

HOUSE BILL NO. 421

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced: 2/13/02
Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to water use and appropriation."**

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

3 * **Section 1.** AS 46.15.020(b)(2) is amended to read:

4 (2) **develop and maintain a standardized procedure for processing**
5 **applications and the issuance of authorizations, permits, and certifications under**
6 **this chapter; shall** keep a public record of all applications for permits and certificates
7 and other documents filed in the commissioner's office; [AND] shall record all permits
8 and certificates and amendments and orders affecting them and shall index them in
9 accordance with the source of the water and the name of the applicant or appropriator;
10 **and shall make the record of applications, authorizations, permits, certificates,**
11 **amendments, and orders affecting them available to the public on the Internet;**

12 * **Sec. 2.** AS 46.15.035 is amended by adding a new subsection to read:

13 (f) A use of water in which water is removed from a water source within a
14 hydrologic unit and is returned to a water body into which that water source ultimately
15 discharges is not a removal of water under this section.

1 * **Sec. 3.** AS 46.15.080 is amended by adding a new subsection to read:

2 (c) Notwithstanding (b) of this section, the commissioner shall find that a
3 proposed use or appropriation of water is beneficial and in the public interest if

4 (1) the use or appropriation involves the transformation of the water
5 from a liquid state to a solid state and, after its use, the water is transformed back to a
6 liquid state and a substantial portion of the water then returns, whether by natural or
7 other means, to the hydrologic unit from which it was removed or to a water body into
8 which that hydrologic unit ultimately discharges; and

9 (2) the commissioner has consulted with the commissioners of fish and
10 game and environmental conservation concerning the use or appropriation.

11 * **Sec. 4.** AS 46.15.090 is amended to read:

12 **Sec. 46.15.090. Preference in granting permits.** When there are competing
13 applications for water from the same source [,] and the source is insufficient to supply
14 all applicants, the commissioner shall give preference first to public water supply,
15 **then to uses that aid the development of natural resources for the economic**
16 **benefit of the state,** and then to the use that, alone or in combination with other
17 foreseeable uses, will constitute the most beneficial use.

18 * **Sec. 5.** AS 46.15.133(a) is amended to read:

19 (a) If the commissioner proposes a sale of water **under AS 46.15.037** or
20 receives an application for **removal of water under AS 46.14.035 or** appropriation **of**
21 **water** [OR REMOVAL], the commissioner shall prepare a notice containing the
22 location and extent of the proposed sale, appropriation, or removal, the name and
23 address of the applicant, if applicable, and other information the commissioner
24 considers pertinent. The notice shall state that, within 15 days of publication or
25 service of notice, persons may file with the director written objections, stating the
26 name and address of the objector, and any facts tending to show that rights of the
27 objector or the public interest would be adversely affected by the proposed sale,
28 appropriation, or removal.

29 * **Sec. 6.** AS 46.15.133(f) is amended to read:

30 (f) The commissioner may, by regulation, [DESIGNATE TYPES OF
31 APPROPRIATIONS THAT ARE EXEMPT FROM THIS SECTION AND] provide

1 simplified procedures for ruling on [THE] applications **for uses or appropriations**
 2 **described under AS 46.15.080(c) and for other applications for uses or**
 3 **appropriations of water for preferred uses under AS 46.15.090.** The
 4 commissioner may not **provide simplified procedures for** [EXEMPT UNDER THIS
 5 SUBSECTION] appropriations for removal under AS 46.15.035, appropriations by the
 6 state for sale or sales by the state under AS 46.15.037, or removals of water under
 7 AS 46.15.035 and 46.15.037.

8 * **Sec. 7.** AS 46.15.150(a) is amended to read:

9 (a) An applicant who asserts and proves a preferred use shall be granted a
 10 permit and shall be granted preference over other appropriators. A preferred use of
 11 water is for a public water supply **or to facilitate the development of natural**
 12 **resources for the economic benefit of the state.**

13 * **Sec. 8.** AS 46.15.155(a) is amended to read:

14 (a) Notwithstanding any contrary provision of this chapter, the commissioner
 15 may authorize the temporary use of a significant amount of water, as determined by
 16 the department by regulation, for a period of time not to exceed five consecutive years,
 17 if the water applied for has not been appropriated in accordance with this chapter **and**
 18 **the authorization for use does not involve the sale of water under AS 46.15.037 or**
 19 **the removal of water under AS 46.15.035.**

20 * **Sec. 9.** AS 46.15.155 is amended by adding a new subsection to read:

21 (j) The commissioner may authorize the emergency temporary use of water if
 22 the commissioner finds that (1) the temporary use of water is needed immediately or
 23 within one week of the application; (2) the temporary use of water will not continue
 24 for more than one week following the authorization; (3) the need for the temporary use
 25 of water was not reasonably foreseeable by the applicant; and (4) notice of the
 26 temporary use of water is provided to the Department of Fish and Game and the
 27 Department of Environmental Conservation before the beginning of the temporary use
 28 of water.