

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON FISHERIES**

March 8, 2018

10:04 a.m.

**MEMBERS PRESENT**

Representative Louise Stutes, Chair  
Representative Jonathan Kreiss-Tomkins  
Representative Geran Tarr  
Representative Mark Neuman  
Representative David Eastman

**MEMBERS ABSENT**

Representative Zach Fansler  
Representative Bryce Edgmon  
Representative Mike Chenault

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S) :

Commercial Fisheries Entry Commission (CFEC)

Vance "Fate" Putman - Juneau

Dale Kelley - Juneau

- CONFIRMATION(S) ADVANCED

Fishermen's Fund Advisory and Appeals Council (FFAAC)

Mark Saldi - Skagway

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 354

"An Act relating to dive fishery management assessment procedures."

- MOVED HB 354 OUT OF COMMITTEE

HOUSE BILL NO. 379

"An Act relating to claims against protection and indemnity insurance policies of vessel owners."

- MOVED HB 379 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 354

SHORT TITLE: DIVE FISHERY ASSESSMENTS

SPONSOR(S): REPRESENTATIVE(S) ORTIZ

02/16/18 (H) READ THE FIRST TIME - REFERRALS  
02/16/18 (H) FSH, RES  
03/08/18 (H) FSH AT 10:00 AM GRUENBERG 120

BILL: HB 379

SHORT TITLE: COMM FISHERMEN'S FUND:VESSEL OWNER CLAIMS

SPONSOR(S): REPRESENTATIVE(S) ORTIZ

02/21/18 (H) READ THE FIRST TIME - REFERRALS  
02/21/18 (H) FSH, L&C  
03/08/18 (H) FSH AT 10:00 AM GRUENBERG 120

**WITNESS REGISTER**

VANCE "FATE" PUTMAN, Appointee

Commissioner; Chairman

Commercial Fisheries Entry Commission (CFEC)

Alaska Department of Fish & Game (ADF&G)

Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Commercial Fisheries Entry Commission (CFEC).

DALE KELLEY, Appointee

Commercial Fisheries Entry Commission (CFEC)

Alaska Department of Fish & Game (ADF&G)

Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Commercial Fisheries Entry Commission (CFEC).

MARK SALDI, Appointee

Fishermen's Fund Advisory and Appeals Council (FFAAC)

Department of Labor & Workforce Development (DLWD)

Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Fishermen's Fund Advisory and Appeals Council (FFAAC).

REPRESENTATIVE DAN ORTIZ

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 354 as prime sponsor of the bill.

LIZ HARPOLD, Staff  
Representative Dan Ortiz  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the prime sponsor of HB 354, Representative Dan Ortiz.

VANCE FATE PUTMAN, Chairman; Commissioner designee  
Commercial Fisheries Entry Commission (CFEC)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 354.

PHIL DOHERTY, Executive Director  
Southeast Alaska Regional Dive Fisheries Association (SARDFa)  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 354.

SCOTT KELLEY, Director  
Division of Commercial Fisheries  
Alaska Department of Fish & Game (ADF&G)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 354.

REPRESENTATIVE DAN ORTIZ  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, introduced HB 379.

LIZ HARPOLD, Staff  
Representative Dan Ortiz  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the sponsor of HB 379, Representative Dan Ortiz.

MARIE MARX, Director  
Division of Workers' Compensation (DWC)  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 379.

ROBERT KEHOE, Executive Director  
Purse Seine Vessel Owners Association (PSVOA)  
Seattle, Washington

**POSITION STATEMENT:** Testified during the discussion of HB 379.

MARK VINSEL, Executive Administrator  
United Fishermen of Alaska (UFA)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 379.

CLAY BESENEK  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 379.

#### **ACTION NARRATIVE**

[10:04:52 AM](#)

**CHAIR LOUISE STUTES** called the House Special Committee on Fisheries meeting to order at 10:04 a.m. Representatives Stutes, Kreiss-Tomkins, Neuman, and Eastman (telephonically) were present at the call to order. Representative Tarr arrived as the meeting was in progress.

#### **Commercial Fisheries Entry Commission (CFEC)** **Fishermen's Fund Advisory and Appeals Council (FFAAC)**

[10:05:52 AM](#)

CHAIR STUTES announced that the first order of business would be confirmation hearings for appointees to the Commercial Fisheries Entry Commission, and the Fishermen's Fund Advisory and Appeals Council. She identified the appointees as V. Fate Putman and Dale Kelley to the Commercial Fisheries Entry Commission (CFEC); and Mark A. Saldi to the Fishermen's Fund Advisory and Appeals Council.

CHAIR STUTES advised the committee that both appointees to the CFEC attended last week's committee hearing on February 27, 2018 and answered questions. The public may wish to review the hearing, she said. She explained that Vance "Fate" Putman was appointed by the Governor on December 1, 2017 and was reappointed to a different seat on January 29, 2018. If confirmed his term would expire on March 1, 2021.

[10:07:31 AM](#)

VANCE "FATE" PUTMAN, Appointee, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), stated he was the commissioner designee for the CFEC, and was appointed as chairman of the CFEC by the governor last month.

MR. PUTMAN provided a brief history, noting he was born in Fairbanks, where his mom was a city planner and his dad was a plumber and pipefitter. His family moved to Anchorage after the 1964 earthquake and his mom did substantial planning for villages and towns that were damaged during the earthquake, including Valdez. He attended Stellar Secondary School and West High School in Anchorage, graduating in 1976. He attended Linfield College in McMinnville, Oregon and Western Washington University [Bellingham, Washington] and graduated with a degree in Environmental Science. His first legislative job was in 1979 as a student intern, working for Senator Pat Rodey. He returned to Juneau in law school, as an intern in the attorney general's office. He worked for Tom Koester, Natural Resources Section of the Department of Law, in 1983 where he worked on issues including the CFEC, Dinkum Sands, Navigable Waterways, and Mental Health Trust Land.

