

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	HB 119
Fiscal Note Number:	3
(H) Publish Date:	4/8/2015

Identifier: HB119-DNR-MLW-3-31-15
 Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
 MINE
 Sponsor: JOSEPHSON
 Requester: House FSH

Department: Department of Natural Resources
 Appropriation: Fire Suppression, Land & Water Resources
 Allocation: Mining, Land & Water
 OMB Component Number: 3002

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
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services			10.0		250.0	250.0	250.0
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	10.0	0.0	250.0	250.0	250.0

Fund Source (Operating Only)

1004 Gen Fund			10.0		250.0	250.0	250.0
Total	0.0	0.0	10.0	0.0	250.0	250.0	250.0

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? Yes
 If yes, by what date are the regulations to be adopted, amended or repealed? 06/30/17

Why this fiscal note differs from previous version:

Not applicable, initial version.

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Division:	Mining, Land & Water	Date:	03/31/2015 12:00 AM
Approved By:	Mark Myers, Commissioner	Date:	03/31/15
Agency:	Department of Natural Resources		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This analysis assumes that the bill requires one finding/report process (under proposed AS 38.05.142(d)) at the initiation of each individual large-scale metallic sulfide mining operation, prior to final legislative authorization. Then a “revised” finding/report process (under proposed AS 38.05.142(e)) is required to be submitted to the legislature every time significant changes are made to the previously authorized permit/authorization or there is a “significantly different” new permit, but there is no further legislative approval process.

Under Sec. 2, The Department of Natural Resources (DNR) would be required to develop an independent finding that the applicant for a large-scale metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the proposed mine does not constitute a danger to the fisheries.

After the potentially lengthy judicial review process, which may include a review of whether DNR adequately complied with the requirements of proposed AS 38.05.142(d)(1), DNR would be required to prepare a report to the legislature that contains each of the findings prepared by DNR, the Department of Environmental Conservation (DEC) and the Department of Fish and Game (ADF&G). A report under this section would be subject to requirements for an undefined “interagency public process”, an undefined “peer review” process and an opportunity for the public to comment on the report.

DNR anticipates that because it is required to prepare an independent finding for each mine under proposed AS 38.05.142(d)(1) without the assistance of DEC or ADF&G, and because DNR does not employ subject matter experts in fisheries or water quality, that DNR will be required to contract for private subject matter experts in these fields to complete those elements of the finding. Further, DNR does not know how many or when such mines may be initiated within the watershed, or when revisions to the reports under proposed AS 38.05.142(e) will be required over time. To contract for these services DNR anticipates the need for at least \$150.0 per year to have the capacity to prepare the required findings and reports. It is uncertain when this would begin, however it is likely that it would take at least two years minimum to go through the permitting and there may be judicial review beyond that. Therefore the expected cost incurred will not begin until FY2019.

DNR also anticipates that legal challenges to its permitting decisions will increase in number and scope as a result of the proposed legislation, particularly in defense of whether DNR has adequately met the undefined requirements of proposed AS 38.05.142(d)(1). To address the increased costs to defend its findings under proposed AS 38.05.142(d)(1), DNR anticipates at least \$100.0 will be required annually to provide minimal funding for the Department of Law to respond to these challenges.

Proposed AS 38.05.142(b) requires DNR to adopt regulations to implement this section of law. Although there is no due date, it is anticipated that we would have to hire a contractor to help craft and promulgate these regulations by the end of FY2017.