

# Fiscal Note

State of Alaska  
2017 Legislative Session

Bill Version: HB 199  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB199-LAW-CIV-04-07-17  
Title: FISH/WILDLIFE HABITAT PROTECTION;  
PERMITS  
Sponsor: STUTES  
Requester: House Fisheries

Department: Department of Law  
Appropriation: Civil Division  
Allocation: Natural Resources  
OMB Component Number: 2212

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services	376.4		376.4	376.4	376.4	376.4	376.4
Travel	1.7		1.7	1.7	1.7	1.7	1.7
Services	64.0		64.0	64.0	64.0	64.0	64.0
Commodities	6.8		6.8	6.8	6.8	6.8	6.8
Capital Outlay	1.1		1.1	1.1	1.1	1.1	1.1
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>450.0</b>	<b>0.0</b>	<b>450.0</b>	<b>450.0</b>	<b>450.0</b>	<b>450.0</b>	<b>450.0</b>

## Fund Source (Operating Only)

1004 Gen Fund (UGF)	450.0		450.0	450.0	450.0	450.0	450.0
<b>Total</b>	<b>450.0</b>	<b>0.0</b>	<b>450.0</b>	<b>450.0</b>	<b>450.0</b>	<b>450.0</b>	<b>450.0</b>

## Positions

Full-time	2.0		2.0	2.0	2.0	2.0	2.0
Part-time							
Temporary							

## Change in Revenues

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2017) cost:** 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2018) cost:** 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

## ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

## Why this fiscal note differs from previous version:

Not applicable, initial version.

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## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2017 LEGISLATIVE SESSION

BILL NO. HB 199

### Analysis

HB 199 would amend AS 16.05 (Fish and Game) by creating a new permitting system for activities that have the potential to affect anadromous fish habitat. Under HB 199, the commissioner of the Alaska Department of Fish & Game (ADF&G) is required to specify in regulation all the various water bodies, or portions of them, that are important anadromous fish habitat. The bill presumes that, absent a site-specific determination and written finding by ADF&G, all naturally occurring surface water bodies in the state are important anadromous fish habitat. A determination that a water body is not important anadromous fish habitat would be subject to reconsideration and appeal.

HB 199 would create a general permit and establishes mandatory criteria that must be met for issuance. The bill would also establish an anadromous fish habitat permit to conduct any activities that would affect the water body. The bill would establish classification standards, a public notice period, and requirements that a classification decision be supported by a written determination. The bill would provide an exemption to the permitting requirements in emergency situations.

HB 199 would provide for a process by which an applicant could request reconsideration of a determination of the commissioner. The commissioner's determination upon reconsideration would be the final administrative decision for purposes of appeal to the superior court.

The bill would also create civil penalties for certain violations. Notice and an adjudicatory hearing would first be afforded to an alleged offender. Pursuant to Section 14 of the bill, it appears that the notice and hearing associated with the civil penalty would be subject to AS 44.62.330 – 44.62.630 (the Administrative Procedures Act). It also appears that the OAH would not have jurisdiction for the hearing under proposed AS 16.05.901(f). In addition, it also appears that the notices and hearings provided for throughout the other sections of the bill would not be subject to the Administrative Procedures Act.

The bill also provides that if a respondent violates an order issued under AS 16.05.894, the attorney general, upon request of the commissioner, may seek an injunction requiring the respondent to suspend an activity.

The Department of Law provides legal counsel to the ADF&G. HB 199 would potentially significantly increase the current amount of ADF&G permitting and appeals because the bill would presume that all naturally occurring surface water bodies in the state are important anadromous fish habitat, expand the scope of activities that would require permits, create a detailed permit consideration process, and provide for reconsideration and appeal of all determinations of the commissioner under AS 16.05.871 – 16.05.901.

We anticipate that two additional full-time civil attorneys would be needed to perform the legal work this bill would create - one attorney primarily focused on permitting and appeals and one attorney primarily focused on enforcement, while providing support to permitting and appeals as needed. The ADF&G would be responsible for developing regulations to implement the bill's provisions, and the Department of Law would likely need to provide assistance with the regulations.