[10:08:53 AM](#)

MR. PUTMAN stated that he then worked as a manager of the Commission on the Future of the Permanent Fund, working for "Red" Boucher, who was chair of the State Affairs Standing Committee. Also serving on that commission were Jan Faiks, Terry Martin, Denny Kelso, Mark Langland, Hugh Malone, Steve Frank, and others, he said. As commissioners, their jobs were to travel throughout the state and collect testimony from Alaskans on the future of the Alaska Permanent Fund. He was appointed to the Anchorage Planning and Zoning Commission by Mayor Tom Fink, serving on that commission for several years. He then became the in-house legal counsel, political director, lobbyist, and assistant executive director of a public employee union from 1995 - 2015. He retired from that job and has since served as a contract lobbyist. Since his appointment he has focused entirely on CFEC, which is a fulltime job, he said. He looked forward to serving on the commission [if confirmed].

[10:10:03 AM](#)

MR. PUTMAN explained his history in the commercial fishing industry, such that he worked as a salmon hand troller in 1979

and as a halibut longline fisherman with his father through the 1970s and 1980s in Homer. He worked as a deck hand in winter fisheries in Homer in 1984 and 1985. He served as a cash buyer in King Salmon for the Putman Fish Company, his brother's fish buying business, until his brother's death. He has worked as a setnet fisherman on the Kenai Peninsula for the past twenty years, noting that many people go through his fish camp from June 15 - 25 of each year. He has never held a captain's license or a limited entry permit, but since he has worked in the attorney general's office, he has been interested in the CFEC. He said he now can view the CFEC from the inside [if confirmed].

[10:11:06 AM](#)

CHAIR STUTES asked for information on his work since appointment by the governor in December.

MR. PUTMAN described the work he has performed since his appointment in December when Commissioner Ben Brown resigned from his seat, noting he initially had a one-year appointment. Although he is an attorney, it is not necessary to be an attorney to serve as a commissioner at CFEC, he said. He said he read the Lawson Report and two legislative audits on the CFEC to determine what other people thought was happening in the agency. He also reviewed the structure of the agency to determine the outstanding remaining cases, with the assistance of the Department of Law. He has identified 20 things the CFEC can do internally to make the commission more efficient, which he offered to review now or to discuss them at a future hearing.

CHAIR STUTES suggested that he may have to return at a later hearing.

[10:12:28 AM](#)

CHAIR STUTES asked whether the 13 pending cases were pending when he started.

MR. PUTMAN answered that he would put the cases into two different categories. At the time he arrived 18 or 19 cases were pending from the prior year pertaining to emergency and permanent transfers, which were initially denied by the licensing staff, appealed to the hearing officer, and eventually to the commission. He has handled those cases. Two cases were remanded back from the Superior Court to the CFEC, which were dealt with. The second group of cases were the 13 cases he

previously referred to, which are cases pending from 35 - 45 years ago on different fisheries. The CFEC would like to close out those cases to eliminate the interim-use permits, he said. Those cases will take more time since they are more complicated cases; however, these cases have been adjudicated by the CFEC's adjudication staff and are currently pending before the commission for consideration and have been for quite some time, he said.

[10:13:54 AM](#)

REPRESENTATIVE KREISS-TOMKINS said he appreciated the testimony by the CFEC commissioner designee on February 27.

[10:14:11 AM](#)

CHAIR STUTES stated that she was excited to have new commissioners to serve. She expressed an interest in having the commissioners come before the committee to present a more in-depth review of the CFEC.

[10:14:40 AM](#)

MR. PUTMAN pointed out the CFEC would be preparing an annual report that should be distributed to the committee within the next few weeks. He described the upcoming report as being like an executive summary, approximately four pages long, with attached appendixes. He offered to present a PowerPoint of the annual report to the committee.

CHAIR STUTES concurred that the committee would be interested.

[10:15:25 AM](#)

The committee took a brief at-ease.

[10:15:40 AM](#)

CHAIR STUTES introduced Dale Kelley, who was appointed to serve as commissioner of the Commercial Fisheries Entry Commission (CFEC) on March 1, 2018, and if confirmed her term would expire on March 1, 2022.

[10:16:26 AM](#)

DALE KELLEY, Appointee, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), stated that

she was recently appointed to the commission, in fact, today was her one-week anniversary with CFEC. She stated that she has lived in Alaska more than half of her life. She grew up surfing, riding rodeo, and rock climbing in California. Her academic training spanned from fisheries science and aquaculture, to pharmacy and paramedicine.

MS. KELLEY stated that she worked as a pharmacy technician in three states and one of her most unique responsibilities was preparing drug packs for the space shuttle. She has worked in surgery and in ambulances in Houston, Texas, which probably helped toughen her up to be a commercial fishing deckhand. She has lived in the bush and as a fish culturist in Prince William Sound, and Southeast Alaska. She helped rebuild steam turbines in Haines and Fairbanks and she enjoys fishing on a troller based out of Craig.

[10:17:24 AM](#)

MS. KELLEY advised that she has no financial tie to a fishing business nor is she a permit holder. She has worked as a commercial fishing deckhand and said if she was fortunate to be able to continue in that area that she would do so without pay. For the past three decades she has worked as the executive director of a commercial fishing organization representing fishermen who fish in federal and state waters. These fishermen are touched by state, federal and international regulatory and statutory processes so she has become familiar with the many policies, rules, regulations, and laws that underpin all fisheries across Alaska. It has been an interesting and informative career, she said.

