

**SENATE CS FOR CS FOR HOUSE BILL NO. 304(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 4/19/00**

**Referred: Rules**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to issuance and sale of revenue bonds to fund drinking water  
2 projects, to the Alaska clean water fund, to creation of an Alaska clean water  
3 administrative fund and an Alaska drinking water administrative fund, to fees to  
4 be charged in connection with loans made from the Alaska clean water fund and  
5 the Alaska drinking water fund, and to clarification of the character and  
6 permissible uses of the Alaska drinking water fund; amending Rule 3, Alaska  
7 Rules of Civil Procedure; and providing for an effective date."

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

9 \* **Section 1.** AS 37.15.560(a) is amended to read:

10 (a) For purposes of providing part of the money to be used to provide financial  
11 assistance to municipalities and other qualified entities under AS 46.03.032 and  
12 46.03.036 [FOR THE PURPOSES STATED IN AS 46.03.032(d)], including the costs  
13 of bond issuance and administration, the issuance and sale of revenue bonds of the

state is authorized subject to (b) of this section. The bonds are to be issued by the state bond committee, as provided in AS 37.15.560 - 37.15.605, as part of the Alaska clean water fund **and the Alaska drinking water fund** revolving loan fund **programs** [PROGRAM] (AS 46.03.032 **and 46.03.036**), [A] public **enterprises** [ENTERPRISE] of the state. The net proceeds of the sale of the bonds [,] remaining after any payment of costs of issuance and administration [,] shall be paid into the Alaska clean water fund **or the Alaska drinking water fund, as appropriate**. Accrued interest paid on the bonds shall be paid into the Alaska clean water fund **or the Alaska drinking water fund** for transfer to the Alaska clean water fund revenue bond redemption fund **or the Alaska drinking water fund revenue bond redemption fund** (AS 37.15.565), **as appropriate**.

\* Sec. 2. AS 37.15.560(b) is amended to read:

(b) The state bond committee may not issue more than \$15,000,000 in revenue bonds under AS 37.15.560 - 37.15.605 during a fiscal year **for each revolving loan fund program referred to in (a) of this section**, excluding refunding bonds. The total unpaid principal amount of revenue bonds, including refunding bonds, but excluding refunded bonds, issued under AS 37.15.560 - 37.15.605 [,] may not exceed \$150,000,000 **for each program**.

\* Sec. 3. AS 37.15.565 is amended to read:

**Sec. 37.15.565. Bond redemption funds [FUND].** (a) There **are** [IS] established [A] special **funds** [FUND] of the state, known as the "Alaska clean water fund revenue bond redemption fund [,]" **and the "Alaska drinking water fund revenue bond redemption fund,"** which **are** [IS A] trust **funds** [FUND] for paying and securing the payment of the principal of and interest and redemption premium, if any, on the bonds and which shall be at all times completely segregated and set apart from all other funds of the state. The committee, on behalf of the state, may obligate and bind the state to set aside and pay into the bond redemption **funds** [FUND], on a monthly or other periodic basis, any part or parts of, or all of, or a fixed proportion of, or a fixed amount of the money in the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking water fund (AS 46.03.036)** sufficient to pay the principal of and interest and redemption premium, if any, on the bonds and, if it considers it necessary,

1 to set aside and maintain reserves for this purpose. The bond redemption **funds**  
 2 [FUND] shall be drawn upon only for the purpose of paying the principal of and  
 3 interest and redemption premium, if any, on the bonds, together with related trustee  
 4 fees, if any.

5 (b) Money in the bond redemption **funds** [FUND] may be invested in the same  
 6 manner and on the same conditions as permitted for investment of money belonging  
 7 to the state or held in the treasury under AS 37.10.070; however, the committee may  
 8 agree with the bondholders to further limit these investments. Earnings on investments  
 9 must be retained in the bond redemption **funds** [FUND].

10 (c) Separate accounts may be created in the bond redemption **funds** [FUND]  
 11 for the purposes of paying and securing the bonds. The accounts may be combined for  
 12 purposes of investment **and for financial support to achieve the purposes of**  
 13 **AS 37.15.570(c).**

14 \* **Sec. 4.** AS 37.15.570(c) is amended to read:

