

Introduced: 4/10/86
Referred: Resources
and Finance

1 IN THE SENATE

BY COGHILL, ABOOD AND DEVRIES

2

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 220

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act abolishing the Department of Environmental
7 Conservation, transferring functions to other depart-
8 ments and repealing the Environmental Procedures
9 Coordination Act; and providing for an effective
10 date."

11

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

12

* Section 1. AS 03.15.020 is amended to read:

13

Sec. 03.15.020. PURPOSE OF APPROPRIATIONS. Appropriations

14

available to the department [DEPARTMENT OF NATURAL RESOURCES OR TO THE

15

DEPARTMENT OF ENVIRONMENTAL CONSERVATION] may be used

16

(1) to buy materials or equipment needed to control agri-

17

cultural pests when the persons directly affected cannot bear the

18

total cost and the pest is one that is or may become a public problem;

19

(2) to charter or hire on a custom basis equipment and

20

operators necessary for pest-control work when the persons directly

21

affected cannot provide the service and the pest is one that is or may

22

become a public problem;

23

(3) to match federal indemnity payments to livestock owners

24

for livestock slaughtered under any cooperating livestock health

25

program;

26

(4) to maintain a supply of vaccines, serums and chemicals

27

needed for emergency pest control, that are not commercially available

28

in the state.

29

* 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 Fish and Game; the [ENVIRON-
22 MENTAL CONSERVATION. THE] application shall set out the name and
23 style of the person or concern, describe the waters and location, and
24 state in particular the plans, purpose and intention for which the
25 application is made.

26 * Sec. 4. AS 16.10.020 is amended to read:

27 Sec. 16.10.020. GROUNDS FOR PERMIT OR LICENSE. If in the judg-
28 ment of the Department of Fish and Game [ENVIRONMENTAL CONSERVATION],
29 the purpose of the applicant for the permit or license is to develop

1 power, obtain water for civic, domestic, irrigation, manufacturing,
2 mining or other purposes tending to develop the natural resources of
3 the state, the department may grant the permit or license and may
4 require the applicant to construct and maintain adequate fish ladders,
5 fishways or other means by which fish may pass over, around or through
6 the dam, obstruction or diversion in the pursuit of the propagation or
7 spawning process.

8 * Sec. 5. AS 17.07.200(1) is amended to read:

9 (1) "department" means the Department of Natural Resources
10 [ENVIRONMENTAL CONSERVATION];

11 * Sec. 6. AS 17.20 is amended by adding a new section to read:

12 Sec. 17.20.365. ENFORCEMENT AUTHORITY. The commissioner is
13 responsible for enforcing this chapter and may delegate that authority
14 as appropriate. This section does not limit the authority of peace
15 officers.

16 * Sec. 7. AS 17.20.370 is amended by adding new paragraphs to read:

17 (14) "commissioner" means the commissioner of natural
18 resources;

19 (15) "department" means the Department of Natural Resources.

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

21 Sec. 18.35.365. DEFINITIONS. In this chapter, unless the con-
22 text otherwise requires [AS 18.35.300 - 18.35.365],

23 (1) "commissioner" means commissioner of natural resources
24 [ENVIRONMENTAL CONSERVATION];

25 (2) "department" means the Department of Natural Resources
26 [ENVIRONMENTAL CONSERVATION].

27 * Sec. 9. AS 38.35.230(2) is amended to read:

28 (2) "coordinate agencies" includes Department of Labor,
29 Department of Transportation and Public Facilities, Department of Fish

1 and Game [ENVIRONMENTAL CONSERVATION], and the Alaska Public Utilities
2 Commission;

3 * Sec. 10. AS 41.17.010 is amended to read:

4 Sec. 41.17.010. DECLARATION OF INTENT. The legislature declares
5 that

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

10 (2) economic enterprises and other activities and pursuits
11 derived from forest resources warrant the continuing recognition and
12 support of the state;

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

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

23 (5) under the leadership of the Department of Fish and Game
24 [ENVIRONMENTAL CONSERVATION], the state should exercise its full
25 responsibility and authority for control of nonpoint source pollution
26 with respect to the Federal Water Pollution Control Act, as amended;

27 (6) subject to 16 U.S.C. 1456(f) (sec. 307(f) of the
28 Coastal Zone Management Act of 1972, P.L. 92-583), the provisions of
29 this chapter shall be the basis for forest management standards,

1 policies, and guidelines developed under the Alaska Coastal Management
2 Act.