[10:18:13 AM](#)

MS. KELLEY stated that she supports all types of fishing and has worked on behalf of all fishermen during her career. She detailed her fishing industry positions, noting that she served for 12 years as a commissioner with the Pacific States Marine Fisheries Commission (PSMFC). She said she serves on the Pacific Salmon Commission, which is the commission that implements the United States - Canada treaty. She chairs the U.S. Advisors for a five country, international commission that works on research and enforcement of high-seas interception of anadromous fish stocks. Over the years she has helped start and manage many blended state and national fishing organizations, including working on fish habitat or anything that affects conservation and management of fish.

10:19:03 AM

MS. KELLEY explained her experience with respect to CFEC, in that she has spent various times and stages of her fishing industry career working with commission staff on projects. She acknowledged that she has a lot to learn at the CFEC. She has been assessing the direction of the CFEC during her first week, noting that she has reviewed both audits on the CFEC and has asked many questions during the audit timeframe. She applauded Commissioner Putman and his staff for changes that were already being put into place. She noted that some efficiency changes were in process, so she felt it was a good time to be joining the commission and to be part of the team addressing some of the concerns outlined in the Lawson Report [Commercial Fisheries Entry Commission Review, prepared for the ADF&G by Tom Lawson, Special Projects Coordinator, ADF&G, January 2015]. She offered her support for the Lawson Report and anticipated there will be good changes ahead. She found the staff to be welcoming and productive. She characterized the staff as being "a pretty happy crew," which she was glad to report because she had heard comments to the contrary.

CHAIR STUTES said she was happy to hear about the CFEC staff's morale.

10:20:30 AM

MS. KELLEY stated that her goals coming in are simple since she knows she has a lot to learn. She said she would like to boost staff morale and re-polish the CFEC's public image, because it has been a tremendous organization over the years, and to find ways in which the CFEC could be of service to the fishing public, communities, and state agencies. She said she has some ideas to work with the other commissioner on, noting that she thinks she and Mr. Putman have complementary skills. She concluded by stating she was excited to be working with him and she thinks they will make a great team, if [confirmed].

10:21:12 AM

CHAIR STUTES reiterated her excitement at the new appointments. She offered her belief that having new commissioners would be good for everyone. She commented that when people perform the same job repetitively over time, it sometimes means that the person can look past something right at one's feet. She offered her belief that CFEC would be experiencing a new horizon and

that there has been great groundwork laid by previous commissioners.

[10:21:50 AM](#)

REPRESENTATIVE KREISS-TOMKINS appreciated the opportunity to speak at the previous committee meeting [on February 27, 2018]. He commended Ms. Kelley's long history and service to commercial fishing, particularly in Southeast Alaska, and deep knowledge of fishing industry issues. He said he was pleased to have this leadership going forward and was glad she wanted to serve as commissioner.

[10:22:51 AM](#)

REPRESENTATIVE EASTMAN, in response to Chair Stutes, responded that he did not have any questions at this time.

[10:23:00 AM](#)

REPRESENTATIVE STUTES thanked Ms. Kelley for her willingness to serve.

[10:23:07 AM](#)

CHAIR STUTES introduced Mark Saldi, appointee to the Fishermen's Fund Advisory and Appeals Council (FFAAC). She said that Mr. Saldi was testifying telephonically from Skagway. Mr. Saldi has been a long-standing member of the FFAAC, having served since 2008 for two five-year terms. He was reappointed on March 1, 2018, and if confirmed his third term would expire on March 1, 2023.

[10:23:46 AM](#)

MARK SALDI, Appointee, Fishermen's Fund Advisory and Appeals Council (FFAAC), Department of Labor & Workforce Development (DLWD), explained his work history. He stated that this year would be his 40th year of fishing in Alaska and that he has participated in numerous fisheries ranging from Prince William Sound (PWS) to Southeast Alaska and Chignik on the Alaska Peninsula.

[10:24:07 AM](#)

MR. SALDI said that he moved to Alaska in 1979 after graduating from Colorado State with a degree in business administration.

In his ten years of service on the [Fisherman's Fund Advisory and Appeals Council] he said he has never missed a meeting. He indicated that he has previously held permits and an IFQ [Individual Fishing Quota]; however, he lives in Skagway and no longer travels to Western Alaska. He asked whether the committee would like him to discuss the fund.

[10:24:50 AM](#)

CHAIR STUTES responded that he could discuss the fund if he so desired but cautioned that the committee had time constraints.

[10:25:00 AM](#)

MR. SALDI briefly reviewed that the Fishermen's Fund was established in 1951, prior to statehood, as one of the few dedicated funds in Alaska. The state does not contribute any funding and the fund receives its funding from a percentage of deckhand licenses or limited-entry permits. Thus, the Fisherman's Fund receives checks periodically from ADF&G and the CFEC, he said. The state received some benefit from the fund, since the Fishermen's Fund currently has a surplus of \$11 million. He was unsure of the exact mechanics of the fund. He stated his ongoing goal has been to preserve the Fishermen's Fund, so that it remains solvent. He explained that the Fishermen's Fund is a payer of last resort, which means fishermen must exhaust other means such as private insurance, or workers' compensation, or the boat's PNI [Protection and indemnity insurance], and once that's refused, the Fishermen's Fund can assist the fishermen.

[10:26:15 AM](#)

CHAIR STUTES asked how many members serve on the [council].

