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Referred: Health, Education & Social Services
and Finance

1 IN THE SENATE

BY COGHILL, ABOOD AND DEVRIES

2

SENATE BILL NO. 220

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act abolishing the Department of Environmental Conservation, transferring functions to other departments and repealing the Environmental Procedures Coordination Act; and providing for an effective date."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. AS 03.15.020 is amended to read:

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Sec. 03.15.020. PURPOSE OF APPROPRIATIONS. Appropriations

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available to the department [DEPARTMENT OF NATURAL RESOURCES OR TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION] may be used

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(1) to buy materials or equipment needed to control agricultural pests when the persons directly affected cannot bear the total cost and the pest is one that is or may become a public problem;

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(2) to charter or hire on a custom basis equipment and operators necessary for pest-control work when the persons directly affected cannot provide the service and the pest is one that is or may become a public problem;

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(3) to match federal indemnity payments to livestock owners for livestock slaughtered under any cooperating livestock health program;

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(4) to maintain a supply of vaccines, serums and chemicals needed for emergency pest control, that are not commercially available in the state.

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* Sec. 2. AS 03.53.010(c) is amended to read:

1 (c) The following persons are authorized to enforce the provi-
2 sions of this section:

3 (1) the commissioner [OF ENVIRONMENTAL CONSERVATION];

4 (2) a state employee authorized by the commissioner [OF
5 ENVIRONMENTAL CONSERVATION].

6 * Sec. 3. AS 16.10.010 is amended to read:

7 Sec. 16.10.010. INTERFERENCE WITH SALMON SPAWNING STREAMS AND
8 WATERS. A person may not

9 (1) obstruct, divert or pollute waters of the state, either
10 fresh or salt, utilized by salmon in the propagation of the species,
11 by felling trees or timber in those waters, casting, passing, throwing
12 or dumping any tree limbs or foliage, underbrush, stumps, rubbish,
13 earth, stones, rock or other debris, or passing or dumping sawdust,
14 planer shavings, or other waste or refuse of any kind in those waters;

15 (2) erect a dam, barricade or obstruction to retard, con-
16 serve, impound or divert these waters to prevent, retard or interfere
17 with the free ingress or egress of salmon into these waters in the
18 natural spawning or propagation process;

19 (3) render the waters inaccessible or uninhabitable for
20 salmon for that purpose without first applying for and obtaining a
21 permit or license from the Department of Natural Resources; the
22 [ENVIRONMENTAL CONSERVATION. THE] application shall set out the name
23 and style of the person or concern, describe the waters and location,
24 and state in particular the plans, purpose and intention for which the
25 application is made.

26 * Sec. 4. AS 17.07.200(1) is amended to read:

27 (1) "department" means the Department of Health and Social
28 Services [ENVIRONMENTAL CONSERVATION];

29 * Sec. 5. AS 17.20 is amended by adding a new section to read:

1 Sec. 17.20.365. ENFORCEMENT AUTHORITY. The commissioner is
2 responsible for enforcing this chapter and may delegate that authority
3 as appropriate. This section does not limit the authority of peace
4 officers.

5 * Sec. 6. AS 17.20.370 is amended by adding new paragraphs to read:

6 (14) "commissioner" means the commissioner of health and
7 social services;

8 (15) "department" means the Department of Health and Social
9 Services.