3 * Sec. 11. AS 41.17.055(d) is amended to read:

4 (d) The commissioner may develop proposed regulations under this
5 chapter as part of the state program for control of nonpoint source
6 pollution under the Federal Water Pollution Control Act, as amended,
7 and shall seek to enter into a cooperative agreement with the commis-
8 sioner of fish and game [ENVIRONMENTAL CONSERVATION] for that purpose.
9 However, the Department of Fish and Game [ENVIRONMENTAL CONSERVATION]
10 is the lead agency for water quality and control of nonpoint source
11 pollution under that act, and the regulations and cooperative agree-
12 ment are therefore subject to the advance approval of the commissioner
13 of fish and game [ENVIRONMENTAL CONSERVATION].

14 * Sec. 12. AS 41.17.950(2) is amended to read:

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

17 (A) used for silvicultural management or related
18 purposes;

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

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

24 * Sec. 13. AS 41.21.504(b) is amended to read:

25 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicabil-
26 ity of

27 (1) AS 41.99.010 and AS 16 regarding the responsibilities
28 of the Department of Fish and Game or the Board of Fisheries or the
29 Board of Game;

1 (2) AS 46.03 regarding the responsibilities of the Depart-
2 ment of Fish and Game [ENVIRONMENTAL CONSERVATION]; or

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

5 * Sec. 14. AS 44.07.140(f) is amended to read:

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

20 * Sec. 15. AS 44.37 is amended by adding a new section to read:

21 Sec. 44.37.050. DUTIES OF THE DEPARTMENT WITH RESPECT TO SANITA-
22 TION. The Department of Natural Resources shall adopt regulations for

23 (1) the prevention and control of public health nuisances;

24 (2) regulation of sanitation and sanitary practices in the
25 public health;

26 (3) standards of cleanliness and sanitation in connection
27 with the construction, operation and maintenance of a camp, cannery,
28 food handling establishment, food manufacturing plant, mattress manu-
29 facturing establishment, industrial plant, school, barber shop,

1 hairdressing or cosmetology establishment, soft drink dispensary, and
2 for other similar establishments in which lack of sanitation may
3 create a condition causative of disease.

4 * Sec. 16. AS 44.39.020 is amended by adding a new subsection to read:

5 (b) The department shall

6 (1) have primary responsibility for coordination and devel-
7 opment of policies, programs and planning related to the environment
8 of the state and of the various regions of the state;

9 (2) have primary responsibility for the adoption and en-
10 forcement of regulations setting standards for the prevention and
11 abatement of all water, land, subsurface land and air pollution, and
12 other sources or potential sources of pollution of the environment,
13 including by way of example only, petroleum and natural gas pipelines;

14 (3) promote and develop programs for the protection and
15 control of the environment of the state;

16 (4) take actions that are necessary and proper to further
17 the policy declared in AS 46.03.010.

18 * Sec. 17. AS 44.47.130 is amended to read:

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

21 (1) investigate social and economic conditions of rural
22 areas to determine the need to expand economic opportunities and
23 improve living conditions;

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

26 (3) coordinate administration of emergency relief, surplus
27 food distribution, or other public assistance programs, except the
28 regular relief and assistance programs of the federal government in
29 rural areas;

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

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

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

10 (7) make grants to communities for bulk fuel storage facil-
11 ities;

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

16 * Sec. 18. AS 44.62.330(a)(27) is amended to read:

17 (27) Department of Health and Social Services and Department
18 of Natural Resources [ENVIRONMENTAL CONSERVATION] under the Alaska
19 Food, Drug, and Cosmetic Act (AS 17.20), and Department of Commerce
20 and Economic Development in connection with the licensing of embalmers
21 and funeral directors under AS 08.42.

