

HOUSE BILL NO. 64

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES STUTES, Ortiz

Introduced: 2/18/21

Referred: House Special Committee on Fisheries, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regional fishery development associations; and relating to
2 developing fishery management assessments."

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

4 * **Section 1.** AS 16.40 is amended by adding a new section to read:

5 **Article 4A. Fishery Development Associations.**

6 **Sec. 16.40.255. Regional fishery development associations.** (a) The
7 commissioner shall assist in and encourage the formation of qualified regional fishery
8 development associations for the purpose of developing new fisheries in the state.

9 (b) A regional fishery development association is qualified if the
10 commissioner determines that the regional fishery development association

11 (1) is incorporated as a nonprofit corporation under AS 10.20;

12 (2) represents commercial fishermen who

13 (A) for a new fishery,

14 (i) harvest fishery resources that would potentially be

1 included in the new fishery; and

2 (ii) are likely to participate in the fishery if the
3 commission grants permits for the fishery under AS 16.43.100 or
4 16.43.210(c); or

5 (B) for a fishery for which the commission grants permits
6 under AS 16.43.100 or 16.43.210(c), participate actively in the fishery;

7 (3) possesses a board of directors that

8 (A) is representative of commercial fishermen who meet the
9 criteria in (2) of this subsection;

10 (B) has a member who is representative of fish processors who

11 (i) are likely to process fishery resources from a new
12 fishery if the commission grants permits for the fishery under
13 AS 16.43.100 or 16.43.210(c); or

14 (ii) actively process fishery resources from the fishery
15 harvested under authority of permits granted by the commission under
16 AS 16.43.100 or 16.43.210(c);

17 (C) has a member who is representative of a municipality in
18 which the landings for the fishery occur or will occur if the commission grants
19 permits for the fishery under AS 16.43.100 or 16.43.210(c).

20 (c) The commissioner shall designate as a developing fishery the commercial
21 harvest of a species of fishery resources in a specific geographic area of the state if the
22 commissioner determines that

23 (1) the optimum yield from the harvest of the species of fishery
24 resources has not been reached;

25 (2) the abundance or sustained yield for the species of fishery
26 resources has not been estimated;

27 (3) a commercial harvest of the species of fishery resources has
28 recently developed; or

29 (4) annual stock assessments are not conducted in the area.

30 (d) In this section,

31 (1) "commission" means the Alaska Commercial Fisheries Entry

Commission established under AS 16.43.020;

(2) "new fishery" means a prospective fishery within a specified geographical region that is not currently regulated or controlled by the commission.

* **Sec. 2.** AS 37.05.146(c)(26) is amended to read:

(26) dive fishery management assessment receipts (AS 43.76.150), salmon fishery assessment receipts (AS 43.76.220), **developing fishery management assessments receipts (AS 43.76.281)**, and permit buy-back assessment receipts (AS 43.76.300);

* **Sec. 3.** AS 43.76 is amended by adding new sections to read:

Article 3A. Developing Fishery Management Assessment.

Sec. 43.76.281. Developing fishery management assessment. (a) A developing fishery management assessment on fishery resources taken with commercial gear shall be levied on the value of a specific fishery resource taken in a developing fishery area. The species of fishery resources subject to the assessment and the rate of the assessment, as determined under (b) - (m) of this section, shall be determined by an election under AS 43.76.283.

(b) A person holding a limited entry permit or interim-use permit issued under AS 16.43 shall pay a developing fishery management assessment of two and one-half percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.283, that is taken with commercial gear, and that the person removes from the state or transfers to a buyer in the state.

(c) A person holding a limited entry permit or interim-use permit issued under AS 16.43 shall pay a developing fishery management assessment of five percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.283, that is taken with commercial gear, and that the person removes from the state or transfers to a buyer in the state.

(d) A person holding a limited entry permit or interim-use permit issued under AS 16.43 shall pay a developing fishery management assessment of seven and one-half percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.283, that is taken with commercial gear, and that the person removes from the state or transfers to a buyer in the state.

