

SENATE BILL NO. 480

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 5/13/92
Referred: L&C, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to public financial administration, state contracting and procurements, the
2 charging of fees for state services, regulatory activities, and resources; and authorizing the
3 sale of water by the state; and providing for an effective date."

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

5 * Section 1. AS 08.01.065(c) is repealed and reenacted to read:

6 (c) The department shall establish fee levels under (a) of this section so that the total
7 amount of fees collected for an occupation approximately equals the actual regulatory costs for
8 the occupation. The department shall annually review each fee level to determine whether the
9 regulatory costs of each occupation are approximately equal to fee collections related to that
10 occupation. If the review indicates that an occupation's fee collections and regulatory costs are
11 not approximately equal, the department shall calculate fee adjustments and adopt regulations
12 under (a) of this section to implement the adjustments. In January of each year, the department
13 shall report on all fee levels and revisions for the previous year under this subsection to the office
14 of management and budget. If a board regulates an occupation covered by this chapter, the

1 department shall consider the board's recommendations concerning the occupation's fee levels
2 and regulatory costs before revising fee schedules to comply with this subsection. In this
3 subsection, "regulatory costs" means costs of the department that are attributable to regulation
4 of an occupation plus

5 (1) all expenses of the board that regulates the occupation if the board regulates
6 only one occupation;

7 (2) the expenses of a board that are attributable to the occupation if the board
8 regulates more than one occupation.

9 * Sec. 2. AS 18.31.200 is amended by adding a new subsection to read:

10 (g) The Department of Labor shall adopt by regulation a fee schedule for

11 (1) review, approval, and certification of asbestos training certification programs
12 and plans under this section; and

13 (2) certification of a person employed to abate an asbestos health hazard.

14 * Sec. 3. AS 33.30.231 is amended by adding a new subsection to read:

15 (d) Notwithstanding (a) of this section, the department may contract under AS 36.30 for
16 telephone services for use by a prisoner.

17 * Sec. 4. AS 36.30.320(a) is amended to read:

18 (a) A procurement for supplies, services, or construction that does not exceed an
19 aggregate dollar amount of \$25,000 [\$10,000] may be made in accordance with regulations
20 adopted by the commissioner for small procurements.

21 * Sec. 5. AS 37.17.030(c) is amended to read:

22 (c) The administrative expenses of the foundation are subject to AS 37.07 and shall be
23 paid from the income of the endowment. The legislature may appropriate income of the
24 endowment for payment of the administrative expenses of the Alaska Aerospace
25 Development Corporation established under AS 14.40.821 and the agricultural and forestry
26 experiment station research centers of the University of Alaska.

27 * Sec. 6. AS 41.21.026(a) is amended to read:

28 (a) Notwithstanding (b) of this section, the [THE] department may charge or collect
29 a fee in a park unit for

30 (1) rental of public use cabins or other overnight lodgings;

31 (2) overnight use of a developed campsite;

- 1 (3) special park use permits;
- 2 (4) competitive and exclusive commercial use permits;
- 3 (5) noncompetitive and nonexclusive commercial use permits;
- 4 (6) use of a sewage holding tank dump station;
- 5 (7) admission to or guided tours of visitor centers or historic sites; [AND]
- 6 (8) use of an improved boat ramp in a park facility developed principally for boat
- 7 launching;
- 8 (9) sale of firewood;
- 9 (10) use of a developed trailhead, access site, or picnic site, that has parking,
- 10 rest rooms, and refuse collection; and
- 11 (11) the presentation or attendance at programs related to natural or cultural
- 12 history, outdoor skills or education, or other topics concerned with public use, enjoyment,
- 13 or understanding of parks.

14 * Sec. 7. AS 42.05 is amended by adding a new section to read:

15 Sec. 42.05.253. PUBLIC UTILITY REGULATORY COST CHARGE. (a) A regulated
16 public utility operating in the state shall pay to the commission an annual regulatory cost charge
17 in an amount not to exceed .61 percent of gross revenue derived from operations in the state, as
18 modified under (c) of this section if appropriate. An exempt utility shall pay the actual cost of
19 services provided to it by the commission.

20 (b) The commission shall by regulation establish a method to determine annually the
21 amount of the regulatory cost charge for a public utility. If the amount the commission expects
22 to collect under (a) of this section and under AS 42.06.285(a) exceeds the authorized budget of
23 the commission, the commission shall, by order, reduce the percentages set out in (a) of this
24 section so that the total amount of the fees collected approximately equals the authorized budget
25 of the commission for the fiscal year.