15 (c) The committee may pledge to the payment of the principal of and interest  
 16 on bonds issued by the committee part or all of the legally available money or other  
 17 assets on hand in the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking**  
 18 **water fund (AS 46.03.036);** part or all of the revenue of the Alaska clean water fund  
 19 **or the Alaska drinking water fund,** including federal capitalization grants, the  
 20 proceeds of loan repayments, and interest on money in the **funds** [FUND]; the  
 21 proceeds of the sale of bonds; and money on hand in the bond redemption **funds**  
 22 [FUND]. Revenue of the Alaska clean water fund **or the Alaska drinking water fund,**  
 23 if so pledged, must be paid into the Alaska clean water fund **or the Alaska drinking**  
 24 **water fund, as appropriate.** The committee may provide for the issuance of  
 25 additional bonds, secured by a pledge of such money and revenue, ranking junior to,  
 26 senior to, or on a parity with, outstanding bonds, upon conditions prescribed in the  
 27 bond resolution. A pledge of loan repayments securing bonds may be made applicable  
 28 to specific loans from the Alaska clean water fund **or the Alaska drinking water**  
 29 **fund,** or, on a pooled basis, to all loan repayments received.

30 \* **Sec. 5.** AS 37.15.570(d) is amended to read:

31 (d) If the committee finds it reasonably necessary, the committee may select

a trustee or trustees for the holders of the bonds, or any series of them, for the safeguarding and disbursement of any of the money in the bond redemption **funds** [FUND] created by AS 37.15.565, or for duties with respect to the enforcement, authentication, delivery, payment, and registration of the bonds as the committee may determine. The committee shall fix the rights, duties, powers, and obligations of the trustee or trustees.

\* **Sec. 6.** AS 37.15.570(e) is amended to read:

(e) In its determination of all matters and questions relating to the issuance and sale of the bonds and the fixing of their maturities, terms, conditions, and covenants as provided in (a) - (d) of this section, the decisions of the committee shall be those that are reasonably necessary for the best interests of the state and its inhabitants and that will accomplish the most advantageous sale of the bonds, with due regard, however, for the continued funding under AS 46.03.032 **and AS 46.03.306** of the categories of projects identified in AS 46.03.032(d) **and 46.03.036(b)**. Decisions of the committee, as expressed in a bond resolution, are final and are conclusively considered to comply with the requirements of AS 37.15.560 - 37.15.605, [AND] AS 46.03.032, **and 46.03.036**.

\* **Sec. 7.** AS 37.15.570(f) is amended to read:

(f) A bond resolution may provide that the bonds issued must contain a recital that they are issued under AS 37.15.560 - 37.15.605 and **under** AS 46.03.032 **or 46.03.036, as appropriate**, and a bond containing this recital is conclusively considered to be valid and to have been issued in conformity with AS 37.15.560 - 37.15.605 and **with** AS 46.03.032 **or 46.03.036, as appropriate**.

\* **Sec. 8.** AS 37.15.573 is amended to read:

**Sec. 37.15.573. Bond resolution.** The committee shall authorize the issuance of bonds by adopting a resolution and shall prepare all other documents and proceedings necessary for the issuance, sale, and delivery of the bonds or any part or series of them. The bond resolution must fix the principal amount, denominations, date, maturities, manner of sale, place or places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. A bond resolution may state terms, conditions, amounts, and other limitations on loans

to be made from the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking water fund (AS 46.03.036), as appropriate,** from the relevant bond proceeds.

\* **Sec. 9.** AS 37.15.575 is amended to read:

**Sec. 37.15.575. State aid intercept.** If a municipality is in [THE] default on the payment of principal or interest on a loan from the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking water fund (AS 46.03.036),** the committee may provide written notice of default to any state agency that is the custodian of money that is payable to the municipality. If the committee determines to provide notice, a separate written notice shall be given in each instance of default. Notwithstanding any other provision of law, at any time after receipt of written notice of default, the agency head shall withhold payment of the money from the municipality. The agency head shall pay over the withheld money to the committee for deposit in the Alaska clean water fund **or the Alaska drinking water fund, as appropriate,** for the purpose of paying or securing the principal and interest on the loan.

\* **Sec. 10.** AS 37.15.580 is amended to read:

**Sec. 37.15.580. Pledge of the state.** The state pledges to and agrees with the holders of bonds issued by the committee under AS 37.15.560 - 37.15.605 and **under** AS 46.03.032 **or 46.03.036, as appropriate,** that the state will not limit or alter the rights and powers vested in the committee by AS 37.15.560 - 37.15.605 and **by** AS 46.03.032 **or 46.03.036, as appropriate,** to fulfill the terms of any contract made by the committee with the holders, or in any way impair the rights and remedies of the holders until the principal amount of the bonds, together with the interest on them with interest on unpaid installments of interest, are fully met and discharged. The committee may include this pledge and agreement of the state in a contract with the holders.

