

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version:	CSHB 112(FSH)
Fiscal Note Number:	1
(H) Publish Date:	3/27/2015

Identifier: HB112-DOA-OAH-03-13-15  
 Title: REPEAL CFEC; TRANSFER FUNCTIONS TO ADFG  
 Sponsor: STUTES  
 Requester: House Fisheries

Department: Department of Administration  
 Appropriation: Centralized Administrative Services  
 Allocation: Office of Administrative Hearings  
 OMB Component Number: 2771

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Services	61.9		45.4	45.4	45.4	45.4	45.4
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>61.9</b>	<b>0.0</b>	<b>45.4</b>	<b>45.4</b>	<b>45.4</b>	<b>45.4</b>	<b>45.4</b>

## Fund Source (Operating Only)

1007 I/A Rcpts	61.9		45.4	45.4	45.4	45.4	45.4
<b>Total</b>	<b>61.9</b>	<b>0.0</b>	<b>45.4</b>	<b>45.4</b>	<b>45.4</b>	<b>45.4</b>	<b>45.4</b>

## Positions

Full-time							
Part-time							
Temporary							

## Change in Revenues

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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2016) 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 If yes, by what date are the regulations to be adopted, amended or repealed?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.

Prepared By: Chris Kennedy, Deputy Chief Administrative Law Judge  
 Division: Office of Administrative Hearings  
 Approved By: Sheldon Fisher, Commissioner  
 Agency: Department of Administration

Phone: (907)269-8170  
 Date: 03/14/2015 09:30 AM  
 Date: 03/14/2015

STATE OF ALASKA  
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**Analysis**

This bill would abolish the Commercial Fisheries Entry Commission (CFEC), transferring most of its functions to a new commercial fisheries entry division in the Department of Fish and Game (ADFG). Under section 122 of the bill, CFEC employees, including adjudicatory staff, would become employees of the Department of Fish and Game upon the effective date of the act.

Section 20 of the bill provides that all adjudicatory proceedings under AS 16.43 shall be conducted by the Office of Administrative Hearings (OAH). In assessing the cost of conducting this work, OAH has made the following findings and assumptions:

(1) Section 121 of the bill provides that litigation and hearings pending at the time the act becomes effective "may be continued and completed." OAH understands that that the continuing litigation and hearings pending would be completed under the jurisdiction of OAH and ADFG.

(2) Based on discussions with CFEC, OAH understands that hearings have already been completed in all 28 of the commission's pending initial permit cases; that proposed decisions have already been written by the CFEC hearing officer in 22 of the 28, and that the hearing officer will draft the remaining six decisions prior to the earliest anticipated effective date of the transfer. In preparing this fiscal note, OAH has assumed that these initial permit cases would be fully resolved by CFEC prior to transfer, or, if not, that final decisionmaking authority over any remaining cases would reside within ADFG and that any further assistance to the final decisionmaker would be furnished by ADFG personnel (potentially to include transferred personnel) or by the Department of Law. If final decision authority regarding some or all of these 28 cases were instead transferred to OAH, the resources needed would be somewhat greater.

(3) OAH finds that the majority of the work done by the CFEC hearings staff is work of a nature that traditionally, in the context of other administrative proceedings in Alaska, is not regarded as adjudicatory. OAH has confirmed that ADFG would not seek to assign such work to OAH by regulation.

(4) OAH has confirmed that ADFG would, by regulation, adopt a traditional model for adjudication of contested appeals.

(5) CFEC has not limited a commercial fishery in ten years. OAH has verified that ADFG does not presently envision that it would limit a commercial fishery during the time horizon of this fiscal note. Were such a limitation to occur, it could significantly increase the adjudicatory workload.

Based on discussions with CFEC regarding appeal rates over the last two years, OAH projects that it would be necessary to adjudicate cases in approximately the following numbers per year: 5 temporary transfer cases, 5 permanent transfer cases, and 11 miscellaneous hearings (includes reinstatements, district boundary changes, fee refunds, merit/demerit matters, and enforcement hearings). OAH projects that this work would require 275 billable administrative law judge (ALJ) hours per year, together with approximately 100 hours of ALJ time for consultation, training, and setup in the first year. Costs have been projected above using OAH's approved cost allocation rate of \$165 per hour.

OAH is presently operating at or beyond capacity. The additional hearing load of this work alone would not support the creation of a new full-time administrative law judge position. In the absence of a new PCN, OAH will instead contract out hearing responsibilities to contractors as appropriate.