1 (e) A person holding a limited entry permit or interim-use permit issued under
2 AS 16.43 shall pay a developing fishery management assessment of 10 percent on a
3 species of fishery resources that is subject to the assessment as determined by an
4 election under AS 43.76.283, that is taken with commercial gear, and that the person
5 removes from the state or transfers to a buyer in the state.

6 (f) A person holding a limited entry permit or interim-use permit issued under
7 AS 16.43 shall pay a developing fishery management assessment of 12 and one-half
8 percent on a species of fishery resources that is subject to the assessment as
9 determined by an election under AS 43.76.283, that is taken with commercial gear,
10 and that the person removes from the state or transfers to a buyer in the state.

11 (g) A person holding a limited entry permit or interim-use permit issued under
12 AS 16.43 shall pay a developing fishery management assessment of 15 percent on a
13 species of fishery resources that is subject to the assessment as determined by an
14 election under AS 43.76.283, that is taken with commercial gear, and that the person
15 removes from the state or transfers to a buyer in the state.

16 (h) A person holding a limited entry permit or interim-use permit issued under
17 AS 16.43 shall pay a developing fishery management assessment of 17 and one-half
18 percent on a species of fishery resources that is subject to the assessment as
19 determined by an election under AS 43.76.283, that is taken with commercial gear,
20 and that the person removes from the state or transfers to a buyer in the state.

21 (i) A person holding a limited entry permit or interim-use permit issued under
22 AS 16.43 shall pay a developing fishery management assessment of 20 percent on a
23 species of fishery resources that is subject to the assessment as determined by an
24 election under AS 43.76.283, that is taken with commercial gear, and that the person
25 removes from the state or transfers to a buyer in the state.

26 (j) A person holding a limited entry permit or interim-use permit issued under
27 AS 16.43 shall pay a developing fishery management assessment of 22 and one-half
28 percent on a species of fishery resources that is subject to the assessment as
29 determined by an election under AS 43.76.283, that is taken with commercial gear,
30 and that the person removes from the state or transfers to a buyer in the state.

31 (k) A person holding a limited entry permit or interim-use permit issued under

AS 16.43 shall pay a developing fishery management assessment of 25 percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.283, that is taken with commercial gear, and that the person removes from the state or transfers to a buyer in the state.

(l) A person holding a limited entry permit or interim-use permit issued under AS 16.43 shall pay a developing fishery management assessment of 27 and one-half percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.283, that is taken with commercial gear, and that the person removes from the state or transfers to a buyer in the state.

(m) A person holding a limited entry permit or interim-use permit issued under AS 16.43 shall pay a developing fishery management assessment of 30 percent on a species of fishery resources that is subject to the assessment as determined by an election under AS 43.76.283, that is taken with commercial gear, and that the person removes from the state or transfers to a buyer in the state.

(n) A developing fishery management assessment may be levied or collected under this section on a fishery resource in a developing fishery area only if

(1) the commissioner of fish and game determines that the developing fishery area has a qualified fishery development association under AS 16.40.255; and

(2) the species of fishery resources subject to the developing fishery management assessment and the rate of the developing fishery management assessment, as provided under (b) - (m) of this section, is approved by an election under AS 43.76.283.

Sec. 43.76.283. Election to approve, amend, or terminate developing fishery management assessment. (a) A qualified regional fishery development association may conduct an election under this section after the commissioner of fish and game approves

(1) the notice to be published by the qualified regional fishery development association; the notice must describe the species of fishery resources subject to the developing fishery management assessment and the rate of the assessment to be approved, amended, or terminated at the election;

(2) the ballot to be used in the election; and

(3) the registration and voting procedure for the approval, amendment, or termination of the developing fishery management assessment.

(b) The developing fishery management assessment is levied under AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m), is amended under AS 43.76.285, or is terminated under AS 43.76.287 on the effective date stated on the ballot if

(1) the levy, amendment, or termination is approved by a majority vote of the eligible interim-use permit and entry permit holders voting in the election held in the developing fishery area; and

(2) the election results are certified by the commissioner of fish and game.