\* **Sec. 11.** AS 37.15.583(a) is amended to read:

(a) The owner or owners of not less than 10 percent of the aggregate principal amount of any series or issue of bonds or the trustee for the owners of the bonds or any series of them may, by appropriate proceedings in state court, require and compel the transfer, setting aside, and payment of money and the enforcement of all of the

terms, conditions, and covenants as required and provided in AS 37.15.560 - 37.15.605, AS 46.03.032 or 46.03.036, as appropriate, and the bond resolution.

\* **Sec. 12.** AS 37.15.585 is amended to read:

**Sec. 37.15.585. Amounts required for payments.** The committee shall, before June 30 of each year or from time to time within the year, as appropriate, commencing with the year in which the bonds are issued, certify to the commissioners of revenue and environmental conservation the amounts required in the current fiscal year and the next ensuing fiscal year by the bond resolution or resolutions to be paid out of the Alaska clean water fund or the Alaska drinking water fund into the appropriate bond redemption fund and to be paid into and maintained in any reserve fund or account or other fund or account created by the bond resolution or resolutions, and shall also certify to the commissioners the last date or dates upon which payments may be made.

\* **Sec. 13.** AS 37.15.587 is amended to read:

**Sec. 37.15.587. Purposes and sufficiency of revenue.** The proceeds of bonds may be used for the purposes described in AS 46.03.032 or 46.03.036, as appropriate [AS 46.03.032(d)]. Bonds may not be issued unless the committee first finds that revenue to be derived from repayment of loans from the Alaska clean water fund or the Alaska drinking water fund, as appropriate, will be sufficient, together with other available money, to comply with all covenants of the bond resolutions.

\* **Sec. 14.** AS 37.15.590(b) is amended to read:

(b) The issuance of refunding bonds need not be authorized by the voters of the state or by an act of the legislature. The committee shall adopt the resolution or resolutions and prepare all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of the refunding bonds. All provisions of AS 37.15.560 - 37.15.605 and of AS 46.03.032 and 46.03.036, as appropriate, applicable to revenue bonds are applicable to the refunding bonds and to the issuance, sale, or exchange of them, except as otherwise provided in this section.

\* **Sec. 15.** AS 37.15.605(1) is amended to read:

(1) "bond redemption funds [FUND]" means the Alaska clean water fund revenue bond redemption fund and the Alaska drinking water fund revenue

1 **bond redemption fund** established in AS 37.15.565, **as applicable**;

2 \* **Sec. 16.** AS 37.15.605(3) is amended to read:

3 (3) "bonds" means the Alaska clean water fund revenue bonds **or the**  
 4 **Alaska drinking water fund revenue bonds** authorized in AS 37.15.560 - 37.15.605,  
 5 **as applicable**;

6 \* **Sec. 17.** AS 37.15.605(7) is amended to read:

7 (7) "costs of issuance and administration" means all costs associated  
 8 with issuance and administration of Alaska clean water fund revenue bonds **or the**  
 9 **Alaska drinking water fund revenue bonds, as applicable**, and refunding bonds,  
 10 including costs of bond printing, official statements, financial advisors, travel costs,  
 11 rating agencies, bond insurance, letters and lines of credit for credit enhancement,  
 12 underwriters, legal services, paying agents, bonds registrars, bond and escrow trustees,  
 13 arbitrage rebate, and all other costs, including administrative costs, both direct and  
 14 indirect.

15 \* **Sec. 18.** AS 46.03.032(p)(1) is amended to read:

16 (1) "other qualified entity" means

17 **(A)** an intermunicipal or interstate agency as those terms are  
 18 used in 33 U.S.C. 1383, and may include an authority, corporation,  
 19 instrumentality, enterprise, or other entity formed through an agreement  
 20 between a municipality and one or more other governmental entities under  
 21 AS 29.35.010(13) or under art. X, sec. 13, Constitution of the State of Alaska,  
 22 or between a municipality and a regional housing authority under  
 23 AS 18.55.996(b); **or**

24 **(B)** **an organization that is eligible for assistance under 33**  
 25 **U.S.C. 1383, that is not exempted from regulation under AS 42.05.711(d),**  
 26 **that provides wastewater service under a certificate of convenience and**  
 27 **necessity from the former Alaska Public Utilities Commission or the**  
 28 **Regulatory Commission of Alaska, and that is economically regulated by**  
 29 **the Regulatory Commission of Alaska;**

30 \* **Sec. 19.** AS 46.03.034 is repealed and reenacted to read:

31 **Sec. 46.03.034. Alaska clean water administrative fund.** (a) The Alaska

clean water administrative fund is established as a separate fund that is distinct from other money or funds in the treasury. The fund is composed of two accounts, the

(1) Alaska clean water administrative operating account; and

(2) Alaska clean water administrative income account.