10 * Sec. 7. AS 18.05.040(a) is amended to read:

11 (a) The commissioner shall adopt [, REPEAL AND AMEND RULES AND]
12 regulations consistent with existing law for

13 (1) the definition, reporting and control of diseases of
14 public health significance;

15 (2) [REPEALED

16 (3) REPEALED

17 (4)] cooperation with local boards of health and health
18 officers;

19 (3) [(5)] protection and promotion of the public health
20 and prevention of disability and mortality;

21 [(6) REPEALED]

22 (4) [(7)] the transportation of dead bodies;

23 [(8) REPEALED

24 (9) REPEALED

25 (10) REPEALED

26 (11) REPEALED

27 (12) REPEALED]

28 (5) [(13)] carrying out the purposes of this chapter;

29 (6) [(14)] the conduct of its business and for carrying

1 out the provisions of laws of the United States and the state relating
2 to public health;

3 (7) [(15)] establishing the divisions and local offices
4 and advisory groups necessary or considered expedient to carry out or
5 assist in carrying out a duty or power assigned to it;

6 [(16) REPEALED]

7 (8) [(17)] the voluntary certification of laboratories to
8 perform diagnostic, quality control, or enforcement analyses or
9 examinations based on recognized or tentative standards of performance
10 relating to analysis and examination of food to include seafood, milk,
11 water, and specimens from human beings submitted by licensed
12 physicians and nurses for analysis;

13 (9) [(18)] the regulation of quality and purity of
14 commercially compressed oxygen sold for human respiration;

15 [(19) THE NOTIFICATION OF ENGAGEMENT OR RELEASE OF A
16 PHYSICIAN ASSISTANT BY PERSONS UNDER AS 08.64.170(b)]

17 (10) the prevention and control of public health nuisances;

18 (11) regulation of sanitation and sanitary practices in the
19 public health;

20 (12) standards of cleanliness and sanitation in connection
21 with the construction, operation and maintenance of a camp, cannery,
22 food handling establishment, food manufacturing plant, mattress
23 manufacturing establishment, industrial plant, school, barber shop,
24 hairdressing or cosmetology establishment, soft drink dispensaries,
25 and for other similar establishments in which lack of sanitation may
26 create a condition causative of disease.

27 * Sec. 8. AS 18.35.365 is amended to read:

28 Sec. 18.35.365. DEFINITIONS. In this chapter unless the context
29 otherwise requires [AS 18.35.300 - 18.35.365],

1 (1) "commissioner" means commissioner of health and social
2 services [ENVIRONMENTAL CONSERVATION];

3 (2) "department" means the Department of Health and Social
4 Services [ENVIRONMENTAL CONSERVATION].

5 * Sec. 9. AS 29.18.310(a) is amended to read:

6 (a) The division of planning and research, in conjunction with
7 the Departments of Community and Regional Affairs and [,] Natural
8 Resources [, AND ENVIRONMENTAL CONSERVATION] and other departments as
9 determined appropriate by the division of planning and research, shall
10 review the preliminary planning and additional data may be requested.

11 * Sec. 10. AS 29.18.310(c) is amended to read:

12 (c) During the course of planning toward completion of the basic
13 comprehensive development plan the division of planning and research
14 and the Department of Community and Regional Affairs shall be kept
15 currently informed and the final plan shall be subject to review and
16 recommendation by the division of planning and research, which shall
17 act in its coordinating capacity to secure review by the Department of
18 Natural Resources [ENVIRONMENTAL CONSERVATION] and other state
19 agencies as appropriate.

20 * Sec. 11. AS 29.18.360 is amended to read:

21 Sec. 29.18.360. POWERS AND DUTIES OF COUNCIL. During the devel-
22 opment stage the council of a development city may

23 (1) exercise the powers and duties of a school board if the
24 city is located outside an organized borough;

25 (2) exercise the powers and duties of a planning commission
26 under AS 29.33.080, except that during the first five years or until
27 the development city has 400 permanent residents, zoning and zoning
28 changes will be reviewed and approved by the division of planning and
29 research and the Department of Natural Resources [ENVIRONMENTAL

1 CONSERVATION].

2 * Sec. 12. AS 38.35.230(2) is amended to read:

3 (2) "coordinate agencies" includes Department of Labor,
4 Department of Transportation and Public Facilities, Department of
5 Natural Resources [ENVIRONMENTAL CONSERVATION], and the Alaska Public
6 Utilities Commission;