22 * Sec. 19. AS 44.62.330(a)(30) is amended to read:

23 (30) Department of Natural Resources [ENVIRONMENTAL CONSER-
24 VATION], under AS 18.35.010 - 18.35.090, concerning the regulation of
25 tourist and trailer camps, motor courts, and motels

26 * Sec. 20. AS 44.62.330(a)(44) is amended to read:

27 (44) Department of Fish and Game under AS 46.03 [ENVIRON-
28 MENTAL CONSERVATION], except to the extent that AS 44.62.360 - 44.62.-
29 400 are inconsistent with the manner in which proceedings are

1 initiated under that chapter [THE PROVISIONS OF AS 46.03]

2 * Sec. 21. AS 44.65.060(a) is amended to read:

3 (a) Except for the Department of Health and Social Services, the
4 Department of Labor, the Department of Natural Resources [ENVIRONMEN-
5 TAL CONSERVATION], and the Department of Military and Veterans'
6 Affairs, A [NO] state agency may not

7 (1) contract, other than with the Department of Health and
8 Social Services, to have services performed which require expertise in
9 determining or reducing the hazards of radiation; or

10 (2) employ a person whose duties require expertise in
11 determining or reducing the hazards of radiation.

12 * Sec. 22. AS 46.04.120(4) is amended to read:

13 (4) "commissioner" means the commissioner of fish and game
14 [ENVIRONMENTAL CONSERVATION];

15 * Sec. 23. AS 46.04.120(6) is amended to read:

16 (6) "department" means the Department of Fish and Game
17 [ENVIRONMENTAL CONSERVATION];

18 * Sec. 24. AS 46.06.150(2) is amended to read:

19 (2) "commissioner" means the commissioner of natural re-
20 sources [ENVIRONMENTAL CONSERVATION];

21 * Sec. 25. AS 46.06.150(3) is amended to read:

22 (3) "department" means the Department of Natural Resources
23 [ENVIRONMENTAL CONSERVATION];

24 * Sec. 26. AS 46.07.080(1) is amended to read:

25 (1) "commissioner" means the commissioner of community and
26 regional affairs [ENVIRONMENTAL CONSERVATION];

27 * Sec. 27. AS 46.11.060(b) is amended to read:

28 (b) The Department of Natural Resources [ENVIRONMENTAL CONSERVA-
29 TION] shall encourage, through cooperative means, the adoption of all

1 available and practicable methods throughout federal, state and local
2 governments which recycle, reuse and conserve materials.

3 * Sec. 28. AS 46.15.020(b) is amended to read:

4 (b) The commissioner shall

5 (1) adopt procedural and substantive regulations to carry
6 out the provisions of this chapter, taking into consideration the
7 responsibilities of the Department of [ENVIRONMENTAL CONSERVATION
8 UNDER AS 46.03 AND THE DEPARTMENT OF] Fish and Game under AS 16 and
9 AS 46.03;

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

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

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

21 * Sec. 29. AS 46.15.040(c) is amended to read:

22 (c) All applications to the commissioner for a permit to appro-
23 priate water, filed subsequent to July 1, 1966, and before July 1,
24 1986, shall be considered as having been simultaneously filed with the
25 Department of Fish and Game under AS 16 and the Department of Environ-
26 mental Conservation under AS 46.03. Applications for a permit to
27 appropriate water, filed on or after July 1, 1986, are considered as
28 having been simultaneously filed with the Department of Fish and Game
29 under AS 16.

