

**CS FOR SENATE BILL NO. 207(CRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 2/26/96

Referred: STA, JUD, FIN

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act authorizing the issuance and sale of revenue bonds to fund public  
2 wastewater systems, nonpoint source water pollution control projects, including  
3 solid waste management systems, and estuary conservation and management  
4 projects; authorizing the use of the Alaska clean water fund to pay and secure  
5 the bonds and to pay costs related to issuance and administration of the bonds;  
6 authorizing certain measures to secure payment of the bonds; and amending  
7 Rule 3, Alaska Rules of Civil Procedure."

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

9 \* **Section 1.** POLICY AND PURPOSES. The legislature finds that the expenditures,  
10 transfers, and applications of money, and the use of the public credit through the issuance of  
11 revenue bonds, as authorized by this Act, will serve a public purpose by allowing the financing  
12 of needed public water quality improvements substantially sooner than would otherwise be  
13 possible.

1 \* **Sec. 2.** AS 37.15 is amended by adding new sections to read:

2 ARTICLE 3A. ALASKA CLEAN WATER FUND BONDS.

3 Sec. 37.15.560. BOND AUTHORIZATION. (a) For purposes of providing part  
4 of the money to be used to provide financial assistance to municipalities and other  
5 qualified entities for the purposes stated in AS 46.03.032(d), including the costs of bond  
6 issuance and administration, the issuance and sale of revenue bonds of the state is  
7 authorized, subject to (b) of this section. The bonds are to be issued by the state bond  
8 committee, as provided in AS 37.15.560 - 37.15.605, as part of the Alaska clean water  
9 fund revolving loan fund program (AS 46.03.032), a public enterprise of the state. The  
10 net proceeds of the sale of the bonds, remaining after any payment of costs of issuance  
11 and administration, shall be paid into the Alaska clean water fund. Accrued interest paid  
12 on the bonds shall be paid into the Alaska clean water fund for transfer to the Alaska  
13 clean water fund revenue bond redemption fund (AS 37.15.565).

14 (b) The state bond committee may not issue more than \$15,000,000 in revenue  
15 bonds during a fiscal year, excluding refunding bonds. The total amount of revenue  
16 bonds outstanding at any one time may not exceed \$150,000,000, including principal and  
17 interest owed on the bonds.

18 (c) The bonds do not constitute a general obligation of the state. Authorization  
19 by the voters of the state or the legislature is not required.

20 (d) The state bond committee may enter into agreements with other state  
21 agencies as necessary or convenient to implement AS 37.15.560 - 37.15.605.

22 (e) The state bond committee may contract for the services of underwriters,  
23 paying agents, trustees, bond printers, rating agencies, bond insurance, credit  
24 enhancement providers, accountants, financial advisors, and bond counsel, and other  
25 services as are necessary to accomplish the bond issuance and sale.

26 Sec. 37.15.565. BOND REDEMPTION FUND. (a) There is established a  
27 special fund of the state, known as the "Alaska clean water fund revenue bond  
28 redemption fund," which is a trust fund for paying and securing the payment of the  
29 principal of and interest and redemption premium, if any, on the bonds and which shall  
30 be at all times completely segregated and set apart from all other funds of the state. The  
31 committee, on behalf of the state, may obligate and bind the state to set aside and pay  
32 into the bond redemption fund, on a monthly or other periodic basis, any part or parts

1 of, or all of, or a fixed proportion of, or a fixed amount of the money in the Alaska clean  
2 water fund (AS 46.03.032) sufficient to pay the principal of and interest and redemption  
3 premium, if any, on the bonds and, if it considers it necessary, to set aside and maintain  
4 reserves for this purpose. The bond redemption fund shall be drawn upon only for the  
5 purpose of paying the principal of and interest and redemption premium, if any, on the  
6 bonds, together with related trustee fees, if any.

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

12 (c) Separate accounts may be created in the bond redemption fund for the  
13 purposes of paying and securing the bonds. The accounts may be combined for purposes  
14 of investment.

15 Sec. 37.15.570. BOND TERMS. (a) The bonds may be issued and sold at  
16 public or negotiated sale in the manner, in the amounts or series, and at the time or times  
17 that the committee determines. The bonds, or each series of them, shall be sold at the  
18 price and upon the terms, conditions, and covenants set by the committee after  
19 considering market conditions. Interest rates may be fixed or variable.

