

HOUSE BILL NO. 402

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/12/98

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for a Cook Inlet watershed water quality monitoring project
2 tax credit under the Alaska Net Income Tax Act; and providing for an effective
3 date."

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

5 * **Section 1. FINDINGS AND PURPOSE.** (a) The legislature finds that

6 (1) the state's watersheds are valuable resources that warrant careful study and
7 monitoring, and that on-going water quality monitoring projects throughout the state should
8 be encouraged;

9 (2) the effectiveness of an incentive program for private industry to establish
10 voluntary water quality monitoring can be determined by a five-year program limited to one
11 geographic region;

12 (3) the Cook Inlet watershed is unique and valuable, and that Alaskans benefit
13 from the multiple uses of this watershed;

14 (4) scientific study of the Cook Inlet watershed will help to ensure that future

1 generations will enjoy continued benefits from the watershed;

2 (5) understanding of the watershed will be greatly enhanced by additional
3 information regarding water quality and factors affecting water quality;

4 (6) additional water quality monitoring will provide a public benefit;

5 (7) private industry is in a position to assist state government in acquiring
6 water quality information; and

7 (8) a single private entity has little incentive to invest in a voluntary water
8 quality monitoring project in the Cook Inlet watershed.

9 (b) The purpose of this Act is to provide the incentive to private industry to conduct
10 necessary monitoring beyond that required for compliance purposes by providing a tax credit
11 against the Alaska net income tax for an investment in a qualified water quality monitoring
12 project in the Cook Inlet watershed.

13 * **Sec. 2.** AS 43.20 is amended by adding a new section to article 1 to read:

14 **Sec. 43.20.048. Cook Inlet watershed water quality monitoring project**
15 **credit.** (a) A taxpayer may claim a tax credit of 60 percent of its qualified
16 expenditures in the state in a year beginning after December 31, 1998 and before
17 January 1, 2004 for a qualified Cook Inlet watershed water quality monitoring project
18 that was in operation in the state after December 31, 1998 and before January 1, 2004,
19 as evidenced in a certification of qualified expenditures for the project issued to the
20 taxpayer by the Department of Environmental Conservation under AS 46.03.095.

21 (b) The tax credit allowed under this section, in combination with any carry
22 forward of unused credit under (c) of this section,

23 (1) may not exceed the lesser of \$100,000 or 50 percent of the
24 taxpayer's tax liability, per year; and

25 (2) notwithstanding any other provision of this title, shall be taken
26 before all other credits allowed by this title.

27 (c) An unused tax credit under this section may be carried forward and applied
28 against the taxpayer's tax liability in a subsequent tax year, except that the unused
29 credit may not be carried forward to a tax year beginning after December 31, 2006.

30 (d) Expenditures for which a credit is claimed under this section may not be
31 considered for any other credit under this title.

1 (e) A taxpayer in arrears in the payment of a tax levied in this title or in any
2 payment required by AS 23.20 or AS 23.30 is not entitled to a credit under this
3 section. For purposes of this subsection, a taxpayer is not in arrears if the payment
4 is under an administrative or judicial appeal or is the subject of judicial action.

5 * **Sec. 3.** AS 46.03 is amended by adding a new section to read:

6 **Sec. 46.03.095. Certification of qualified expenditures for Cook Inlet**
7 **watershed water quality monitoring projects.** (a) For purposes of the tax credit
8 allowed under AS 43.20.048, a corporation may apply to the department for
9 certification of qualified expenditures by the corporation in the preceding year for a
10 qualified Cook Inlet watershed water quality monitoring project. With the application,
11 the corporation shall submit verification, as required by the department, that the

12 (1) project is a qualified project under (c) of this section;

13 (2) expenditures for which certification is sought were qualified
14 expenditures; and

15 (3) project operations were begun in the state after December 31, 1998
16 and before January 1, 2004.

17 (b) The department shall issue to an applicant corporation a certification of
18 qualified expenditures for a project if the department determines that

19 (1) the project is a qualified project under (c) of this section;

20 (2) the corporation's expenditures for which certification is sought were
21 qualified expenditures; and

22 (3) project operations were begun in the state after December 31, 1998
23 and before January 1, 2004.