7 * Sec. 13. AS 41.17.010 is amended to read:

8 Sec. 41.17.010. DECLARATION OF INTENT. The legislature declares
9 that

10 (1) the forest resources of Alaska are among the most
11 valuable natural resources of the state, and furnish timber and wood
12 products, fish and wildlife, tourism, outdoor recreation, water, soil,
13 air, minerals, and general health and welfare;

14 (2) economic enterprises and other activities and pursuits
15 derived from forest resources warrant the continuing recognition and
16 support of the state;

17 (3) the state has a fundamental obligation to insure that
18 management of forest resources guarantees perpetual supplies of renew-
19 able resources, provides nonrenewable resources in a manner consistent
20 with that obligation, and serves the needs of all Alaska for the many
21 products, benefits, and services obtained from them;

22 (4) government administration of forest resources should
23 combine professional management services, regulatory measures, and
24 economic incentives in a complementary fashion, and should draw upon
25 the expertise of professional foresters in conjunction with other
26 disciplines;

27 (5) under the leadership of the Department of Natural
28 Resources [ENVIRONMENTAL CONSERVATION], the state should exercise its
29 full responsibility and authority for control of nonpoint source

1 pollution with respect to the Federal Water Pollution Control Act, as
2 amended;

3 (6) subject to 16 U.S.C. 1456(f) (sec. 307(f) of the
4 Coastal Zone Management Act of 1972, P.L. 92-583), the provisions of
5 this chapter shall be the basis for forest management standards,
6 policies, and guidelines developed under the Alaska Coastal Management
7 Act.

8 * Sec. 14. AS 41.17.055(d) is amended to read:

9 (d) The commissioner may develop proposed regulations under this
10 chapter as part of the state program for control of nonpoint source
11 pollution under the Federal Water Pollution Control Act, as amended [,
12 AND SHALL SEEK TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE COMMIS-
13 SION OF ENVIRONMENTAL CONSERVATION FOR THAT PURPOSE. HOWEVER, THE
14 DEPARTMENT OF ENVIRONMENTAL CONSERVATION IS THE LEAD AGENCY FOR WATER
15 QUALITY AND CONTROL OF NONPOINT SOURCE POLLUTION UNDER THAT ACT, AND
16 THE REGULATIONS AND COOPERATIVE AGREEMENT ARE THEREFORE SUBJECT TO THE
17 ADVANCE APPROVAL OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION].

18 * Sec. 15. AS 41.17.950(2) is amended to read:

19 (2) "broadcast chemicals" includes pesticides, herbicides,
20 fungicides, fertilizers, poisons, and any other substances

21 (A) used for silvicultural management or related
22 purposes;

23 (B) not native to the ecosystem in which they are
24 being applied; and

25 (C) having a foreseeable adverse impact on the welfare
26 of renewable resources, as determined by the commissioner [OF
27 ENVIRONMENTAL CONSERVATION];

28 * Sec. 16. AS 41.21.504(b) is amended to read:

29 (b) Nothing in AS 41.21.500 - 41.21.514 affects the

1 applicability of

2 (1) AS 41.99.010 and AS 16 regarding the responsibilities
3 of the Department of Fish and Game or the Board of Fisheries or the
4 Board of Game;

5 (2) AS 46.03 regarding the responsibilities of the Depart-
6 ment of Natural Resources [ENVIRONMENTAL CONSERVATION]; or

7 (3) AS 44.19.145(a)(11) and AS 46.40.100 regarding the
8 responsibilities of state agencies and municipalities.