MR. SALDI responded that the FFAAC consists of five members, who are selected from different parts of the state, including Nome, [Manokotak, District 4, Areas west of Alaska Peninsula to Cape Newenham, including Bristol Bay], Homer, Skagway, and Ketchikan. Since board members - all fishermen - serve in regional districts it was likely one board member will know the claimant, he said. Further, board members serve for five years, with staggered terms, so each year a new member would be appointed, or an existing member would be reappointed, he stated.

[10:27:05 AM](#)

REPRESENTATIVE EASTMAN, in response to Chair Stutes, indicated he did not have any questions for Mr. Saldi.

CHAIR STUTES thanked Mr. Saldi for his willingness to serve another term on the Fishermen's Fund Advisory and Appeals Council.

[10:27:38 AM](#)

The committee took a brief at-ease.

[10:27:57 AM](#)

CHAIR STUTES said the House Special Committee on Fisheries has reviewed the qualifications of the governor's appointees, Vance "Fate" Putman and Dale Kelley to the Commercial Fisheries Entry Commission and Mark Saldi to the Fishermen's Fund Advisory and Appeals Council and recommends that the names be forwarded to the joint session of the House and Senate for consideration. There being no objection, the confirmations of Vance "Fate" Putman, Dale Kelley, and Mark Saldi were advanced from the House Special Committee on Fisheries.

CHAIR STUTES reminded the committee that member's signatures do not reflect intent by any of the members to vote for or against these individuals during any further sessions for the purposes of confirmation.

[10:28:38 AM](#)

The committee took an at-ease from 10:28 a.m. to 10:30 a.m.

#### **HB 354-DIVE FISHERY ASSESSMENTS**

[10:30:00 AM](#)

CHAIR STUTES announced that the next order of business would be HOUSE BILL NO. 354, "An Act relating to dive fishery management assessment procedures."

[10:30:42 AM](#)

REPRESENTATIVE DAN ORTIZ, Alaska State Legislature, read from a prepared sponsor statement, which read as follows [original punctuation provided]:

This bill is necessary for the Southeast Alaska Regional Dive Fisheries Association, the only dive fishery association in the state regulated by AS 43.76.150-210, to amend the process undertaken to modify the tax on the geoduck, sea cucumber and sea urchin fisheries it represents. Each fishery can tax itself at a different rate. At present, a majority of permit holders are required to initiate the petition to change an assessment tax and then vote on the change. Many of the permits are nontransferable and less than half of the CFEC permit holders in these fisheries are actively participating in said fisheries. Due to the low involvement of permit holders, a majority participation of permit holders is unrealistic. The proposed legislation allows for a change in assessment tax to be initiated by a 3/4 vote from the Board of Directors and the vote to accept the change pass with a majority vote of permit holders participating in the vote.

REPRESENTATIVE ORTIZ said the bill would allow the Southeast Alaska Regional Dive Fisheries Association to take their votes in a more workable manner. He asked his staff to elaborate on the bill.

[10:33:07 AM](#)

LIZ HARPOLD, Staff, Representative Dan Ortiz, Alaska State Legislature, stated the Southeast Alaska Regional Dive Fisheries Association (SARDFA) was the only regional dive fishery association affected by the bill. She said that SARDFA was a private non-profit economic development organization established in the late 1990s, representing the harvest divers, processors, and communities of Southeast Alaska, south of Yakutat. There were approximately 380 permit holders participating in the dive fisheries, she said. The SARDFA organization oversees the geoduck, sea cucumber and sea urchin fisheries and has a self-assessed tax. She related that the association works with the Alaska Department of Fish & Game (ADF&G) to develop its annual operating plan, which determines how the dive assessment collected by the Department of Revenue would be spent. An assessment also goes to the ADF&G to manage the fishery, she noted.

[10:34:41 AM](#)

MS. HARPOLD reviewed the voting process, such that the assessment would be initiated by 25 percent of the permit holders who voted in the previous election. This process worked well in the 1990s, because the dive fisheries had switched to a limited-entry fishery and most of the permit holders were actively fishing. Since permit holders must actively be engaged in the fishery to vote, many of the permit holders with non-transferable permits cannot vote, since the individuals no longer dive in the fisheries.

MS. HARPOLD said that the dive permit holders in Southeast Alaska belong to SARDFFA. The bill would change the initiation process for the assessment tax by allowing the SARDFFA Board of Directors to initiate a change with 75 percent support of the board. The assessment change would need a majority vote by permit holders, as outlined in the bill. The election process would not change, she said.

[10:36:24 AM](#)

CHAIR STUTES asked whether the vote is determined by 75 percent of the received ballots.

MS. HARPOLD responded that at least 25 percent of the permit holders who participated in the previous election must initiate the change. It would require a majority vote of permit holders to pass an assessment change. She explained the response rate has declined since many diver permit holders no longer participate in the fisheries, with less than half of the permit holders sending in their ballots.

[10:37:30 AM](#)

REPRESENTATIVE ORTIZ added that in the 1990s there was a much higher participation rate in voting on assessments. Currently, the overall industry activity by permit holders has shown less activity. As these permit holders cease fishing, they cannot sell the permits, but choose not to participate in the vote. Thus, it has been harder and harder to get to that level of ratio of participation in an actual vote.

[10:38:24 AM](#)

REPRESENTATIVE NEUMAN asked whether there were any new applications for permits and to describe the process to apply for a new permit.

REPRESENTATIVE ORTIZ deferred to the Commercial Fisheries Entry Commission (CFEC) to respond.