24 (c) For purposes of this section, a project is a qualified project if

25 (1) the department approved the project's design before the project's
26 implementation;

27 (2) the project will contribute information identified as being necessary
28 by the water quality monitoring plan for the Cook Inlet watershed maintained by the
29 department or the project provides other monitoring determined necessary by the
30 department;

31 (3) the department determines that the project consisted entirely or

1 primarily of water quality monitoring not required by a statute, regulation, lease,
2 stipulation, permit, court or administrative order, or other legal requirement;

3 (4) all water quality monitoring under the project was conducted using
4 generally accepted quality control procedures as approved by the department;

5 (5) the corporation has agreed to treat all information generated by the
6 project as public information, subject to public disclosure, and to make the information
7 available for public inspection, upon request, during normal business hours; and

8 (6) the project complies with regulations adopted by the department
9 under this section.

10 (d) If a corporation has been issued an initial certification of qualified
11 expenditures under this section for a project and operations under that project continue
12 into a succeeding year, the corporation may apply for a subsequent certification of
13 qualified expenditures for the project. The department shall issue a subsequent
14 certification of qualified expenditures for a continuing project under this subsection if
15 the requirements of this section and regulations adopted under this section continue to
16 be met. However, even if the requirements of this section and regulations adopted
17 under this section are met at the time of application under this subsection, the
18 department may deny subsequent certification under this subsection if the department
19 finds that the project was not operated in compliance with the requirements of this
20 section and regulations adopted under this section in the preceding year.

21 (e) The department may not approve project design for more than six proposed
22 projects in a calendar year.

23 (f) In reviewing a proposed project's design or in making a determination
24 under (b) of this section, the department may request from an advisory group with
25 expertise in water quality projects

26 (1) an evaluation of and recommendation concerning the proposed
27 project's design; or

28 (2) an evaluation of and recommendation concerning a corporation's
29 application for certification under this section.

30 (g) The department may adopt regulations to implement this section, including
31 regulations that

1 (1) establish standards for approving a proposed project's design and
2 for limiting the number of approvals as required by (e) of this section;

3 (2) establish additional standards that must be met in order for a project
4 to be considered a qualified project;

5 (3) establish application and other fees necessary to cover department
6 costs in administering the certification program;

7 (4) establish application and other procedures, including procedures for
8 requesting department approval of a proposed project's design and for application for
9 a subsequent certification under (d) of this section;

10 (5) establish the forms of verification of qualified expenditures that
11 must be submitted with an application under (a) or (d) of this section.

12 (h) In this section,

13 (1) "direct expenditures"

14 (A) includes providing financing to a third party so long as that
15 financing was used entirely to carry out the project or a portion of the project;

16 (B) does not include overhead costs;

17 (2) "project" means a Cook Inlet watershed water quality monitoring
18 project; and

19 (3) "qualified expenditures" means direct expenditures made

20 (A) in the state in the preceding year for water quality
21 monitoring that was not required by a statute, regulation, lease, stipulation,
22 permit, court or administrative order, or other legal requirement; and

23 (B) after December 31, 1998 and before January 1, 2004.

24 * **Sec. 4.** If a court enters a final judgment declaring the credit provided in this Act to be
25 unconstitutional, secs. 2 and 3 of this Act are repealed effective December 31, 1998 and all
26 credits shall be denied and recovered by assessment to the extent allowed by law.

27 * **Sec. 5.** Sections 1 - 3 of this Act are repealed.

28 * **Sec. 6.** APPLICABILITY. This Act applies to tax years beginning after December 31,
29 1998.

30 * **Sec. 7.** TRANSITION: REGULATIONS. Notwithstanding sec. 9 of this Act, the
31 Department of Revenue and the Department of Environmental Conservation may proceed to

1 adopt regulations to implement their respective provisions in this Act. The regulations take
2 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of
3 secs. 1 - 3 of this Act.

4 * **Sec. 8.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

5 * **Sec. 9.** Section 1 - 4 and 6 of this Act take effect January 1, 1999.

6 * **Sec. 10.** Section 5 of this Act takes effect January 1, 2007.