9 * Sec. 17. AS 44.07.140(f) is amended to read:

10 (f) The corporation shall submit the facility procurement pro-
11 cess schedule to the capital coordinating committee. The committee
12 consists of the commissioners of transportation and public facilities,
13 public safety, health and social services, [ENVIRONMENTAL CONSERVA-
14 TION,] natural resources, fish and game, labor, commerce and economic
15 development, community and regional affairs, and a representative of
16 the Office of the Governor. The chairman of the committee shall be
17 the commissioner of transportation and public facilities. The commit-
18 tee, with the cooperation of the corporation, shall ensure that sub-
19 missions made by the corporation as required by statute, codes, and
20 regulations are processed expeditiously. The committee and the corpo-
21 ration, or the corporation itself, may propose to the governor revi-
22 sion of procedures, statutes, codes or regulations when necessary to
23 expedite the corporation's work.

24 * Sec. 18. AS 44.37 is amended by adding a new section to read:

25 Sec. 44.37.050. DUTIES OF THE DEPARTMENT WITH RESPECT TO
26 ENVIRONMENTAL CONSERVATION. (a) The Department of Natural Resources
27 shall

28 (1) have primary responsibility for coordination and
29 development of policies, programs and planning related to the

1 environment of the state and of the various regions of the state;

2 (2) have primary responsibility for the adoption and
3 enforcement of regulations setting standards for the prevention and
4 abatement of all water, land, subsurface land and air pollution, and
5 other sources or potential sources of pollution of the environment,
6 including by way of example only, petroleum and natural gas pipelines;

7 (3) promote and develop programs for the protection and
8 control of the environment of the state;

9 (4) take actions that are necessary and proper to further
10 the policy declared in AS 46.03.010;

11 (b) The commissioner shall appoint a director of environmental
12 conservation to carry out the duties imposed by this section.

13 * Sec. 19. AS 44.47.130 is amended to read:

14 Sec. 44.47.130. POWERS AND DUTIES. To promote development of
15 rural areas of the state, the department is authorized to

16 (1) investigate social and economic conditions of rural
17 areas to determine the need to expand economic opportunities and
18 improve living conditions;

19 (2) formulate a coordinated program to broaden and diversi-
20 fy the economic base of rural areas;

21 (3) coordinate administration of emergency relief, surplus
22 food distribution, or other public assistance programs, except the
23 regular relief and assistance programs of the federal government in
24 rural areas;

25 (4) formulate and conduct a program of construction of
26 basic facilities to improve health, welfare and economic security and
27 provide employment and income in the rural areas;

28 (5) promote training and educational programs designed to
29 expand employment opportunities for residents of rural areas;

1 (6) enter into agreements with other state agencies and
2 departments to provide for the distribution in rural communities of
3 surplus electrical power from state-owned power sources located in
4 those communities and to expend funds for this purpose;

5 (7) make grants to communities for bulk fuel storage facil-
6 ities;

7 (8) cooperate with the Department of Natural Resources
8 [ENVIRONMENTAL CONSERVATION] and other agencies to provide technical
9 assistance to communities in the installation, operation and manage-
10 ment of bulk fuel storage facilities.

11 * Sec. 20. AS 44.62.330(a)(27) is amended to read:

12 (27) Department of Health and Social Services [AND DEPART-
13 MENT OF ENVIRONMENTAL CONSERVATION] under the Alaska Food, Drug, and
14 Cosmetic Act (AS 17.20), and Department of Commerce and Economic
15 Development in connection with the licensing of embalmers and funeral
16 directors under AS 08.42.

17 * Sec. 21. AS 44.62.330(a)(30) is amended to read:

18 (30) Department of Health and Social Services [ENVIRONMENTAL
19 CONSERVATION], under AS 18.35.010 - 18.35.090, concerning the regu-
20 lation of tourist and trailer camps, motor courts, and motels

21 * Sec. 22. AS 44.62.330(a)(44) is amended to read:

22 (44) Department of Natural Resources under AS 46.03
23 [ENVIRONMENTAL CONSERVATION], except to the extent that AS 44.62.360 -
24 44.62.400 are inconsistent with the manner in which proceedings are
25 initiated under that chapter [THE PROVISIONS OF AS 46.03]

26 * Sec. 23. AS 44.65.060(a) is amended to read:

