointment and term dates of the Board of Fish members in an effort to depoliticize the confirmation process. The appointment date is moved closer to the confirmation date to help ensure that appointees are confirmed by the legislature prior to having participated at a Board of Fish meeting. Accordingly, the term date is moved from January 31 to July 1st. With CSHB 141, legislators will confirm an appointee based on qualifications, not voting record.

There are instances where changing the term cycle, as in CSHB 141, will not insulate Board of Fish appointees from the confirmation process: where a vacancy occurs before a term expires or the legislature has not confirmed an appointee of the Governor. In these cases, the Governor makes a new appointment within 30 days and those individuals serve on the board until possible confirmation during the next legislative session.

The transition to the new term cycle is addressed in Section 3 of CSHB 141. As presently written, CSHB 141 will extend the terms (to 3 years 5 months) of whichever members are appointed after January 1, 1995. Mr. Utermohle, our drafting attorney, advised against shortening the terms to 2 years, 5 months in this transitory period.

HB 141 brings forth one of the recommendations of the Governor's Transition Team on Fisheries. This group, which convened in Kodiak on January 5 and 6 of last year, was comprised of commercial, sport, and subsistence fishers.



Cordova District Fishermen United

P.O. Box 939

Cordova, Alaska 99574

(907) 424-3447 FAX (907) 424-3430

March 22, 1995

House of Representatives
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Legislator:

On behalf of Cordova District Fishermen United (CDFU), I am pleased to support House Bill 141—An Act relating to the appointment of members of the Board of Fisheries. CDFU is a basic supporter of the lay Board of Fish process as it exists today. We do not believe that the Board of Fish requires extensive modifying—as some other bills in the legislature seek to do. On the contrary, we believe the process requires only some comparably minor periodic adjustments to meet changing resource management needs.

HB141 presents the opportunity to make some of those adjustments. In fact, HB141 will make some adjustments we've been seeking for years such as requiring confirmation before participation.

We urge you to support this bill and thank you for your consideration.

Sincerely,
CORDOVA DISTRICT FISHERMEN UNITED

John Bucci, Legislative Committee Chair

cc: Full House of Representatives
Senator Georgianna Lincoln

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Fisheries

Alaska's fishery resources are critical to the local and statewide economies of the state and to the personal lives of Alaskans. Besides providing more jobs than any other resource or industry in the state, our fishery resources are central to the very sustenance and lifestyle of most Alaskans. Because fish play such a vital role in our lives, and because fisheries in Alaska are biologically complex, the management of this resource naturally generates widespread interest and debate.

RECOMMENDATIONS

BOARD OF FISHERIES

- Retain the basic structure of the existing Board of Fisheries (BOF).
 - Maintain a BOF comprised of lay citizens.
 - Ensure broad geographic interest and expertise by members so that the BOF represents the diversity of interests and regions of the state.
 - Provide that individual BOF seats should not be designated for specific interest groups.
- Consider whether to establish additional Boards, such as a separate BOF for management of ground-fish and shellfish and/or separate regional Boards in addition to a statewide Board.
- Make statutory changes regarding BOF member terms in order to depoliticize the confirmation process.
 - Appoint full term BOF members during the first ten days of April, with confirmation by the end of the legislative session.
 - Seat newly confirmed BOF members on July 1 each year.
 - Provide for 3-year staggered terms as currently is done.
 - Fill vacancies for unexpired terms within 30 days.
- Fine tune the current process for reviewing BOF proposals.
 - Retain the current 3 year cycle for review of agenda topics.
 - Improve the agenda change and petition criteria and the process for out-of-cycle issues of importance.
- Reduce the number of proposals reviewed by the BOF by streamlining the proposal process. Consider methods to reduce the number of proposals taken up by the BOF, but do not restrict the public from offering proposals.
- Conduct BOF meetings more effectively through:
 - Management of testimony according to topic.
 - Making all proposal information available to the public 30 days before the meeting.
 - Strictly prohibiting personal advocacy by ADF&G employees at BOF meetings.
 - Increasing use of electronic bulletin boards for information about meetings.
- Consider moving the BOF administratively out of ADF&G and into the Governor's Office or another administrative unit.

