

CS FOR HOUSE BILL NO. 64(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 4/21/21

Referred: Finance

Sponsor(s): REPRESENTATIVES STUTES, Ortiz, Kreiss-Tomkins

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 may 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

1 Commission established under AS 16.43.020;

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

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

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

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

10 **Article 3A. Developing Fishery Management Assessment.**

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

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

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

27 (d) A person holding a limited entry permit or interim-use permit issued under
28 AS 16.43 shall pay a developing fishery management assessment of seven and one-
29 half percent on a species of fishery resources that is subject to the assessment as
30 determined by an election under AS 43.76.283, that is taken with commercial gear,
31 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (A) mailing or electronically transmitting the notice to each
23 eligible interim-use permit and entry permit holder;

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

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

29 (2) the qualified regional fishery development association shall mail or
30 electronically transmit two ballots to each eligible interim-use permit and entry permit
31 holder; the first ballot shall be mailed or transmitted not more than 45 days before the

1 date ballots must be postmarked to be counted in the election; the second ballot shall
2 be mailed or transmitted not less than 15 days before the date ballots must be
3 postmarked to be counted in the election; the qualified regional fishery development
4 association shall adopt procedures to ensure that only one ballot from each eligible
5 interim-use permit and entry permit holder is counted in 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 or by electronic transmission
22 and shall be counted by an auditor selected by the qualified regional fishery
23 development association and approved by the commissioner of fish and game; the
24 qualified regional fishery development association shall pay the costs of counting the
25 ballots.

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

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

1 (f) Except as otherwise provided under AS 43.76.285 and 43.76.287, an
 2 election to amend the rate of a developing fishery management assessment or to
 3 terminate a developing fishery management assessment shall be conducted under the
 4 same procedures established under (a), (c), and (d) of this section for an election to
 5 approve a developing fishery management assessment.

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

13 **Sec. 43.76.285. Amendment of developing fishery management assessment.**

14 (a) The rate of 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) may be amended by the commissioner of revenue upon majority vote at an
 17 election held under AS 43.76.283 in the area in which the developing fishery
 18 management assessment is levied.

19 (b) The commissioner of revenue shall amend the rate of a developing fishery
 20 management assessment under (a) of this section following an election under
 21 AS 43.76.283 in a developing 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 amendment of the rate of the developing fishery management assessment on a species
 26 of fishery resources; the petition must state whether the proposed rate of the
 27 developing fishery management assessment is to be levied under AS 43.76.281(b), (c),
 28 (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m);

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

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

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

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

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

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

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

28 (2) an election is held in accordance with AS 43.76.283; the ballot
 29 must ask the question whether the developing fishery management assessment on a
 30 species of fishery resources taken in the area shall be terminated; the ballot must be
 31 worded so that a "yes" vote is for continuation of the developing fishery management

1 assessment and a "no" vote is for termination of the developing fishery management
2 assessment;

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

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

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

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

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

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

31 (d) The developing fishery management assessment collected under this

1 section shall be deposited in the state treasury. Under AS 37.05.146(c), assessment
2 receipts shall be accounted for separately, and appropriations from the account are not
3 made from the unrestricted general fund.

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

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

26 (b) The Department of Fish and Game shall develop an annual operating plan
27 with the cooperation of the regional fishery development association on or before a
28 date specified by the Department of Fish and Game. The annual operating plan must
29 describe the activities for which the funding will be expended, including identification
30 of species and areas for which bioassessment surveys will be conducted, a description
31 of management and research activities to be performed, planning for fisheries, and

1 administrative activities of the association. Funds appropriated to the Department of
 2 Fish and Game for funding of qualified regional fishery development associations may
 3 not be disbursed by the department or expended by the association, except for
 4 administration of the association, unless the annual operating plan has been approved
 5 by the association and the Department of Fish and Game. If an annual operating plan
 6 has not been approved by the association and the Department of Fish and Game, the
 7 Department of Fish and Game may not disburse and the association may not expend
 8 funds received from the department for administration of the association in an amount
 9 that exceeds the amount of administrative expenses authorized under the annual
 10 operating plan for the prior fiscal year.

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

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

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

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

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

25 (2) "developing fishery area" means

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

28 (B) a fishery established by the Alaska Commercial Fisheries
 29 Entry Commission under AS 16.43.100 that was previously designated by the
 30 commissioner of fish and game as a developing fishery under AS 16.40.255(c);

31 (3) "fishery resource" means fish, shellfish, or marine invertebrates

1 taken or landed under the authority of a limited entry permit or interim-use permit
2 issued under AS 16.43;

3 (4) "qualified regional fishery development association" means an
4 association that is qualified under AS 16.40.255;

5 (5) "value" has the meaning given in AS 43.75.290.