1 * Sec. 30. AS 46.15.133(b) is amended to read:

2 (b) The commissioner shall publish the notice at the applicant's
3 expense in one issue of a newspaper of general distribution in the
4 area of the state in which the water is to be appropriated. The com-
5 missioner shall also have notice served personally or by certified
6 mail upon an appropriator of water or applicant for or holder of a
7 permit who, according to the records of the Department of Natural
8 Resources [DIVISION OF LANDS], may be affected by the proposed appro-
9 priation and may serve notice upon any governmental agency, political
10 subdivision or person; notice shall also be served upon the Department
11 of Fish and Game [AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION].

12 * Sec. 31. AS 46.15.190 is amended to read:

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

24 * Sec. 32. AS 46.45.020 is amended to read:

25 Sec. 46.45.020. IMPLEMENTATION. The commissioner of natural
26 resources [ENVIRONMENTAL CONSERVATION] may adopt regulations and do
27 all things necessary or incidental to the carrying out of the
28 Northwest Interstate Compact on Low-Level Radioactive Waste Manage-
29 ment.

1 * Sec. 33. TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF NATURAL RE-
2 SOURCES. The inspection and enforcement functions currently being per-
3 formed by the Department of Environmental Conservation under AS 03.05,
4 AS 03.45, AS 17.05, AS 17.20, AS 18.35, AS 18.45, and AS 46.06 are trans-
5 ferred to the Department of Natural Resources.

6 * Sec. 34. TRANSFER OF FUNCTIONS TO DEPARTMENT OF FISH AND GAME. The
7 inspection and enforcement functions currently being performed by the
8 Department of Environmental Conservation under AS 41.17, AS 46.03, AS 46.-
9 15, and AS 46.16 are transferred to the Department of Fish and Game.

10 * Sec. 35. TRANSFER OF FUNCTIONS TO DEPARTMENT OF COMMUNITY AND REGION-
11 AL AFFAIRS. The inspection and enforcement functions currently being
12 performed by the Department of Environmental Conservation under AS 46.30
13 are transferred to the Department of Community and Regional Affairs.

14 * Sec. 36. TRANSITION. All litigation, hearings, investigations and
15 other proceedings pending under a law amended or repealed by this Act, or
16 in connection with functions transferred by this Act, continue in effect
17 and may be continued and completed notwithstanding a transfer or amendment
18 or repeal provided for in this Act. Certificates, orders, and regulations
19 issued or adopted under authority of a law amended or repealed by this Act
20 remain in effect for the term issued, or until revoked, vacated, or other-
21 wise modified under the provisions of this Act. All contracts, rights,
22 liabilities, and obligations created by or under a law amended or repealed
23 by this Act, and in effect on July 1, 1986, remain in effect notwithstand-
24 ing this Act's taking effect. Records, equipment, and other property of
25 agencies of the state whose functions are transferred under this Act shall
26 be transferred commensurate with the provisions of this Act.

27 * Sec. 37. NAME CHANGE. To be consistent with the changes made by this
28 Act, wherever in the Alaska Statutes and in regulations adopted under those
29 statutes "Department of Environmental Conservation" and other terms

1 identifying the department are used, they must be read as referring to the
2 appropriate department under the provisions of this Act. Under AS 01.05.-
3 031, the revisor of statutes shall implement this section in the statutes
4 and under AS 44.62.125(b)(6), the regulations attorney shall implement this
5 section in the administrative regulations.

6 * Sec. 38. The following are repealed: AS 03.05.020(b), 03.05.035(d),
7 03.05.040(b), 03.05.050(b), 03.05.060(b), 03.05.070(b), 03.05.080(b);
8 AS 03.25.250; AS 17.20.072, 17.20.075, 17.20.135, 17.20.152, 17.20.155,
9 17.20.172, 17.20.175, 17.20.290(b), 17.20.290(c); AS 18.35.090(2), 18.35.-
10 230(1); AS 44.17.005(16); AS 44.19.155(a)(2)(D); AS 44.46; and AS 46.35.

11 * Sec. 39. This Act takes effect July 1, 1986.