9-LS0105\G
Utermohle
2/24/95

CS FOR HOUSE BILL NO. 141(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:
Referred:

Sponsor(s): **REPRESENTATIVES AUSTERMAN, Grussendorf, Elton**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the appointment of members of the Board of Fisheries."**

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

3 *** Section 1.** AS 16.05.221(c) is amended to read:

4 (c) Members of the [BOARD OF FISHERIES OR] Board of Game serve
5 staggered terms of three years and until a successor is appointed. An appointment to fill
6 a vacancy in the membership of the [BOARD OF FISHERIES OR] Board of Game shall
7 be made in the same manner as the original appointment and for the balance of the
8 unexpired term.

9 *** Sec. 2.** AS 16.05.221 is amended by adding a new subsection to read:

10 (d) Members of the Board of Fisheries serve staggered terms of three years and
11 until a successor is appointed and the successor's term begins. The terms of members of
12 the board begin on July 1. Notwithstanding AS 39.05.080(1), by April 1 of the calendar
13 year in which the term expires, the governor shall appoint a person to fill a vacancy on
14 the board due to expiration of the term of a member of the board and submit the name of

1 the person to the legislature for confirmation. If a vacancy arises on the board other than
2 by the expiration of a term, the governor shall, within 30 days after the vacancy arises,
3 appoint a person to serve the balance of the unexpired term and submit the name of the
4 person to the legislature for confirmation. A person appointed to fill the balance of an
5 unexpired term shall serve on the board from the date of appointment until the earlier of
6 the expiration of the term or the failure of the legislature to confirm the person under
7 AS 39.05.080.

8 * Sec. 3. TRANSITION. Notwithstanding AS 16.05.221(d), added by sec. 2 of this Act, the

9 (1) expiration date of the terms of the persons serving on the Board of Fisheries
10 on January 1, 1995, is January 31 of the calendar year in which the term expires;

11 (2) terms of persons appointed to the Board of Fisheries after January 1, 1995,
12 other than the terms of persons appointed to serve the balance of an unexpired term, begin upon
13 the expiration of the predecessor's term and expire three calendar years later on June 30.

CSHB 141(FSH):

MADAME SPEAKER, I MOVE AND ASK UNANIMOUS CONSENT THAT THE MEMBERS OF THE HOUSE GO INTO THE LIMBO FILE IN ORDER THAT WE MAY CONSIDER COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 141 FISHERIES.

MADAME SPEAKER, I WILL BRIEFLY EXPLAIN THE CHANGES MADE IN THE SENATE COMMITTEE SUBSTITUTE.

The Senate Resources Committee made some minor changes that clean up the language of in Section 2 of the bill.

Madame Speaker, I have checked with the sponsor of CSHB 141(FSH) and he concurs with the changes made by Senate Committee Substitute for Committee Substitute for House Bill No. 141(Resources) .

WITH THAT, MADAME SPEAKER, I MOVE THAT THE HOUSE CONCUR IN THE SENATE COMMITTEE SUBSITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 141 RESOURCES, THUS ADOPTING SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 141 RESOURCES, AND URGE THE MEMBERS TO VOTE YES.



Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3701

CONCUR MESSAGE

February 29, 1996

MESSAGE TO THE HOUSE

MADAM SPEAKER:

The Senate passed CS FOR HOUSE BILL NO. 141(FSH) with the following amendment:

SENATE CS FOR CS FOR HOUSE BILL NO. 141(RES)

"An Act relating to the appointment of members of the Board of Fisheries."

and returned for consideration.

A handwritten signature in cursive script, appearing to read "Nancy Quinto".