[10:38:50 AM](#)

VANCE "FATE" PUTMAN, Chairman; Commissioner designee, Commercial Fisheries Entry Commission (CFEC), responded that this question "gets to the heart" of the reason for so many legal cases [pertaining to limited-entry fishing permits] in the Alaska Supreme Court. He explained that when a fishery initially becomes limited, that the CFEC issues permits to those fishermen who participate in the fishery and have a history of participation in the fishery. Applicants who are dependent upon that fishery strictly for their economic survival are eligible to obtain a transferable permit; however, applicants who have other sources of income or do other work, are eligible for a non-transferable permit.

[10:39:50 AM](#)

MR. PUTMAN acknowledged these limited-entry permits represent very important decisions to the fishermen, their future, and their families. Non-transferable permits are often challenged in the court system. He offered his belief that in this fishery, many dive fishermen who initially applied for a limited-entry permit received a non-transferable permit because they had other sources of income.

[10:40:12 AM](#)

REPRESENTATIVE NEUMAN said he was grappling over the reason for the problem, which seemed to be a lack of new applicants. He calculated that about 95 of 380, or 25 percent of permit holders vote in an election. It takes about half to pass, or about 48 permit holders; however, not enough permit holders were voting because they no longer participate in the dive fishery. He asked again if that is the reason for the non-participation. In response to Chair Stutes, he asked why new dive fishermen were not applying for permits when participants aged out of the fishery.

MR. PUTMAN agreed one of the issues with non-transferable permits was that permit holders aged out, so over time the number of permits diminish in a fishery. He explained that getting new permit holders into the system was not possible because only the permits that are transferable can be moved to another fisherman.

[10:41:39 AM](#)

CHAIR STUTES related her understanding that once the non-transferable permit was no longer being fished, "it's a goner" and there was no way for a new entrant to apply.

MR. PUTMAN agreed.

[10:42:02 AM](#)

REPRESENTATIVE NEUMAN asked whether applicants could currently apply for a transferable permit.

MR. PUTMAN answered that was correct.

[10:42:10 AM](#)

REPRESENTATIVE NEUMAN said that it seemed like the evolution would be someone interested in the dive fishery would try to get a temporary permit. He wondered if people were interested in qualifying for temporary permits. He further asked how much interest there was for the dive fisheries.

CHAIR STUTES responded that she believed that was the issue HB 354 was trying to address.

MR. PUTMAN agreed. He related his understanding, in speaking with staff, was that the problem is that many permit holders who were no longer participating in the fishery still maintained their permits each year by paying the licensing fee each year, but these permit holders may not participate in the vote. He related his understanding that with a threshold of fifty percent plus one to change the tax structure becomes a hurdle that cannot be overcome without the changes in the bill.

[10:43:19 AM](#)

CHAIR STUTES opened public testimony on HB 354.

[10:43:45 AM](#)

PHIL DOHERTY, Executive Director, stated that SARDFA approached Representative Ortiz to change an old statute with respect to the assessment tax. The dive association was formed in 1997 to provide management funds for the fishery because ADF&G did not have adequate funds to research and manage the three species the

dive fisheries harvest, which were sea urchins, geoduck clams, and sea cucumbers. The divers in Alaska recognized the value of the resources, in part, based on fisheries in British Columbia, Washington state, and California. These divers asked [former Representative] Bill Williams to assist in forming SARDFa, including establishing a mandatory assessment tax. The divers could tax themselves at a one, three, five, or seven percent assessment tax, he said. Currently the sea cucumber fishery, which is the focus of this bill, has been taxing itself at five percent. The geoduck fishery taxes itself at seven percent, and the urchin fishery taxes itself at five percent of ex-vessel value, meaning the fisherman comes to the dock and five percent of the fish ticket would be removed immediately, he said. He compared that collection process like one for state tax collections. In addition, these fishermen also pay a three percent state fisheries tax, he stated.

[10:45:58 AM](#)

MR. DOHERTY explained that the assessment funds goes into the association's fund and SARDFa, in conjunction with the ADF&G develops the annual operating plan. The ADF&G provides its plans for assessment, management, and research needs to SARDFa, which are discussed, if necessary, and the association provides the department with the funds it needs to conduct the fisheries, he said.

MR. DOHERTY further explained the hurdle has arisen due to the number of non-transferable permits and even some of the transferable permits. For example, the sea cucumber fishery has 156 transferable permits and 233 non-transferable permits totaling 389 total permits. Two years ago, SARDFa had an election to change the assessment tax in the sea cucumber fishery from five percent to one percent but the association could not obtain half of the 389 permit holders to vote. Even though the active permit holders and association members wanted to get it changed, it could not do so, he advised.

[10:47:43 AM](#)

MR. DOHERTY stated that the association requested HB 354, which would change the voting process to allow a majority vote of the ballots received to [count]. He characterized that as the thrust of this bill and it does not affect any other fishery or the state. The SARDFa has committed to pay ADF&G the funding it needs to manage and research the fisheries. The association also uses its assessment to fund paralytic shellfish poisoning

(PSP) and water quality testing via the Department of Environmental Conservation (DEC). The permit holders understand that ADF&G must provide research and management to maintain the fisheries. He stated that the prices in the sea cucumber fishery are up and the association does not have large overhead costs for sea cucumbers. He briefly described some of the programs. He indicated that lowering the tax from five percent to one percent in the fishery, a diver would result in \$1,200 to \$1,500 more for the ex-vessel value of the sea cucumbers harvested. This bill would streamline the process. The SARDFA's commitment to the state would always be there, he said.