(b) The legislature may appropriate to the Alaska clean water administrative operating account the annual balance of the Alaska clean water administrative income account.

(c) The department shall administer the Alaska clean water administrative fund.

(d) The Alaska clean water administrative operating account may be used to pay for the department's operational and administrative costs necessary to manage the Alaska clean water fund and the Alaska clean water administrative fund and for such other purposes permitted by federal law.

(e) Money received in payment of fees charged by the department under the authority of AS 46.03.035 and earnings on the Alaska clean water administrative fund shall be deposited in the Alaska clean water administrative income account.

\* **Sec. 20.** AS 46.03 is amended by adding a new section to read:

**Sec. 46.03.035. Fees charged for loans made from the Alaska clean water fund.** The department may charge and collect reasonable fees in connection with making and servicing loans made by the department under the authority of AS 46.03.032. The department shall by regulation specify the rates and amounts of the fees.

\* **Sec. 21.** AS 46.03.036 is repealed and reenacted to read:

**Sec. 46.03.036. Alaska drinking water fund.** (a) The Alaska drinking water fund is established as a separate fund that is distinct from other money or funds in the treasury. The fund shall be administered by the department. The Alaska drinking water fund consists of the following items, all of which shall be deposited into the fund upon receipt:

(1) the proceeds and accrued interest received from the sale of revenue bonds issued under AS 37.15.560 - 37.15.605 and secured by the Alaska drinking water fund;



1 (2) money appropriated by the legislature, including federal  
2 capitalization grants;

3 (3) loan repayments; and

4 (4) interest received from loan repayments and interest received from  
5 investment of money in the Alaska drinking water fund.

6 (b) Except as otherwise limited by federal law, the department may use money  
7 in the Alaska drinking water fund to

8 (1) provide financial assistance for drinking water system projects,  
9 including projects to plan, design, build, construct, or rehabilitate a public drinking  
10 water collection, storage, treatment, or distribution system, to

11 (A) municipalities;

12 (B) organizations that are not exempted from regulation under  
13 AS 42.05.711(d), that provide water service under a certificate of convenience  
14 and necessity from the former Alaska Public Utilities Commission or the  
15 Regulatory Commission of Alaska, and that are economically regulated by the  
16 Regulatory Commission of Alaska;

17 (2) earn interest on the amounts deposited in the fund;

18 (3) pay the costs of administering the fund and conducting activities  
19 under this section and AS 37.15.560 - 37.15.605, including the costs of issuance and  
20 administration as defined in AS 37.15.605;

21 (4) pay and secure the payment of the principal of and interest on  
22 revenue bonds issued by the state and to pay the costs of issuance and administration  
23 of the bonds, so long as the proceeds of the bond sale are deposited in the Alaska  
24 drinking water fund;

25 (5) pay

26 (A) into the bond redemption fund (AS 37.15.565), and into any  
27 other bond redemption fund or account created by a relevant bond resolution,  
28 the amount certified by the state bond committee under AS 37.15.585; and

29 (B) the costs of the state bond committee in conducting  
30 activities under this section and AS 37.15.560 - 37.15.605, including the costs  
31 of issuance and administration as defined in AS 37.15.605.

1 (c) Repayment of loans shall be secured in a manner that the department  
 2 determines is feasible to ensure prompt repayment under a loan agreement entered into  
 3 with the borrower.

4 (d) Separate accounts may be created in the Alaska drinking water fund. The  
 5 accounts may be combined for purposes of investment.

6 (e) The department may adopt regulations necessary to implement the Alaska  
 7 drinking water fund in a manner consistent with federal law. The regulations adopted  
 8 by the department under (h) of this section may establish different loan terms, charges,  
 9 rates, and standards for different classes of borrowers to accommodate the different  
 10 levels of risk and costs that the different classes may present.

11 (f) An organization that qualifies for financial assistance under (b)(1)(B) of this  
 12 section or a municipality wishing to borrow money from the Alaska drinking water  
 13 fund shall demonstrate to the satisfaction of the department that it

14 (1) has sufficient legal authority to incur the debt for which it is  
 15 applying; and

16 (2) will establish and maintain a dedicated source of revenue or other  
 17 acceptable revenue source for repayment of the loan and sufficient reserves for the  
 18 loan as may be necessary.

19 (g) Allocation of Alaska drinking water fund loans shall be made in  
 20 accordance with a priority list developed by the department, using criteria specified in  
 21 regulations adopted by the department. A loan may not be made to an organization  
 22 that is not a municipality to refinance debt of that organization.