Nancy Quinto
Secretary of the Senate

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 141(FSH)

- 1 Page 1, line 15, after "confirmation":
- 2 Insert "; if the legislature does not confirm the person appointed by the governor, the
- 3 governor shall, as soon as possible, appoint a new person to fill the vacancy on the board and
- 4 submit the name of the new person to the legislature for confirmation"

AMENDMENT #2

OFFERED IN THE SENATE

TO: CSHB 141(FSH)

- 1 Page 1, line 14:
- 2 Delete "a vacancy"
- 3 Insert "the vacancy that will arise"

- 4 Page 2, line 1:
- 5 Delete "other than by the expiration of a term"

#1
AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 141(FSH)

- 1 Page 1, line 11:
- 2 Delete "and until a successor is appointed and the successor's term begins"



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

MARCH 24, 1995

PRESS RELEASE PRESS RELEASE PRESS RELEASE

AUSTERMAN'S BOARD OF FISH BILL UNANIMOUSLY PASSES THE HOUSE

The House of Representatives unanimously passed CSHB 141 with a 39-0 vote.

"I'm very pleased" said Austerman, prime sponsor of the legislation.

Austerman's bill shifts the appointment and term dates of the Board of Fish members in an effort to de politicize the confirmation process. CSHB 141 moves the appointment date closer to the confirmation date to help ensure that appointees are confirmed by the legislature prior to having participated at a Board of Fish meeting.

"With this bill legislators will confirm an appointee based on qualifications, not voting record" stated Austerman.

There are instances where changing the term cycle, as in CSHB 141, will not insulate Board of Fish appointees from the confirmation process: where a vacancy occurs before a term expires or the legislature has not confirmed an appointee of the Governor. In these cases, the Governor makes a new appointment within 30 days and those individuals serve on the board until possible confirmation during the next legislative session.

This is one of the recommendations of the Governor's Transition Team on Fisheries.



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

March 24, 1995

The Honorable Alan Austerman
Alaska State House of Representatives
State Capitol, Room 434
Juneau, Alaska 99801-1182

Representative Austerman:

UNITED FISHERMEN OF ALASKA SUPPORTS CS HB 141.

UFA feels that moving the appointment date closer to the confirmation date will help the process and we believe many more potential citizens will put their names forward to the Board of Fish under the new confirmation bill.

As you know, CS HB 141 was one of the recommendations made by the Governor's Fisheries Transition Team which was comprised of sport fish, charter, sport guide, subsistence, and commercial users.

United Fishermen of Alaska is requesting your support of CS HB 141.

Sincerely,


Jerry McCune
President

cc: UFA Board of Directors

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Area K Seiners Association
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

**DIVISION OF LEGAL SERVICES
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Juneau, Alaska 99801-2105

MEMORANDUM

April 25, 1995

SUBJECT: HB 141; Terms of members of the Board of Fisheries

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether the provision of sec. 2 of CSHB 141(FSH), which provides that members of the Board of Fisheries shall continue to serve on the board after their term expires if a successor has not been appointed, is a significant change in current law.

The answer is no. AS 16.05.221(c) currently provides that members of the Board of Game and the Board of Fisheries shall continue to serve past the expiration of their term in the event that a successor has not been appointed. Prior to 1992, when AS 16.05.221(c) was enacted, there was no set term for members of the Board of Game and Board of Fisheries. By custom, members of those boards served were appointed to three year terms. In 1992, the legislature set the statutory term of the members of the Board of Game and the Board of Fisheries at three years and until a successor is appointed.

If I may be of further assistance, please advise.

GU:klb
95-298.klb

Even though it is current law, this is still a problem w/ Halford.

Also LET HALFORD'S OFFICE KNOW THAT CSHB 21 WILL BE WAIVED THROUGH JUDICIARY STRAIGHT TO FINACKER, AFTER FISH TOMORROW!