20 (b) The bonds mature at the time or times fixed by the committee. The bonds  
21 may be subject to redemption before their fixed maturities, as determined by the  
22 committee, with or without a premium or premiums. The bonds may be in  
23 denominations determined by the committee; may be issued in fully or partially  
24 registered form; must be payable as to principal and interest at the place or places  
25 determined by the committee; must be signed on behalf of the state in the manner  
26 provided by the committee; must be issued under and subject to the terms, conditions,  
27 covenants, and protective features safeguarding payment of the bonds and relating to the  
28 funding of projects as found necessary by the committee, including covenants requiring  
29 the setting aside and maintenance of certain reserves to secure the payment of principal  
30 and interest, all under regulations and conditions of the committee.

31 (c) The committee may pledge to the payment of the principal of and interest  
32 on bonds issued by the committee part or all of the legally available money or other

1 assets on hand in the Alaska clean water fund (AS 46.03.032); part or all of the revenue  
2 of the Alaska clean water fund, including federal capitalization grants, the proceeds of  
3 loan repayments, and interest on money in the fund; the proceeds of the sale of bonds;  
4 and money on hand in the bond redemption fund. Revenue of the Alaska clean water  
5 fund, if so pledged, must be paid into the Alaska clean water fund. The committee may  
6 provide for the issuance of additional bonds, secured by a pledge of money and revenue,  
7 ranking junior to, senior to, or on a parity with, outstanding bonds, upon conditions  
8 prescribed in the bond resolution. A pledge of loan repayments securing bonds may be  
9 made applicable to specific loans from the Alaska clean water fund or, on a pooled basis,  
10 to all loan repayments received.

11 (d) If the committee finds it reasonably necessary, the committee may select a  
12 trustee or trustees for the holders of the bonds, or any series of them, for the  
13 safeguarding and disbursement of any of the money in the bond redemption fund created  
14 by AS 37.15.565, or for duties with respect to the enforcement, authentication, delivery,  
15 payment, and registration of the bonds as the committee may determine. The committee  
16 shall fix the rights, duties, powers, and obligations of the trustee or trustees.

17 (e) In its determination of all matters and questions relating to the issuance and  
18 sale of the bonds and the fixing of their maturities, terms, conditions, and covenants as  
19 provided in (a) - (d) of this section, the decisions of the committee shall be those that  
20 are reasonably necessary for the best interests of the state and its inhabitants and that will  
21 accomplish the most advantageous sale of the bonds, with due regard, however, for the  
22 continued funding under AS 46.03.032 of the categories of projects identified in  
23 AS 46.03.032(d). Decisions of the committee, as expressed in a bond resolution, are  
24 final and are conclusively considered to comply with the requirements of AS 37.15.560 -  
25 37.15.605 and AS 46.03.032.

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

30 Sec. 37.15.573. BOND RESOLUTION. The committee shall authorize the  
31 issuance of bonds by adopting a resolution and shall prepare all other documents and  
32 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or

1 series of them. The bond resolution must fix the principal amount, denominations, date,  
2 maturities, manner of sale, place or places of payment, rights of redemption, if any,  
3 terms, form, conditions, and covenants of the bonds or each series of them. A bond  
4 resolution may state terms, conditions, amounts, and other limitations on loans to be  
5 made from the Alaska clean water fund (AS 46.03.032) from the relevant bond proceeds.

6 Sec. 37.15.575. STATE AID INTERCEPT. If a municipality is in default on  
7 the payment of principal or interest on a loan from the Alaska clean water fund  
8 (AS 46.03.032), the committee may provide written notice of default to the state agency  
9 that is the custodian of money that is payable to the municipality. If the committee  
10 determines to provide notice, a separate written notice shall be given in each instance of  
11 default. Notwithstanding any other provision of law, at any time after receipt of written  
12 notice of default, the agency head shall withhold payment of the money from the  
13 municipality. The agency head shall pay over the withheld money to the committee for  
14 deposit in the Alaska clean water fund for the purpose of paying or securing the principal  
15 and interest on the loan.

16 Sec. 37.15.580. PLEDGE OF THE STATE. The state pledges to and agrees  
17 with the holders of bonds issued by the committee under AS 37.15.560 - 37.15.605 and  
18 AS 46.03.032 that the state will not limit or alter the rights and powers vested in the  
19 committee by AS 37.15.560 - 37.15.605 and AS 46.03.032 to fulfill the terms of any  
20 contract made by the committee with the holders, or in any way impair the rights and  
21 remedies of the holders until the principal amount of the bonds, together with the interest  
22 on them with interest on unpaid installments of interest, are fully met and discharged.  
23 The committee may include this pledge and agreement of the state in a contract with the  
24 holders.