23 (h) Before making a loan from the Alaska drinking water fund, the department  
 24 shall, by regulation, specify

25 (1) standards for the eligibility of borrowers and the type of projects  
 26 to be financed with loans;

27 (2) loan term and interest rate policies for loans made from the fund;

28 (3) standards regarding the technical and economic viability and  
 29 revenue of self-sufficiency of eligible projects;

30 (4) collateral or other security required for loans;

31 (5) terms of loans; and

1 (6) other relevant standards or procedures.

2 (i) Except as necessary to comply with the covenants of a bond resolution  
3 under AS 37.15.573, a loan made by the department shall be made according to the  
4 standards and procedures established by regulations under this section. A loan made  
5 from the Alaska drinking water fund may be subject to the state aid intercept  
6 provisions of AS 37.15.575.

7 (j) The department shall also prepare reports and notices, including notices of  
8 default, required by the state bond committee in conjunction with bonds issued under  
9 AS 37.15.560 - 37.15.605.

10 (k) Regulations adopted by the department under this section that would affect  
11 issuance or repayment of revenue bonds under AS 37.15.560 - 37.15.605 may not be  
12 inconsistent with those statutes or with regulations adopted by the state bond  
13 committee under those statutes. To the extent that regulations adopted by the  
14 department are inconsistent with AS 37.15.560 - 37.15.605, with regulations adopted  
15 by the state bond committee under those statutes, or with the covenants of a bond  
16 resolution adopted under AS 37.15.573, the provisions of AS 37.15.560 - 37.15.605,  
17 the regulations adopted under those statutes, and the covenants of the bond resolution  
18 govern.

19 \* **Sec. 22.** AS 46.03.038 is repealed and reenacted to read:

20 **Sec. 46.03.038. Alaska drinking water administrative fund.** (a) The Alaska  
21 drinking water administrative fund is established as a separate fund that is distinct from  
22 other money or funds in the state treasury. The fund is composed of two accounts, the

23 (1) Alaska drinking water administrative operating account; and

24 (2) Alaska drinking water administrative income account.

25 (b) The legislature may appropriate to the Alaska drinking water administrative  
26 operating account the annual balance of the Alaska drinking water administrative  
27 income account.

28 (c) The department shall administer the Alaska drinking water administrative  
29 fund.

30 (d) The Alaska drinking water administrative operating account may be used  
31 to pay for the department's operational and administrative costs necessary to manage

1 the Alaska drinking water fund and the Alaska drinking water administrative fund and  
2 for such other purposes permitted by federal law.

3 (e) Money received in payment of fees charged by the department under the  
4 authority of AS 46.03.039 and earnings on the Alaska drinking water administrative  
5 fund shall be deposited in the Alaska drinking water administrative income account.

6 \* **Sec. 23.** AS 46.03 is amended by adding a new section to read:

7 **Sec. 46.03.039. Fees charged for loans made from the Alaska drinking**  
8 **water fund.** The department may charge and collect reasonable fees in connection  
9 with making and servicing loans made by the department under the authority of  
10 AS 46.03.036. The department shall by regulation specify the rates and amounts of  
11 such fees.

12 \* **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section  
13 to read:

14 **INDIRECT COURT RULE AMENDMENT.** The provisions of sec. 11 of this Act  
15 have the effect of changing Rule 3, Alaska Rules of Civil Procedure, by limiting to the  
16 Superior Court for the State of Alaska, First Judicial District at Juneau the venue district in  
17 which a proceeding under AS 37.15.583(a) may be commenced and conducted.

18 \* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section  
19 to read:

20 **TEMPORARY LIMITATION ON LOANS.** Until July 1, 2002, loans may be made  
21 from the Alaska drinking water fund only to municipalities, notwithstanding the provision  
22 authorizing financial assistance to certain other organizations in AS 46.03.036(b)(1)(B), as  
23 repealed and reenacted in sec. 21 of this Act.

24 \* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section  
25 to read:

26 **CONDITIONAL EFFECT.** Section 11 of this Act takes effect only if sec. 24 of this  
27 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,  
28 Constitution of the State of Alaska.

29 \* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section  
30 to read:

31 **TRANSITION: REGULATIONS.** The respective state agencies may proceed to adopt

- 1 any regulations necessary to implement their duties under this Act. The regulations take effect  
2 under AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 1 -  
3 23 and 25 of this Act.
- 4 \* **Sec. 28.** Section 27 of this Act takes effect immediately under AS 01.10.070(c).