[10:50:15 AM](#)

REPRESENTATIVE KREISS-TOMKINS thanked Mr. Doherty for his testimony. He commented on the unique status the dive fisheries have in Alaska. Referring to AS 16.42.40, Regional Dive Development Associations lays out the organization, which is what SARDFA would be, he said. He referred to page 3, lines 13-14, of HB 354, which read, "... board members of the qualified regional dive fishery development association ...". He said he was curious whether multiple dive fishery associations could form for the same dive fishery. He said he asked because fishermen can debate among themselves and hypothetically a rival association could arise and submit petitions to the commissioner that could be different than what SARDFA might submit.

MR. DOHERTY responded that he had not previously considered whether another dive association could compete on the same fishery. He did not think it would be allowed to happen. The only other dive fishery in Alaska could be for a small sea cucumber fishery in Kodiak. He has spoken to the Kodiak fishermen and they do not see the need for an association at this point. In Southeast Alaska, he did not envision the scenario happening.

[10:53:02 AM](#)

REPRESENTATIVE KREISS-TOMKINS agreed that there is no present debate on this issue, but he wanted to know if technically or legally that could happen in the future. He said that he did not see any reason it could not happen after reviewing the language in AS 16.42.40 since the three criteria in statute would not be that difficult to meet. He wondered if anything would prevent that from happening.

[10:53:57 AM](#)

CHAIR STUTES asked for further clarification as she was unsure of the concern.

REPRESENTATIVE KREISS-TOMKINS asked whether there was anything that prevents a group of dissatisfied fishermen from forming a non-profit corporation and submitting a petition.

[10:54:11 AM](#)

CHAIR STUTES said she still was unsure why that would be a problem.

REPRESENTATIVE KREISS-TOMKINS answered that one group might have a different opinion on the preferred enhancement tax. Another group could have a different opinion and that group could submit a petition for a different tax amount. He expressed an interest in learning more about the regional dive fisheries associations and whether the statutes only allow one to exist.

[10:54:44 AM](#)

CHAIR STUTES said she was trying to apply it to this specific bill.

REPRESENTATIVE KREISS-TOMKINS referred to page 3, lines 13-14 of HB 354.

CHAIR STUTES acknowledged the cite but pointed out that the bill does not identify a specific dive association such as SARDA.

[10:55:18 AM](#)

REPRESENTATIVE KREISS-TOMKINS stated that his question related to HB 354. He specifically asked what is "the" qualified regional dive fisheries association as opposed to "a" qualified regional dive fisheries association.

CHAIR STUTES offered that it might be more direct. She asked whether the sponsor or CFEC could respond. She did not think there was any issue.

MS. HARPOLD said she could not address the issue of if another regional dive fishery could form but the rules would apply to any regional dive fishery that formed. She related her understanding that ADF&G would determine an assessment.

[10:57:01 AM](#)

MR. DOHERTY said he has not heard of anyone in Southeast Alaska contemplating it. He explained that SARDFA's Board of Directors has nine members who represent cities, municipalities, and areas in Southeast Alaska, out-of-state divers, and a processor. He characterized it as being representative plus the organization has three committees for sea cucumbers, geoducks, and red sea urchins. He said that about 20 divers participate in the sea cucumber committee, which he believed was a robust committee system. He related that the meetings are public meetings, and discussions have been robust, but no one has ever mentioned breaking away to form a second association.

[10:58:44 AM](#)

REPRESENTATIVE KREISS-TOMKINS said he hoped it was permissible to ask questions to explore the overall structure. He was interested whether anything could prevent a second association from forming regardless of how highly unlikely it was that it would happen. He related his understanding that it could happen, that it was highly unlikely to happen, but he still wanted to be certain he understood the statute.

[10:59:32 AM](#)

CHAIR STUTES asked whether an attorney from Legislative Legal and Research Services was online.

REPRESENTATIVE KREISS-TOMKINS said he did not think this merited further pursuit.

CHAIR STUTES wanted to be certain Representative Kreiss-Tomkins was satisfied. She understood his intent.

REPRESENTATIVE KREISS-TOMKINS said, "It's a great bill." He expressed an interest in the language choice between "a" or "the" but noted in practical terms there probably was not much difference.

[11:00:16 AM](#)

REPRESENTATIVE NEUMAN understood the concern expressed. He highlighted his goal when reviewing any bill was to try to make it better. He appreciated Mr. Doherty's testimony. He related his understanding that the intent was to change the [assessment]

from five percent to one percent for sea cucumbers but not for geoduck or sea urchins.

MR. DOHERTY answered that if HB 354 passed the SARDFA would vote on the assessment for the sea cucumber fishery. He did not anticipate the association would change the assessment tax on the geoduck fishery. He explained that the geoduck fishery was very expensive to manage. He related that due to some issues in China, which is the destination market for geoducks, the fisheries must also test for arsenic levels in geoducks. He estimated that to pay for the program, including the PSP, water quality testing, and arsenic level testing, that the divers pay between \$150,000 - \$200,000 per year for the program in addition to the \$50,000 that the association pays to the ADF&G. He said the geoduck fishery barely manages to exist. He estimated that the sea cucumber fishermen have enough surplus funds that their assessment tax could be reduced, between one to three percent; probably to one percent.

[11:02:34 AM](#)

REPRESENTATIVE NEUMAN said that he was assuming that voting lines do not cross between species, such that divers holding permits for sea cucumbers do not vote for [tax assessments for those holding permits geoducks or sea urchins]. He wondered if part of the problem was due to reduced members or if permit holders who were fishing for geoducks could vote for sea urchin tax assessments.