26 (c) In determining the amount of the regulatory cost charge imposed under (a) of this
27 section,

28 (1) a utility selling utility services at wholesale shall modify its gross revenue by
29 deducting payments it receives for wholesale sales;

30 (2) a local exchange telephone utility shall modify its gross revenue by deducting
31 payments received from other carriers for settlements or access charges.

1 (d) The commission shall calculate the total regulatory cost charges to be levied against
2 all regulated electric utilities under this section. The commission shall allocate the total amount
3 among the regulated electric utilities by using an equal charge per kilowatt hour sold at retail.

4 (e) The commission shall administer, collect, and enforce the charge imposed under this
5 section.

6 (f) The commission shall allow a public utility to recover all payments made to the
7 commission under this section. The commission may not require a public utility to file a rate
8 case in order to be eligible to recover the regulatory cost charge.

9 (g) The commission may adopt regulations under AS 44.62 (Administrative Procedure
10 Act) necessary to administer this section, including requirements and procedures for reporting
11 information and making quarterly payments, for investigating the accuracy of filed information,
12 and for collecting required payments.

13 (h) In this section,

14 (1) "exempt utility" means a public utility that is certificated by the commission
15 under AS 42.05.221 - 42.05.281 but, in accordance with AS 42.05.711, is exempt from other
16 regulatory requirements of this chapter;

17 (2) "gross revenue" means the total operating revenue from intrastate services, as
18 shown in a utility's annual report required by the commission by regulation;

19 (3) "regulated utility" means a public utility that is certificated by the commission
20 under AS 42.05.221 - 42.05.281 and that is subject to the other regulatory requirements of this
21 chapter;

22 (4) "wholesale sales" means sales to another utility for resale under circumstances
23 that make revenue from the resale subject to the regulatory cost charge imposed under this
24 section.

25 * Sec. 8. AS 42.05.651(a) is amended to read:

26 (a) During [AFTER COMPLETION OF] a hearing or investigation held under this
27 chapter, the commission may [SHALL] allocate the costs of the hearing or investigation among
28 the parties, including the commission, as is just under the circumstances. In allocating costs, the
29 commission shall consider the regulatory cost charge paid by a utility under AS 42.05.253
30 and may consider the results, ability to pay, evidence of good faith, other relevant factors, and
31 mitigating circumstances. The costs allocated may include the costs of any time devoted to the

1 investigation or hearing by hired consultants, whether or not the consultants appear as witnesses
2 or participants. The costs allocated may also include any out-of-pocket expenses incurred by the
3 commission in the particular proceeding. The commission shall provide an opportunity for any
4 person objecting to an allocation to be heard before the allocation becomes final.

5 * Sec. 9. AS 42.05.661 is amended to read:

6 Sec. 42.05.661. APPLICATION FEES. With each application relating to a certificate
7 the applicant shall pay the commission a fee set by the commission by regulation that [OF \$50
8 WHICH] shall be deposited in the general fund of the state.

9 * Sec. 10. AS 42.06 is amended by adding a new section to read:

10 Sec. 42.06.285. PIPELINE CARRIER REGULATORY COST CHARGE. (a) A pipeline
11 carrier operating in the state shall pay to the commission an annual regulatory cost charge in an
12 amount not to exceed .61 percent of gross revenue derived from operations in the state.

13 (b) The commission shall by regulation establish a method to determine annually the
14 amount of the regulatory cost charge. If the amount the commission expects to collect under (a)
15 of this section and under AS 42.05.253(a) exceeds the authorized budget of the commission, the
16 commission shall, by order, reduce the percentage set out in (a) of this section so that the total
17 amount of the fees collected approximately equals the authorized budget of the commission for
18 the fiscal year.

19 (c) The commission shall administer, collect, and enforce the charge imposed under this
20 section.

21 (d) The commission may adopt regulations under AS 44.62 (Administrative Procedure
22 Act) necessary to administer this section, including requirements and procedures for reporting
23 information and making quarterly payments, for investigating the accuracy of filed information,
24 and for collecting required payments.

25 (e) In this section, "gross revenue" means the total intrastate operating revenue as shown
26 in a pipeline carrier's annual report required by the commission by regulation.