(c) In conducting an election under this section, a qualified regional fishery development association shall adopt the following procedures:

(1) the qualified regional fishery development association shall hold at least one public meeting not less than 30 days before the date on which ballots must be postmarked to be counted in the election to explain, as appropriate, the reason for approval or amendment of the proposed developing fishery management assessment, the reason for the proposed rate of the developing fishery management assessment, or the reason for termination of the developing fishery management assessment and to explain the registration and voting procedure to be used in the election; the qualified regional fishery development association shall provide notice of the meeting by

(A) mailing the notice to each eligible interim-use permit and entry permit holder;

(B) posting the notice in at least three public places in the region; and

(C) publishing the notice in at least one newspaper of general circulation in the developing fishery area at least once a week for two consecutive weeks before the meeting;

(2) the qualified regional fishery development association shall mail two ballots to each eligible interim-use permit and entry permit holder; the first ballot shall be mailed not more than 45 days before the date ballots must be postmarked to

1 be counted in the election; the second ballot shall be mailed not less than 15 days
 2 before the date ballots must be postmarked to be counted in the election; the qualified
 3 regional fishery development association shall adopt procedures to ensure that only
 4 one ballot from each eligible interim-use permit and entry permit holder is counted in
 5 the election;

6 (3) the ballot must

7 (A) indicate the species of fishery resources subject to the
 8 developing fishery management assessment;

9 (B) indicate whether the election relates to a developing fishery
 10 management assessment under AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i),
 11 (j), (k), (l), or (m);

12 (C) ask the question whether the developing fishery
 13 management assessment on the fishery resources addressed on the ballot shall
 14 be approved, amended, or terminated, as appropriate;

15 (D) indicate the boundaries of the developing fishery area in
 16 which the assessment will be levied or terminated;

17 (E) provide an effective date for the approval, amendment, or
 18 termination of the developing fishery management assessment; and

19 (F) indicate the date on which returned ballots must be
 20 postmarked in order to be counted;

21 (4) the ballots shall be returned by mail and shall be counted by an
 22 auditor selected by the qualified regional fishery development association and
 23 approved by the commissioner of fish and game; the qualified regional fishery
 24 development association shall pay the costs of counting the ballots.

25 (d) The commissioner of fish and game shall certify the results of an election
 26 under this section if the commissioner determines that the requirements of (a) and (c)
 27 of this section have been satisfied.

28 (e) A qualified regional fishery development association may employ or
 29 contract with another person to administer an election under this section subject to the
 30 supervision of the association.

31 (f) Except as otherwise provided under AS 43.76.285 and 43.76.287, an

election to amend the rate of a developing fishery management assessment or to terminate a developing fishery management assessment shall be conducted under the same procedures established under (a), (c), and (d) of this section for an election to approve a developing fishery management assessment.

(g) In this section, "eligible interim-use permit and entry permit holder" means an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the Alaska Commercial Fisheries Entry Commission as the legal holder of an interim-use permit for gear or an entry permit for gear that authorizes the individual to fish commercially in the developing fishery area for the species of fishery resources for which the developing fishery management assessment is to be approved, amended, or terminated.

Sec. 43.76.285. Amendment of developing fishery management assessment.

(a) The rate of the developing fishery management assessment levied on a species of fishery resources under AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) may be amended by the commissioner of revenue upon majority vote at an election held under AS 43.76.283 in the area in which the developing fishery management assessment is levied.