MR. DOHERTY responded that if the association was considering a change for the sea cucumber assessment tax, that only members that could vote are the sea cucumber permit holders. He reiterated that there were so many non-transferable permit holders given out at the initial start of the sea cucumber fishery, since it was the easiest fishery to obtain landings, that it was difficult to get a majority vote. He recalled that two years ago the association received 89 positive votes to lower the tax. The remaining divers renewed their permits but no longer dive in the fishery. He emphasized the intent is to modernize [the statutes] to make it easier for the divers to change their assessment. He pointed out that the dive fisheries are very physically-demanding fisheries with the diver being the permit holder. The permit holder must be the person doing the diving, he said. As the divers get older, they tend to stop diving but maintain their permits for a small fee.

[11:05:00 AM](#)

REPRESENTATIVE NEUMAN asked whether it was possible to make the non-transferrable permits transferrable to get them back in the market.

CHAIR STUTES suggested that would be a question for the CFEC.

[11:05:24 AM](#)

CHAIR STUTES, after first determining no one wished to testify, closed public testimony on HB 354.

[11:05:44 AM](#)

REPRESENTATIVE KREISS-TOMKINS said it sounded like a great bill.

[11:06:22 AM](#)

SCOTT KELLEY, Director, Division of Commercial Fisheries, Alaska Department of Fish & Game (ADF&G), introduced himself.

[11:06:35 AM](#)

REPRESENTATIVE NEUMAN stated that the fisheries are statutorily required to cover any costs to administer their program. He asked if the tax assessment was reduced from five percent to one percent whether the funds would cover the program.

MR. KELLEY answered yes. He explained that the division works closely with the SARDFA and the association and divers are aware if the ADF&G does not have funds to assess to manage the program, the divers cannot fish. He said the [association and permit holders] are very motivated to ensure that the ADF&G continues to receive its funding.

[11:07:20 AM](#)

CHAIR STUTES stated that the fiscal note for HB 354 was zero.

[11:07:37 AM](#)

REPRESENTATIVE TARR REPRESENTATIVE moved to report HB 354 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 354 was reported from the House Special Committee on Fisheries.

[11:07:52 AM](#)

The committee took an at-ease from 11:07 a.m. to 11:09 a.m.

**HB 379-COMM FISHERMEN'S FUND:VESSEL OWNER CLAIMS**

[11:09:24 AM](#)

CHAIR STUTES announced that the final order of business would be HOUSE BILL NO. 379, "An Act relating to claims against protection and indemnity insurance policies of vessel owners."

[11:10:49 AM](#)

REPRESENTATIVE DAN ORTIZ, Alaska State Legislature, introduced HB 379, reading from his sponsor's statement, which read as follows [original punctuation provided]:

In 2010, the Legislature amended the Fishermen's Fund statute to allow a vessel owner to receive 50% of the owner's Protection & Indemnity insurance deductible from the fund in cases where an injured crewmember made a claim against the Fund and against the P&I policy. The intent of this amendment was to encourage vessel owners to obtain P&I insurance to fully cover crewmember's medical expenses in the event of an injury, and to reduce the financial burden on the State. HB 379 will allow an owner to fully recover the P&I deductible from the Fund up to an amount of \$5,000. This would provide further financial incentive for vessel owners to obtain P&I insurance to fully cover crewmembers in the event of an injury or illness at sea.

REPRESENTATIVE ORTIZ said this bill was brought forward at the behest of fishermen and the fishing industry. This would provide a means to pursue insurance and protection in the dangerous fisheries that often exist, he said.

[11:12:47 AM](#)

REPRESENTATIVE NEUMAN asked for further clarification on the Fishermen's Fund. He expressed an interest in learning how claims are approved, the fund balance, the type of fund and whether the fund earns any interest.

[11:13:38 AM](#)

LIZ HARPOLD, Staff, Representative Dan Ortiz, Alaska State Legislature, responded that the Fishermen's Fund predates Alaska statehood. It was established in 1951 to provide the treatment and care of Alaska licensed commercial fishermen who have been injured while fishing onshore or offshore in Alaska. She said the benefits from the fund are financed from revenue received from each resident and non-resident commercial fisherman's license and permit fees - 39 percent but not to exceed \$50 for each license holder per year. The commissioner of Department of Labor & Workforce Development (DLWD) oversees the administration of the program, with assistance from the Fishermen's Fund Advisory and Appeals Council (FFAAC). She reminded members that Mr. Saldi, a member of the FFAAC, had testified earlier during confirmation hearings.

[11:14:27 AM](#)

MS. HARPOLD stated that the FFAAC was comprised of the commissioner, or designee, who serves as chairman and five members appointed by the governor. She directed attention to AS 23.35, which outlines benefits and process for a fisherman to file a claim. She deferred to the division to answer technical questions about the fund.

[11:15:16 AM](#)

MARIE MARX, Director, Division of Workers' Compensation (DWC), Department of Labor & Workforce Development (DLWD), recalled that Representative Neuman had previously asked what benefits were available to fishermen under the Fishermen's Fund.

REPRESENTATIVE NEUMAN clarified he was interested in the structure of the Fishermen's Fund, for example, if it was an enterprise fund.

MS. MARX responded that the Fishermen's Fund is a dedicated, completely self-sustaining fund. The amount of money collected provides enough funding to run the program and pay for the benefits available through the fund.

REPRESENTATIVE NEUMAN asked for further clarification on the level the division attempts to maintain the fund, noting that medical costs continue to rise. He further asked for how the division maintains the costs at 39 percent tax.