27 * Sec. 11. AS 42.06.610(a) is amended to read:

28 (a) During a proceeding held under this chapter, the commission may [SHALL] allocate
29 the cost of the proceeding among the parties, including the commission, as is just under the
30 circumstances. In allocating costs, the commission shall consider the regulatory cost charge
31 paid directly or indirectly under AS 42.06.285. The costs allocated may include the costs of

1 any time devoted to investigations or hearings by hired consultants, whether or not the
2 consultants appear as witnesses or participants. The commission shall provide an opportunity for
3 any person objecting to an allocation to be heard before the allocation becomes final.

4 * Sec. 12. AS 44.21.310(b) is amended to read:

5 (b) The department may

6 (1) coordinate its functions with local, regional, state, and federal officials, private
7 groups and individuals, and with officials of other countries, provinces, and states;

8 (2) enter into contracts and subcontracts on behalf of the state to carry out the
9 provisions of AS 44.21.305 - AS 44.21.330;

10 (3) act for the state in the initiation, investigation, and evaluation of, or
11 participation in, programs related to the purposes of the department that [WHICH] involve more
12 than one government or governmental unit;

13 (4) on behalf of the state, apply for, accept, and expend gifts or grants made to
14 the state if the gifts or grants are for the purposes of furthering the objectives of the department;
15 [AND]

16 (5) hold public hearings to obtain information for the purpose of carrying out the
17 provisions of AS 44.21.305 - 44.21.330; and

18 (6) provide telecommunication services to commercial entities for television
19 broadcast and charge for those services.

20 * Sec. 13. AS 46.15 is amended by adding new sections to read:

21 Sec. 46.15.035. APPROPRIATION OR REMOVAL OF WATER OUT OF
22 HYDROLOGIC UNITS TO OTHER HYDROLOGIC UNITS; WATER CONSERVATION FEE;
23 RESERVATION OF WATER FOR FISH. (a) An appropriation of water permitted by the
24 commissioner before the effective date of this section may not be removed from the hydrologic
25 unit from which it was appropriated to another hydrologic unit, inside or outside the state,
26 without being returned to the hydrologic unit from which it was appropriated unless the
27 commissioner assesses a water conservation fee under (c) of this section.

28 (b) An appropriation of water permitted by the commissioner after the effective date of
29 this section, may not be removed from the hydrologic unit from which it was appropriated to
30 another hydrologic unit, inside or outside the state, without being returned to the hydrologic unit
31 from which it was appropriated nor may water be appropriated for removal from the hydrologic

1 unit from which the appropriation is sought to another hydrologic unit, inside or outside the state,
2 without the water being returned to the hydrologic unit from which it is to be appropriated, unless
3 the commissioner

4 (1) finds that the water to be removed or appropriated for removal is surplus to
5 needs within the hydrologic unit from which the water is to be removed or appropriated for
6 removal;

7 (2) finds that the application for removal or appropriation for removal meets the
8 requirements of AS 46.15.080; and

9 (3) assesses a water conservation fee under (c) of this section.

10 (c) The commissioner shall establish, by regulation, a water conservation fee for a use
11 of water in which the water is removed from the hydrologic unit from which it was appropriated
12 to another hydrologic unit inside or outside the state, without the water being returned to the
13 hydrologic unit from which it was appropriated. The fee established under this subsection shall
14 be graduated to encourage the conservation of water.

15 (d) Except as provided in AS 46.15.090, and in addition to the requirements of (a) and
16 (b) of this section, the commissioner may approve an application for removal or permit an
17 appropriation for removal under (a) or (b) of this section of water from a lake, river, or stream
18 that is used by fish for spawning, incubation, rearing, or migration, or ground water that
19 significantly influences the volume of water in a lake, river, or stream that is used by fish for
20 spawning, incubation, rearing, or migration, only if the commissioner reserves a volume of water
21 in the lake or an instream flow in the river or stream for the use of fish and to maintain habitat
22 for fish. The commissioner may adjust the volume of water reserved under this subsection if the
23 commissioner, after public notice and opportunity to comment and with the concurrence of the
24 commissioner of fish and game, finds that the best interests of the state are served by the
25 adjustment. A reservation under this subsection

26 (1) of a volume of water or an instream flow for the use of fish and to maintain
27 habitat for fish that is reserved under this section is withdrawn from appropriation;