27 (a) Except for the Department of Health and Social Services, the
28 Department of Labor, the Department of Natural Resources
29 [ENVIRONMENTAL CONSERVATION], and the Department of Military and

1 Veterans' Affairs, A [NO] state agency may not
2 (1) contract, other than with the Department of Health and
3 Social Services, to have services performed which require expertise in
4 determining or reducing the hazards of radiation; or
5 (2) employ a person whose duties require expertise in
6 determining or reducing the hazards of radiation.
7 * Sec. 24. AS 46.04.120(4) is amended to read:
8 (4) "commissioner" means the commissioner of natural re-
9 sources [ENVIRONMENTAL CONSERVATION];
10 * Sec. 25. AS 46.04.120(6) is amended to read:
11 (6) "department" means the Department of Natural Resources
12 [ENVIRONMENTAL CONSERVATION];
13 * Sec. 26. AS 46.06.150(2) is amended to read:
14 (2) "commissioner" means the commissioner of natural re-
15 sources [ENVIRONMENTAL CONSERVATION];
16 * Sec. 27. AS 46.06.150(3) is amended to read:
17 (3) "department" means the Department of Natural Resources
18 [ENVIRONMENTAL CONSERVATION];
19 * Sec. 28. AS 46.07.080(1) is amended to read:
20 (1) "commissioner" means the commissioner of natural re-
21 sources [ENVIRONMENTAL CONSERVATION];
22 * Sec. 29. AS 46.11.060(b) is amended to read:
23 (b) The Department of Natural Resources [ENVIRONMENTAL CONSERVA-
24 TION] shall encourage, through cooperative means, the adoption of all
25 available and practicable methods throughout federal, state and local
26 governments which recycle, reuse and conserve materials.
27 * Sec. 30. AS 46.15.020(b) is amended to read:
28 (b) The commissioner shall
29 (1) adopt procedural and substantive regulations to carry

1 out the provisions of this chapter, taking into consideration the
2 responsibilities of the Department of Natural Resources [ENVIRONMENTAL
3 CONSERVATION] under AS 46.03 and the Department of Fish and Game under
4 AS 16;

5 (2) keep a public record of all applications for permits
6 and certificates and other documents filed in the commissioner's [HIS]
7 office; and shall record all permits and certificates and amendments
8 and orders affecting them and shall index them in accordance with the
9 source of the water and the name of the applicant or appropriator;

10 (3) cooperate with, assist, advise and coordinate plans
11 with the federal, state and local agencies in matters relating to the
12 appropriation, use, conservation, quality, disposal or control of
13 waters and activities related thereto;

14 (4) prescribe fees or service charges for any public ser-
15 vice rendered.

16 * Sec. 31. AS 46.15.040(c) is amended to read:

17 (c) All applications to the commissioner for a permit to appro-
18 priate water, filed subsequent to July 1, 1966, and before July 1,
19 1985, shall be considered as having been simultaneously filed with the
20 Department of Fish and Game under AS 16 and the Department of
21 Environmental Conservation under AS 46.03. Applications for a permit
22 to appropriate water, filed on or after July 1, 1985, are considered
23 as having been simultaneously filed with the Department of Fish and
24 Game under AS 16.

25 * Sec. 32. AS 46.15.133(b) is amended to read:

26 (b) The commissioner shall publish the notice at the applicant's
27 expense in one issue of a newspaper of general distribution in the
28 area of the state in which the water is to be appropriated. The com-
29 missioner shall also have notice served personally or by certified

1 mail upon an appropriator of water or applicant for or holder of a
2 permit who, according to the records of the Department of Natural
3 Resources [DIVISION OF LANDS], may be affected by the proposed
4 appropriation and may serve notice upon any governmental agency,
5 political subdivision or person; notice shall also be served upon the
6 Department of Fish and Game [AND THE DEPARTMENT OF ENVIRONMENTAL
7 CONSERVATION].