[11:16:41 AM](#)

MS. MARX said that the amount of increase shown in the fiscal note is \$18,900. which is not a huge increase compared to the amount of benefits paid since this reimburses vessel owners up to \$5,000. She explained that most claims are paid to fishermen, which would not be changed by this bill. This bill would allow a vessel owner to be reimbursed more of the deductible, but still with a limit of \$5,000.

[11:17:30 AM](#)

CHAIR STUTES related her understanding that the bill would provide the vessel owners with an incentive to carry the protection and indemnity (P&I) insurance since they will receive the deductible back.

MS. MARX agreed.

[11:17:53 AM](#)

CHAIR STUTES, in response to a question by Representative Neuman, clarified the goal of the bill. She explained that if a vessel owner does not have P&I insurance, an injured crewmember would submit a claim to the Fishermen's Fund. This bill would encourage vessel owners to carry P&I insurance since it would reimburse the entire deductible of \$5,000 when a crewmember becomes injured. Currently, the vessel owner would be reimbursed \$2,500 of the deductible; however, under the bill, the vessel owner would receive the entire \$5,000 deductible. This provides an incentive to vessel owners to carry the P&I insurance.

[11:18:41 AM](#)

REPRESENTATIVE NEUMAN said his question related to the fund balance. He asked for further clarification on whether there would be an increase in tax to offset the additional amount of money that would be reimbursed to vessel owners to cover their deductible.

[11:19:07 AM](#)

MS. MARX responded that there was enough revenue to cover the increased liability. She explained that the revenue was approximately \$1.4 million each year

REPRESENTATIVE NEUMAN asked whether the tax should be reduced since the Fishermen's Fund might be collecting excess funds.

[11:20:07 AM](#)

ROBERT KEHOE, Executive Director, Purse Seine Vessel Owners Association (PSVOA), stated that PSVOA fully supports HB 379. He said the bill would expand on the legislature's effort in 2010 to provide a financial incentive to vessel owners to obtain insurance to fully cover their crewmembers in the event of an injury.

MR. KEHOE stated that as small, independent business owners, the cost of liability insurance is a major fixed cost. This bill would ease the financial burden on vessel owners in paying for the cost of insurance. It would further promote the goal of ensuring all the medical needs of injured crewmembers are satisfied. He said PSVOA respectfully requests that the committee supports HB 379 and move it forward.

[11:21:40 AM](#)

CHAIR STUTES opened public testimony on HB 379.

[11:22:09 AM](#)

MARK VINSEL, Executive Administrator, United Fishermen of Alaska (UFA), stated that the UFA reviewed HB 379 at its board meeting last week and the board voted to support passage of HB 379. All fishermen are supportive of the Fishermen's Fund, which was essentially the equivalent of workers' compensation, he said. He emphasized that most important was the solvency of the fund. He said in 2009 and 2010, the UFA supported increasing the maximum claim limit [audio skip]. Ultimately the legislature changed it to \$10,000 and at the time, this concept had been discussed but it was important to see over time how the fund would hold up and to ensure that it was solvent. The people in support of this have been patient, and according to those who manage the fund, it is appropriate to do so now. The UFA offers its support for HB 379. He urged the committee members to support the bill.

[11:23:57 AM](#)

CLAY BESENEK stated he was testifying on behalf of himself, although he also serves on the Fishermen's Fund Advisory and Appeals Council (FFAAC), having been appointed by former Governor Sarah Palin. He explained that managing the Fishermen's Fund was a function that each council member takes

seriously. He concurred with Mr. Vinsel's testimony. He stated that he previously served on the [council] when the [compensation amount] was increased to \$10,000 since medical costs have not decreased. He acknowledged that some fishermen have not always used the fund as a means of last resort. He emphasized that the [council] has been striving for responsibility from fishermen since the Fishermen's Fund was a fund of last resort. He offered his belief that HB 379 would fix a loophole. He offered his full support for HB 379; however, he could not speak for the [council] since the bill had not yet been discussed; however, he anticipated the full support of the council. In response to an earlier comment by Representative Neuman, he said the fund was formed prior to statehood so if the FFAAC needed something from the state he would be willing to ask for it.

[11:26:32 AM](#)

CHAIR STUTES closed public testimony on HB 379.

[11:26:40 AM](#)

REPRESENTATIVE NEUMAN indicated his support for commercial fishermen and the issues and dangers they face, noting medical costs were rising. He expressed concern that \$1.4 million was sitting in a fund instead of being in fishermen's pockets. He further expressed an interest in reviewing the tax rates on commercial fishermen. He commented that their biggest complaint has been the amount of government that they must deal with, noting the cost of licenses and permits was very high. He said the legislature could take an opportunity to be more equitable with the fund to assist fisherman. He reiterated that he would prefer that the fishermen would have the funds rather than to have the money sit in the Fishermen's Fund.

CHAIR STUTES offered her belief that the bill would assist the fishermen in reducing their [medical] costs overall and help promote carrying insurance on behalf of fishermen. She stated her support for HB 379. She asked Representative Eastman if he had any comments but did not receive a response.

[11:28:36 AM](#)

The committee took a brief at-ease.

[11:28:55 AM](#)

CHAIR STUTES commented that HB 379 has a fiscal note with an estimated impact of \$18,900 annually on the fund; however, from the testimony received, the fund will remain solvent. This bill would encourage more people to carry insurance and may represent a cost savings to the fund in the long term due to reduced claims against the fund.

[11:29:43 AM](#)

REPRESENTATIVE TARR moved to report HB 379 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 379 was reported from the House Special Committee on Fisheries.

[11:31:14 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 11:30 a.m.