

HOUSE BILL NO. 89

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SEATON

Introduced: 1/18/11

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the commissioner of natural resources to offer bedload material for**
2 **disposal for flood control purposes in exchange for a percentage of the profit from the**
3 **sale of that material."**

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

5 * **Section 1.** AS 38.05.872 is amended by adding new subsections to read:

6 (b) The commissioner may offer for disposal bedload material within an
7 approved flood control project under the terms established in (c) of this section after
8 making a finding that

9 (1) removal of the bedload gravel will offset future costs to the state
10 that are attributable to flood damage;

11 (2) the sale of the bedload gravel under (b) - (d) of this section at a cost
12 that may be below fair market value is in the best interests of the state; and

13 (3) removal of the bedload gravel will enhance the effectiveness of the
14 flood control project in preventing a flood or minimizing flood damage.

1 (c) A person acquiring bedload material under a disposal authorized by the
2 commissioner under this section shall pay to the department a royalty of not less than
3 12.5 percent of pretax profit calculated by subtracting from the value of the bedload
4 material the actual direct costs of extricating, loading, and transporting the material to
5 market, if applicable. The commissioner may adopt regulations that identify the
6 method and means for determining the value of the bedload material and the costs that
7 may be deducted for the purpose of calculating the amount to be paid to the state. In
8 this subsection, "value" means the sales price of the material in a bona fide arm's-
9 length transaction between unaffiliated parties or the sales price of the material had the
10 material been sold in a bona fide arm's-length transaction between unaffiliated parties.

11 (d) In this section, "bedload material" means gravel, rock, and other material
12 located below the plane of the ordinary high water mark or the mean high water mark
13 of a river, lake, stream, or other coastal water.

14 * **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to
15 read:

16 REVISOR'S INSTRUCTION. The revisor of statutes shall change the heading of
17 AS 38.05.872 from "Disposition of state land for flood control projects" to "Disposition of
18 state land and material for flood control projects."