(b) The commissioner of revenue shall amend the rate of a developing fishery management assessment under (a) of this section following an election under AS 43.76.283 in a developing fishery area if

(1) a petition that is signed by at least 75 percent of the board members of the qualified regional fishery development association established for the area under AS 16.40.255 is presented to the commissioner of fish and game requesting amendment of the rate of the developing fishery management assessment on a species of fishery resources; the petition must state whether the proposed rate of the developing fishery management assessment is to be levied under AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m);

(2) an election is held in accordance with AS 43.76.283; the ballot must ask the question whether the developing fishery management assessment on a species of fishery resources taken in the area shall be amended and must state whether the developing fishery management assessment on the species of fishery resources is

1 to be levied under AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) if
 2 the assessment is amended; the ballot must be worded so that a "yes" vote is for
 3 amendment of the developing fishery management assessment and a "no" vote is for
 4 continuation of the current developing fishery management assessment;

5 (3) a majority of the eligible interim-use permit and entry permit
 6 holders who vote in the election cast a ballot for the amendment of the developing
 7 fishery management assessment; in this paragraph, "eligible interim-use permit and
 8 entry permit holders" has the meaning given in AS 43.76.283(g); and

9 (4) the qualified regional fishery development association provides
 10 notice of the election in accordance with AS 43.76.283 within two months after
 11 receiving notice from the commissioner of fish and game that a valid petition under
 12 (1) of this subsection has been received.

13 **Sec. 43.76.287. Termination of developing fishery management**
 14 **assessment.** (a) The developing fishery management assessment levied on a species of
 15 fishery resources under AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or
 16 (m) shall be terminated by the commissioner of revenue upon majority vote at an
 17 election held under AS 43.76.283 in the developing fishery area in which the
 18 developing fishery management assessment is levied.

19 (b) The commissioner of revenue shall terminate a developing fishery
 20 management assessment under (a) of this section following an election in a developing
 21 fishery area if

22 (1) a petition that is signed by at least 75 percent of the board members
 23 of the qualified regional fishery development association established for the area under
 24 AS 16.40.255 is presented to the commissioner of fish and game requesting
 25 termination of the developing fishery management assessment on a species of fishery
 26 resources;

27 (2) an election is held in accordance with AS 43.76.283; the ballot
 28 must ask the question whether the developing fishery management assessment on a
 29 species of fishery resources taken in the area shall be terminated; the ballot must be
 30 worded so that a "yes" vote is for continuation of the developing fishery management
 31 assessment and a "no" vote is for termination of the developing fishery management

1 assessment;

2 (3) a majority of the eligible interim-use permit and entry permit
3 holders who vote in the election cast a ballot for the termination of the developing
4 fishery management assessment; in this paragraph, "eligible interim-use permit and
5 entry permit holders" has the meaning given in AS 43.76.283(g); and

6 (4) the qualified regional fishery development association provides
7 notice of the election in accordance with AS 43.76.283 within two months after
8 receiving notice from the commissioner of fish and game that a valid petition under
9 (1) of this subsection has been received.

10 **Sec. 43.76.289. Collection of developing fishery management assessment.**

11 (a) Except as otherwise provided under (e) of this section, a buyer who acquires a
12 fishery resource that is subject to a developing fishery management assessment levied
13 under AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) shall collect the
14 developing fishery management assessment at the time of purchase and shall remit the
15 total developing fishery management assessment collected during each calendar
16 quarter to the Department of Revenue by the last day of the month following the end
17 of the calendar quarter. In this subsection, "calendar quarter" means each of the three-
18 month periods ending March 31, June 30, September 30, and December 31.

19 (b) A buyer who collects the developing fishery management assessment shall
20 maintain records of the value of each species of fishery resources that is subject to the
21 assessment that is purchased in each developing fishery area in the state.

22 (c) The owner of fishery resources removed from the state is liable for
23 payment of the developing fishery management assessment levied under
24 AS 43.76.281(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) if, at the time the
25 fishery resource is removed from the state, the assessment payable on the fishery
26 resource has not been collected by a buyer. If the owner of the fishery resource is
27 liable for payment of the developing fishery management assessment under this
28 subsection, the owner shall comply with the requirements under (a) and (b) of this
29 section to remit the assessment to the Department of Revenue and to maintain records.

30 (d) The developing fishery management assessment collected under this
31 section shall be deposited in the state treasury. Under AS 37.05.146(c), assessment

1 receipts shall be accounted for separately, and appropriations from the account are not
2 made from the unrestricted general fund.