25 Sec. 37.15.583. ENFORCEMENT BY BONDOWNER. (a) The owner or  
26 owners of not less than 10 percent of the aggregate principal amount of any series or  
27 issue of bonds or the trustee for the owners of the bonds or any series of them may, by  
28 appropriate proceedings in state court, require and compel the transfer, setting aside, and  
29 payment of money and the enforcement of all of the terms, conditions, and covenants as  
30 required and provided in AS 37.15.560 - 37.15.605, AS 46.03.032, and the bond  
31 resolution.

32 (b) A proceeding under (a) of this section may be commenced and conducted

1 only in the Superior Court for the State of Alaska, First Judicial District at Juneau.

2 Sec. 37.15.585. AMOUNTS REQUIRED FOR PAYMENTS. The committee  
3 shall, before June 30 of each year or from time to time within the year, as appropriate,  
4 commencing with the year in which the bonds are issued, certify to the commissioners  
5 of revenue and environmental conservation the amounts required in the current fiscal  
6 year and the next ensuing fiscal year by the bond resolution or resolutions to be paid out  
7 of the Alaska clean water fund into the bond redemption fund and to be paid into and  
8 maintained in any reserve fund or account or other fund or account created by the bond  
9 resolution or resolutions, and shall also certify to the commissioners the last date or dates  
10 upon which payments may be made.

11 Sec. 37.15.587. PURPOSES AND SUFFICIENCY OF REVENUE. The  
12 proceeds of bonds may be used for the purposes described in AS 46.03.032(d). Bonds  
13 may not be issued unless the committee first finds that revenue to be derived from  
14 repayment of loans from the Alaska clean water fund will be sufficient, together with  
15 other available money, to comply with all the covenants of the bond resolutions.

16 Sec. 37.15.590. REFUNDING. (a) The committee may refund the bonds or any  
17 part of them at or before their maturities or redemption dates by the issuance of  
18 refunding revenue bonds of the state if, in the opinion of the committee, refunding is  
19 advantageous to and in the best interests of the state and its inhabitants.

20 (b) The issuance of refunding bonds need not be authorized by the voters of the  
21 state or by an act of the legislature. The committee shall adopt the resolution or  
22 resolutions and prepare all other documents and proceedings necessary for the issuance,  
23 exchange or sale, and delivery of the refunding. All provisions of AS 37.15.560 -  
24 37.15.605 and AS 46.03.032 applicable to revenue bonds are applicable to the refunding  
25 bonds and to the issuance, sale, or exchange of them, except as otherwise provided in  
26 this section.

27 (c) Refunding bonds may be issued in a principal amount sufficient to provide  
28 money for the advance or current refunding of all bonds to be refunded and interest on  
29 the refunded bonds and, in addition, for the payment of all costs of issuance and  
30 administration of the refunding bonds. These expenses also include the difference in  
31 amount between the par value of the refunding bonds and any amount less than par for  
32 which the refunding bonds are sold; the premium, if any, necessary to be paid in order

1 to call or retire the outstanding bonds and the interest accruing on them to date of the  
2 call or retirement; and other such costs. The committee is authorized to incur such  
3 expenses.

4 (d) The committee may contract with a refunding trustee to hold the proceeds  
5 of refunding bonds in trust until the proceeds, together with earnings on the proceeds,  
6 are applied to pay the principal of, premium, if any, and interest on the bonds to be  
7 refunded. Until the refunding bond proceeds are applied, the proceeds may be invested  
8 in direct obligations of, or obligations guaranteed by, the United States or an agency or  
9 corporation of the United States whose obligations constitute direct obligations of, or  
10 obligations guaranteed by, the United States.

11 Sec. 37.15.595. BONDS AS LEGAL INVESTMENTS. The bonds are legal  
12 investments for all banks, trust companies, savings banks, savings and loan associations,  
13 and other persons carrying on a banking business, all insurance companies and other  
14 persons carrying on an insurance business, and all executors, administrators, trustees, and  
15 other fiduciaries. The bonds may be accepted as security for deposits of all money of  
16 the state and its political subdivisions.

17 Sec. 37.15.603. REGULATIONS. The committee may adopt regulations  
18 necessary to implement the provisions of AS 37.15.560 - 37.15.605.

