

SENATE BILL NO. 202

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR MILLER

Introduced: 4/21/93
Referred: CRA, RES, FIN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the removal, appropriation, and purchase of state water by**
2 **municipalities; and providing for an effective date."**

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

4 *** Section 1. AS 46.15.035(a) is amended to read:**

5 (a) Water may not be removed from the hydrologic unit from which it was
6 appropriated to another hydrologic unit, inside or outside the state, without being
7 returned to the hydrologic unit from which it was appropriated nor may water be
8 appropriated for removal from the hydrologic unit from which the appropriation is
9 sought to another hydrologic unit, inside or outside the state, without the water being
10 returned to the hydrologic unit from which it is to be appropriated, unless the
11 commissioner

12 (1) finds that the water to be removed or appropriated for removal is
13 surplus to needs within the hydrologic unit from which the water is to be removed or
14 appropriated for removal, including fishing, mining, timber, oil and gas, agriculture,

1 domestic water supply, and other needs as determined by the commissioner;
2 (2) finds that the application for removal or appropriation for removal
3 meets the requirements of AS 46.15.080; and
4 (3) assesses a water conservation fee under (b) of this section, except
5 that this paragraph does not apply if the water is being removed or appropriated
6 for removal by a municipality.

7 * Sec. 2. AS 46.15.035(b) is amended to read:

8 (b) The commissioner shall establish, by regulation, a water conservation fee
9 for a use of water in which the water is removed from the hydrologic unit from which
10 it was appropriated to another hydrologic unit inside or outside the state, without the
11 water being returned to the hydrologic unit from which it was appropriated. The fee
12 established under this subsection shall be graduated to encourage the conservation of
13 water. The commissioner may not charge a municipality the fee established under
14 this section.

15 * Sec. 3. AS 46.15.037(a) is amended to read:

16 (a) The commissioner may provide for the sale of water by the state if
17 (1) the water has first been appropriated to the state in accordance with
18 the requirements of this chapter; and
19 (2) the commissioner determines that
20 (A) the water is surplus to needs within the hydrologic unit
21 from which it was appropriated, including fishing, mining, timber, oil and gas,
22 agriculture, domestic water supply, and other needs as determined by the
23 commissioner;
24 (B) the proposed sale of the water meets the requirements of
25 AS 46.15.080; and
26 (C) the sale price of the water is based upon the fair market
27 value of the water; this subparagraph does not apply if the water is sold to
28 a municipality.

29 * Sec. 4. AS 46.15.037(c) is amended to read:

30 (c) If water to be sold by the state under (a) of this section, is to be removed
31 from the hydrologic unit from which it was appropriated to another hydrologic unit,

1 inside or outside the state, without being returned to the hydrologic unit from which
2 it was appropriated, the commissioner may not sell the water unless the sale meets the
3 requirements of (a)(2) of this section, a water conservation fee is assessed under
4 AS 46.15.035 except when the purchaser is a municipality, and, if the water to be
5 sold is from a lake, river, or stream that is used by fish for spawning, incubation,
6 rearing, or migration, or ground water that significantly influences the volume of water
7 in a lake, river, or stream that is used by fish for spawning, incubation, rearing, or
8 migration, the commissioner reserves a volume of water in the lake or an instream
9 flow in the river or stream for the use of fish and to maintain habitat for fish. The
10 commissioner may adjust the volume of water reserved under this subsection if the
11 commissioner, after public notice and opportunity to comment and with the
12 concurrence of the commissioner of fish and game, finds that the best interests of the
13 state are served by the adjustment. A reservation under this subsection

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

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

21 (3) is not subject to AS 46.15.145;

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

28 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).