

HOUSE BILL NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES STUTES, Himschoot, Armstrong, Ortiz

Introduced: 1/19/23

Referred: House Special Committee on Fisheries, Resources

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 **assessment 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 12.5 percent on a
8 species of fishery resources that is subject to the assessment as determined by an
9 election under AS 43.76.283, that is taken with commercial gear, and that the person
10 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 17.5 percent on a
18 species of fishery resources that is subject to the assessment as determined by an
19 election under AS 43.76.283, that is taken with commercial gear, and that the person
20 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 22.5 percent on a
28 species of fishery resources that is subject to the assessment as determined by an
29 election under AS 43.76.283, that is taken with commercial gear, and that the person
30 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 27.5 percent on a
7 species of fishery resources that is subject to the assessment as determined by an
8 election under AS 43.76.283, that is taken with commercial gear, and that the person
9 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 regional fishery development association under
19 AS 16.40.255; and

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (2) the qualified regional fishery development association shall mail or
31 electronically transmit two ballots to each eligible interim-use permit and entry permit

1 holder; the first ballot shall be mailed or transmitted not more than 45 days before the
2 date ballots must be postmarked to be counted in the election; the second ballot shall
3 be mailed or transmitted not less than 15 days before the date ballots must be
4 postmarked to be counted in the election; the qualified regional fishery development
5 association shall adopt procedures to ensure that only one ballot from each eligible
6 interim-use permit and entry permit holder is counted in the election;

7 (3) the ballot must

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

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

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

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

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

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

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

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

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

1 supervision of the association.

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

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

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

15 (a) The rate of 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) may be amended 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 assessment is levied.

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

30 (2) an election is held in accordance with AS 43.76.283; the ballot
31 must ask the question whether the developing fishery management assessment on a

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

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

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

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

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

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

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 terminated; the ballot must be

1 worded so that a "yes" vote is for continuation of the developing fishery management
2 assessment and a "no" vote is for termination of the developing fishery management
3 assessment;

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

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

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

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

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

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

1 (d) The developing fishery management assessment collected under this
2 section shall be deposited in the state treasury. Under AS 37.05.146(c), assessment
3 receipts shall be accounted for separately, and appropriations from the account are not
4 made from the unrestricted general fund.

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

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

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

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

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

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

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

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

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

26 (2) "developing fishery area" means

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

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

1 (3) "fishery resource" means fish, shellfish, or marine invertebrates
2 taken or landed under the authority of a limited entry permit or interim-use permit
3 issued under AS 16.43;

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

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