28 (2) for fish from a lake, river, or stream, identified under AS 16.05.870 or
29 identified in a Department of Fish and Game regional guide as being used by fish for spawning,
30 incubation, rearing, or migration on or before the effective date of this section, has a priority date
31 as of the effective date of this section;

1 (3) of water does not apply to an application for removal or appropriation for
2 removal under AS 46.15.040 for nonconsumptive uses of water or for single family domestic use;

3 (4) is not subject to AS 46.15.145;

4 (5) of water does not apply to appropriations of ground water of 5,000 gallons
5 or less a day unless the commissioner, in consultation with the Department of Fish and Game,
6 determines that the appropriation may adversely affect fish habitat in a lake, river, or stream; the
7 commissioner shall consider multiple appropriations of water for a single related use as a single
8 appropriation for the purposes of this subsection.

9 (e) In this section,

10 (1) "fish" means a species of anadromous or freshwater fish that may be taken
11 under regulations of the Board of Fisheries;

12 (2) "hydrologic unit" means either a hydrologic unit or subunit established by the
13 United States Geologic Survey on current hydrologic unit maps of the state.

14 Sec. 46.15.037. SALE OF WATER BY THE STATE. (a) The commissioner may
15 provide for the sale of water by the state if

16 (1) the water has first been appropriated to the state in accordance with the
17 requirements of this chapter; and

18 (2) the commissioner determines that

19 (A) the water is surplus to needs within the hydrologic unit from which
20 it was appropriated;

21 (B) the proposed sale of the water meets the requirements of
22 AS 46.15.080; and

23 (C) the sale price of the water is based upon the fair market value of the
24 water.

25 (b) A purchaser of water from the state under this section shall acquire only those
26 contractual rights to the water set out in sale documents prepared by the commissioner except
27 that a sale of water by the state does not constitute an appropriation of water under this chapter
28 to the purchaser.

29 (c) If water to be sold by the state under (a) of this section, is to be removed from the
30 hydrologic unit from which it was appropriated to another hydrologic unit, inside or outside the
31 state, without being returned to the hydrologic unit from which it was appropriated, the

1 commissioner may not sell the water unless the sale meets the requirements of (a)(2) of this
2 section, a water conservation fee is assessed under AS 46.15.035, and, if the water to be sold is
3 from a lake, river, or stream that is used by fish for spawning, incubation, rearing, or migration
4 ground water that significantly influences the volume of water in a lake, river, or stream that is
5 used by fish for spawning, incubation, rearing, or migration, the commissioner reserves a volume
6 of water in the lake or an instream flow in the river or stream for the use of fish and to maintain
7 habitat for fish. The commissioner may adjust the volume of water reserved under this
8 subsection if the commissioner, after public notice and opportunity to comment and with the
9 concurrence of the commissioner of fish and game, finds that the best interests of the state are
10 served by the adjustment. A reservation under this subsection

11 (1) of a volume of water or an instream flow for the use of fish and to maintain
12 habitat for fish that is reserved under this section is withdrawn from appropriation;

13 (2) for fish from a lake, river, or stream, identified under AS 16.05.870 or
14 identified in a Department of Fish and Game regional guide as being used by fish for spawning,
15 incubation, rearing, or migration on or before the effective date of this section, has a priority date
16 as of the effective date of this section;

17 (3) is not subject to AS 46.15.145;

18 (4) of water does not apply to appropriations of ground water of 5,000 gallons
19 or less a day unless the commissioner, in consultation with the Department of Fish and Game,
20 determines that the appropriation may adversely affect fish habitat in a lake, river, or stream; the
21 commissioner shall consider multiple appropriations of water for a single related use as a single
22 appropriation for the purposes of this subsection.

23 (d) In this section,

24 (1) "fish" means a species of anadromous or freshwater fish that may be taken
25 under regulations of the Board of Fisheries;

26 (2) "hydrologic unit" has the meaning given in AS 46.15.035(d).

27 (e) The commissioner may not provide for the sale of salt water under this section.

28 * Sec. 14. AS 46.15.133 is amended to read:

29 Sec. 46.15.133. NOTICES; OBJECTIONS. (a) If the commissioner proposes a sale
30 of water or receives [UPON RECEIPT OF] an application for appropriation or removal, the
31 commissioner shall prepare a notice containing the location and extent of the proposed sale.