19 Sec. 37.15.605. DEFINITIONS. In AS 37.15.560 - 37.15.605,

20 (1) "bond redemption fund" means the Alaska clean water fund revenue  
21 bond redemption fund established in AS 37.15.565;

22 (2) "bond resolution" means the resolution or resolutions adopted by the  
23 committee under AS 37.15.573 authorizing the issuance of bonds;

24 (3) "bonds" means the Alaska clean water fund revenue bonds authorized  
25 in AS 37.15.560 - 37.15.605;

26 (4) "commissioner of revenue" means the principal executive officer of  
27 the Department of Revenue as provided in AS 44.25.010, or a successor;

28 (5) "commissioner of environmental conservation" means the principal  
29 executive officer of the Department of Environmental Conservation as provided in  
30 AS 44.46.010, or a successor;

31 (6) "committee" means the state bond committee created in AS 37.15.110  
32 or any other committee, body, department, or officer of the state that succeeds to the

1 rights, powers, duties, and obligations of the state bond committee by lawful act of the  
2 legislature;

3 (7) "costs of issuance and administration" means all costs associated with  
4 issuance and administration of Alaska clean water fund revenue bonds and refunding  
5 bonds, including costs of bond printing, official statements, financial advisors, travel  
6 costs, rating agencies, bond insurance, letters and lines of credit for credit enhancement,  
7 underwriters, legal services, paying agents, bond registrars, bond and escrow trustees,  
8 arbitrage rebate, and all other costs, including administrative costs, both direct and  
9 indirect.

10 \* **Sec. 3.** AS 46.03.032(a) is amended to read:

11 (a) There is established as a separate fund the Alaska clean water fund, which  
12 is distinct from any other money or fund in the treasury, and which consists of money  
13 appropriated by the legislature to meet federal matching requirements, federal  
14 capitalization grants, loan repayments, interest received from loan repayments, [AND]  
15 interest received from investment of money in the Alaska clean water fund, **and the**  
16 **proceeds and accrued interest received from the sale of revenue bonds issued under**  
17 **AS 37.15.560 - 37.15.605 and secured by the Alaska clean water fund. Separate**  
18 **accounts may be created in the Alaska clean water fund. The accounts may be**  
19 **combined for purposes of investment.**

20 \* **Sec. 4.** AS 46.03.032(b) is amended to read:

21 (b) The department shall administer the Alaska clean water fund **consistent with**  
22 **the requirements of this section and AS 37.15.560 - 37.15.605.**

23 \* **Sec. 5.** AS 46.03.032(c) is amended to read:

24 (c) The department may accept and make use of all capitalization grants  
25 provided by the federal government under 33 U.S.C. 1251 - 1387 (the federal Clean  
26 Water Act), as amended [BY P.L. 100-4].

27 \* **Sec. 6.** AS 46.03.032(d) is repealed and reenacted to read:

28 (d) Except as otherwise limited by federal law, the Alaska clean water fund may  
29 be used

30 (1) for the following categories of projects:

31 (A) planning, designing, building, constructing, and rehabilitating  
32 a public wastewater collection, treatment, or discharge system;

1 (B) implementing a management program for controlling water  
2 pollution from nonpoint sources under 33 U.S.C. 1329, including planning,  
3 designing, building, constructing, and rehabilitating a solid waste management  
4 system; and

5 (C) developing and implementing an estuary conservation and  
6 management program under 33 U.S.C. 1330;

7 (2) to provide the following types of financial assistance for the  
8 categories of projects listed in (1) of this subsection:

9 (A) making loans to municipalities and other qualified entities;

10 (B) buying or refinancing the debt obligations of a municipality  
11 or other qualified entity;

12 (C) providing collateral security for or purchasing insurance for  
13 a municipal or other qualified entity debt obligation; and

14 (3) to pay and secure the payment of the principal of and interest on  
15 revenue bonds issued by the state and to pay the costs of issuance and administration of  
16 the bonds, so long as the proceeds of the bond sale are deposited in the Alaska clean  
17 water fund.