3 (e) A direct marketing fisheries business licensed under AS 43.75.020(c) or a
4 commercial fisherman who transfers possession of a fishery resource to a buyer who is
5 not a fisheries business licensed under AS 43.75 is liable for payment of a developing
6 fishery management assessment levied under AS 43.76.281(b), (c), (d), (e), (f), (g),
7 (h), (i), (j), (k), (l), or (m) if, at the time possession of the fishery resource is
8 transferred to a buyer, the developing fishery management assessment payable on the
9 fishery resource has not been collected. If a direct marketing fisheries business or
10 commercial fisherman is liable for payment of a developing fishery management
11 assessment under this subsection, the direct marketing fisheries business or
12 commercial fisherman shall comply with the requirement to maintain records under
13 (b) of this section. Notwithstanding (a) of this section, a person subject to this
14 subsection shall remit the total developing fishery management assessment payable
15 during the calendar year to the Department of Revenue before April 1 after close of
16 the calendar year.

17 **Sec. 43.76.291. Funding for qualified regional fishery development**
18 **associations.** (a) The legislature may make appropriations of revenue collected under
19 AS 43.76.289 to the Department of Fish and Game for funding of the qualified
20 regional fishery development association in the developing fishery area in which the
21 assessment was collected. Appropriations under this section are not made from the
22 unrestricted general fund. Funds received under this section by a qualified regional
23 fishery development association may be expended in accordance with the annual
24 operating plan developed under (b) of this section.

25 (b) The Department of Fish and Game shall develop an annual operating plan
26 with the cooperation of the regional fishery development association and the
27 Department of Environmental Conservation on or before a date specified by the
28 Department of Fish and Game. The qualified regional fishery development association
29 and the Department of Environmental Conservation shall cooperate with the
30 Department of Fish and Game in the development of the annual operating plan. The
31 annual operating plan must describe the activities for which the funding will be

expended, including identification of species and areas for which bioassessment surveys will be conducted, a description of management and research activities to be performed, planning for fisheries, and administrative activities of the association. Funds appropriated to the Department of Fish and Game for funding of qualified regional fishery development associations may not be disbursed by the department or expended by the association, except for administration of the association, unless the annual operating plan has been approved by the association and the Department of Fish and Game. If an annual operating plan has not been approved by the association and the Department of Fish and Game, the Department of Fish and Game may not disburse and the association may not expend funds received from the department for administration of the association in an amount that exceeds the amount of administrative expenses authorized under the annual operating plan for the prior fiscal year.

(c) A qualified regional fishery development association receiving funding under this section shall submit an annual financial report to the Department of Fish and Game on a form provided by the Department of Fish and Game. The Department of Fish and Game may, by regulation, require that a qualified regional fishery development association use a uniform system of accounting and may audit the use of funding received under this section by the association.

(d) This section does not establish a dedication of a state tax or license.

(e) This section does not restrict or qualify the authority of the Department of Fish and Game or the Board of Fisheries under AS 16.

Sec. 43.76.299. Definitions. In AS 43.76.281 - 43.76.299,

(1) "buyer" means a person who acquires possession of a fishery resource from the person who caught the fishery resource, regardless of whether an actual sale of the fishery resource occurs, but does not include a person engaged solely in interstate transportation of goods for hire;

(2) "developing fishery area" means

(A) an area designated by the commissioner of fish and game as a developing fishery under AS 16.40.255(c); or

(B) a fishery established by the Alaska Commercial Fisheries

- 1 Entry Commission under AS 16.43.100 that was previously designated by the
2 commissioner of fish and game as a developing fishery under AS 16.40.255(c);
3 (3) "fishery resource" means fish, shellfish, or marine invertebrates
4 taken or landed under the authority of a limited entry permit or interim-use permit
5 issued under AS 16.43;
6 (4) "qualified regional fishery development association" means an
7 association that is qualified under AS 16.40.255;
8 (5) "value" has the meaning given in AS 43.75.290.