1 **appropriation, or removal, the name and address of the applicant, if applicable, and other**
2 **information the commissioner considers pertinent. The notice shall state that within 15 days of**
3 **publication or service of notice, persons may file with the director written objections, stating the**
4 **name and address of the objector, and any facts tending to show that rights of the objector or the**
5 **public interest would be adversely affected by the proposed sale, appropriation, or removal.**

6 (b) The commissioner shall publish the notice [AT THE APPLICANT'S EXPENSE] in
7 one issue of a newspaper of general distribution in the area of the state in which the water is to
8 be appropriated, removed, or sold. The commissioner shall also have notice served personally
9 or by certified mail upon an appropriator of water or applicant for or holder of a permit who,
10 according to the records of the division of lands, may be affected by the proposed sale,
11 appropriation, or removal and may serve notice upon any governmental agency, political
12 subdivision, or person; notice shall also be served upon the Department of Fish and Game and
13 the Department of Environmental Conservation. An applicant for an appropriation or removal
14 shall pay the commissioner's costs in providing publication and notice under this subsection.
15 The commissioner may require as a condition of a sale of water under AS 46.15.037, that
16 a purchaser of water reimburse the department for the costs associated with providing
17 notice of the proposed sale.

18 (c) Within 15 days of publication or service of notice, an interested person may file an
19 objection. The commissioner may hold hearings upon giving due notice and shall grant, deny,
20 or condition the proposed sale or application for appropriation or removal in whole or in part
21 within 30 days of receipt of the last objection or, if the commissioner elects to hold hearings,
22 within 180 days of receipt of the last objection. Notice of the order or decision shall be served
23 personally or mailed to any person who has filed an objection.

24 (d) If no objection is filed, the commissioner may proceed to make a determination upon
25 the application for appropriation or removal or the proposal for sale.

26 (e) A person aggrieved by the action of the commissioner or by the failure of the
27 commissioner to grant, deny, or condition a proposed sale or an application for appropriation
28 or removal in accordance with (c) of this section may appeal to the superior court.

29 (f) The commissioner may, by regulation, designate types of appropriations that are
30 exempt from this section and provide simplified procedures for ruling on the applications. The
31 commissioner may not exempt under this subsection appropriations for removal under

1 AS 46.15.035, appropriations by the state for sale or sales by the state under AS 46.15.037.
2 or removals of water under AS 46.15.035 and 46.15.037.

3 * Sec. 15. Section 3, ch. 95, SLA 1989, is amended to read:

4 Sec. 3. EMPLOYMENT ASSISTANCE AND TRAINING PROGRAM FUND
5 [ACCOUNT]. The employment assistance and training program fund [ACCOUNT] is
6 established in the department. Deposits into the fund are not general fund program receipts
7 [GENERAL FUND. THE COMMISSIONER OF ADMINISTRATION SHALL SEPARATELY
8 ACCOUNT FOR MONEY COLLECTED UNDER SEC. 4 OF THIS ACT THAT THE
9 DEPARTMENT DEPOSITED IN THE GENERAL FUND]. The annual estimated balance in
10 the fund [ACCOUNT] may be appropriated by the legislature to the department to implement
11 this Act. If the entire estimated balance is not used to implement this Act during a fiscal
12 year, the [THE] legislature may make appropriations from the employment assistance and
13 training fund [APPROPRIATE THE LAPSING BALANCE OF THE ACCOUNT] to the
14 unemployment compensation fund established in AS 23.20.130.

15 * Sec. 16. TEMPORARY FEES IN STATE PARKS. (a) The following fees apply for the following
16 activities in units of the state park system until the Department of Natural Resources adopts a regulation
17 under AS 41.21.026(c) that establishes a fee for that activity:

- 18 (1) sale of firewood \$4 per bundle;
19 (2) use of a developed trailhead, access site, or picnic site, that has parking, rest rooms,
20 and refuse collection \$2 per vehicle, or \$25 for an annual pass;
21 (3) admission to visitor centers or historic sites \$1 per person.

22 (b) The commissioner of natural resources shall notify the revisor of statutes when a regulation
23 is adopted that establishes a fee for an activity described under (a) of this section.

24 * Sec. 17. Section 16 of this Act is repealed July 1, 1994.

25 * Sec. 18. This Act takes effect July 1, 1992.