18 \* **Sec. 7.** AS 46.03.032(f) is repealed and reenacted to read:

19 (f) The department

20 (1) may spend money from the Alaska clean water fund to pay the costs  
21 of

22 (A) administering the fund; and

23 (B) the department in conducting activities under this section and  
24 AS 37.15.560 - 37.15.605, including the costs of issuance and administration as  
25 defined in AS 37.15.605;

26 (2) shall spend money from the Alaska clean water fund to pay

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

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

1 \* **Sec. 8.** AS 46.03.032(g) is amended to read:

2 (g) A municipality **or other qualified entity** wishing to borrow money from the  
3 Alaska clean water fund shall demonstrate to the satisfaction of the department that **it**  
4 **[THE MUNICIPALITY]**

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

7 (2) will establish and maintain a dedicated source of revenue or other  
8 acceptable revenue source for repayment of the loan **and sufficient reserves for the**  
9 **loan as may be necessary.**

10 \* **Sec. 9.** AS 46.03.032(j) is amended to read:

11 (j) **Except as necessary to comply with the covenants of a bond resolution**  
12 **under AS 37.15.573, a** [A] loan made by the department shall be made according to the  
13 standards, criteria, and procedures established by regulations under this section. **A loan**  
14 **made from the Alaska clean water fund may be subject to the state aid intercept**  
15 **provisions of AS 37.15.575. Except as necessary to comply with the covenants of**  
16 **a bond resolution under AS 37.15.573, in** [IN] making a loan from the Alaska clean  
17 water fund for a solid waste management **system** [FACILITY], the department shall give  
18 priority to a project that will alleviate severe health or environmental concerns in the  
19 community or region proposing the **system** [FACILITY]. In addition, the department  
20 may consider

21 (1) the extent of local or regional support for the proposed **system**  
22 [FACILITY]; and

23 (2) the extent to which the applicant can demonstrate that the full range  
24 of solid waste management options has been reasonably considered and that the proposed  
25 **system** [FACILITY] is consistent with the promotion of the solid and hazardous waste  
26 management practices **established in AS 46.06.021** [IN THE FOLLOWING ORDER OF  
27 PRIORITY:

28 (A) WASTE SOURCE REDUCTION;

29 (B) RECYCLING OF WASTE;

30 (C) WASTE TREATMENT; AND

31 (D) WASTE DISPOSAL].

32 \* **Sec. 10.** AS 46.03.032(k) is amended to read:

1 (k) The department shall prepare reports required by the federal government in  
2 conjunction with federal capitalization grant award conditions. **The department shall**  
3 **also prepare reports and notices, including notices of default, required by the state**  
4 **bond committee in conjunction with bonds issued under AS 37.15.560 - 37.15.605.**

5 The department shall also prepare a biennial report on the Alaska clean water fund and  
6 notify the legislature that it is available on or before the first day of each first regular  
7 session of the legislature.

8 \* **Sec. 11.** AS 46.03.032(o) is amended to read:

9 (o) In this section,

10 (1) **"other qualified entity" means an intermunicipal or interstate**  
11 **agency as those terms are used in 33 U.S.C. 1383, and may include an authority,**  
12 **corporation, instrumentality, enterprise, or other entity formed through an**  
13 **agreement between a municipality and one or more other governmental entities**  
14 **under AS 29.35.010(13) or under art. X, sec. 13, Constitution of the State of**  
15 **Alaska, or between a municipality and a regional housing authority under**  
16 **AS 18.55.996(b);**

17 (2) "solid waste management **system** [FACILITY]" includes capital  
18 improvements and equipment used for the purpose of solid and hazardous waste source  
19 reduction, recycling, treatment, or disposal.

20 \* **Sec. 12.** AS 46.03.032 is amended by adding a new subsection to read:

21 (p) Regulations adopted by the department under this section that would affect  
22 issuance or repayment of revenue bonds under AS 37.15.560 - 37.15.605 may not be  
23 inconsistent with those statutes or with regulations adopted by the state bond  
24 committee under those statutes. To the extent that regulations adopted by the  
25 department are inconsistent with AS 37.15.560 - AS 37.15.605, with regulations  
26 adopted by the state bond committee under those statutes, or with the covenants of a  
27 bond resolution adopted under AS 37.15.573, the provisions of AS 37.15.560 -  
28 37.15.605, the regulations adopted under those statutes, and the covenants of the bond  
29 resolution govern.

30 \* **Sec. 13.** The provisions of AS 37.15.583(b), enacted by sec. 2 of this Act, have the effect  
31 of changing Rule 3, Alaska Rule of Civil Procedure by limiting, to the Superior Court for the  
32 State of Alaska, First Judicial District at Juneau, the venue district in which a proceeding

1 under AS 37.15.583(a), enacted by sec. 2 of this Act, may be commenced and conducted.

2 \* **Sec. 14.** The provisions of AS 37.15.583(b), enacted by sec. 2 of this Act, take effect  
3 only if sec. 13 of this Act receives the two-thirds majority vote of each house required by  
4 art. IV, sec. 15, Constitution of the State of Alaska.