8 * Sec. 33. AS 46.15.190 is amended to read:

9 Sec. 46.15.190. THE WATER RESOURCES BOARD. There is created the
10 Water Resources Board composed of seven members having a general
11 knowledge of the use and requirements for use of the waters of the
12 state and the conservation and protection thereof. The [, AND THE]
13 commissioner of natural resources [ENVIRONMENTAL CONSERVATION] or the
14 commissioner's [HIS] designee shall serve as an additional, ex officio
15 member serving without a vote. The commissioner of natural resources
16 shall act as the executive secretary of the board, and shall provide
17 clerical staff for the board. Members of the board are appointed by
18 the governor, subject to confirmation by a majority of the members of
19 the legislature in joint session.

20 * Sec. 34. AS 46.45.020 is amended to read:

21 Sec. 46.45.020. IMPLEMENTATION. The commissioner of health and
22 social services [ENVIRONMENTAL CONSERVATION] may adopt regulations and
23 do all things necessary or incidental to the carrying out of the
24 Northwest Interstate Compact on Low-Level Radioactive Waste Manage-
25 ment.

26 * Sec. 35. TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF NATURAL RE-
27 SOURCES. The inspection and enforcement functions currently being per-
28 formed by the Department of Environmental Conservation under AS 03.05,
29 AS 03.45, AS 41.17, AS 46.03, AS 46.06, AS 46.15, AS 46.16, and AS 46.30

1 are transferred to the Department of Natural Resources.

2 * Sec. 36. TRANSFER OF FUNCTIONS TO DEPARTMENT OF HEALTH AND SOCIAL
3 SERVICES. The inspection and enforcement functions currently being per-
4 formed by the Department of Environmental Conservation under AS 17.05,
5 AS 17.20, AS 18.05, AS 18.35, and AS 18.45 are transferred to the Depart-
6 ment of Health and Social Services.

7 * Sec. 37. TRANSITION. All litigation, hearings, investigations and
8 other proceedings pending under a law amended or repealed by this Act, or
9 in connection with functions transferred by this Act, continue in effect
10 and may be continued and completed notwithstanding a transfer or amendment
11 or repeal provided for in this Act. Certificates, orders, and regulations
12 issued or adopted under authority of a law amended or repealed by this Act
13 remain in effect for the term issued, or until revoked, vacated, or other-
14 wise modified under the provisions of this Act. All contracts, rights,
15 liabilities, and obligations created by or under a law amended or repealed
16 by this Act, and in effect on July 1, 1985, remain in effect notwithstand-
17 ing this Act's taking effect. Records, equipment, and other property of
18 agencies of the state whose functions are transferred under this Act shall
19 be transferred commensurate with the provisions of this Act.

20 * Sec. 38. NAME CHANGE. To be consistent with the changes made by this
21 Act, wherever in the Alaska Statutes and in regulations adopted under those
22 statutes "Department of Environmental Conservation" and other terms identi-
23 fying the department are used, they must be read as referring to the appro-
24 priate department under the provisions of this Act. Under AS 01.05.031,
25 the revisor of statutes shall implement this section in the statutes and
26 under AS 44.62.125(b)(6), the regulations attorney shall implement this
27 section in the administrative regulations.

28 * Sec. 39. The following are repealed: AS 03.05.020(b), 03.05.035(d),
29 03.05.040(b), 03.05.050(b), 03.05.060(b), 03.05.070(b), 03.05.080(b);

1 AS 03.25.250; AS 17.20.072, 17.20.075, 17.20.135, 17.20.152, 17.20.155,
2 17.20.172, 17.20.175, 17.20.290(b), 17.20.290(c); AS 18.35.090(2),
3 18.35.230(1); AS 44.17.005(16); AS 44.19.155(a)(2)(D); AS 44.46; and
4 AS 46.35.

5 * Sec. 40. This Act takes effect July 1, 1985.