

**SB**

**140**



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## SB 140 ~ Small Water-Power Development Projects

TO: House Resources Committee Members

DATE: April 26, 2002

Alaska Conservation Voters (ACV) is a nonprofit organization dedicated to protecting Alaska's environment through public education and advocacy. Our 32 member organizations represent over 35,000 registered Alaskan voters, including residents of rural communities where the cost of power generation, both in monetary terms and environmental terms, is very high. While we support the development of clean, economical and renewable sources for the generation of electricity, particularly for small communities currently dependent upon diesel, we oppose SB 140 because it unnecessarily increases state spending.

Senate Bill 140 begins the process, authorized in federal legislation, for the state to take over authority from the Federal Energy Regulatory Commission (FERC) to license and regulate small hydropower projects of 5 megawatts or less. It requires the state to establish a licensing program equivalent to FERC's, and to annually appropriate substantial sums to operate it.

- **Expense of the program** - Assumption of small hydro licensing and oversight will place a significant financial burden on DNR, ADF&G and DEC. Without sufficient financial and staff resources to implement the program, processing of license applications and license renewals could be significantly delayed or alternatively, processing would be at the expense of careful consideration of environmental impacts, thereby inviting public opposition.
- **The Regulatory Commission of Alaska (RCA) as the lead entity** - The RCA is charged with ensuring just and reasonable utility rates and high quality, reliable service. However, the RCA has no experience with FERC licensing, and it is not the appropriate entity to coordinate DNR, ADF&G, and DEC participation in licensing proceedings. Nor does the RCA have the trained staff to fulfill requirements of the federal law and SB 140, such as protecting the public interest and the environment
- **Protection of special public lands:** SB 140 provides no protection for state special areas such as state parks, game refuges or critical habitat areas. Attempts by a new state regulatory agency to license hydropower projects in state protected areas would surely result in significant controversy and the associated delay.

OVER

Although the concept of the state having jurisdiction over small hydropower projects may appear appealing to some, *FERC has never before delegated this authority to any state.* In this time of state fiscal difficulties, the state's acceptance of this unfunded federal mandate is not in the best interests of Alaskans.

**ACV urges you to oppose this unnecessary and costly legislation.**

  
\_\_\_\_\_  
Susan Schrader, Conservation Advocate

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 140  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Small Water-Power Development Projects BRU Regulatory Commission of Alaska (399)  
Component Regulatory Commission of Alaska  
Sponsor Senator Torgerson  
Requester Senate Finance Component No. 2417

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	31.1	31.1	130.0	130.0	130.0	130.0
Travel	5.0	5.0				
Contractual			50.0	50.0	50.0	50.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>36.1</b>	<b>36.1</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (RCA Receipts)	36.1	36.1	180.0	180.0	180.0	180.0
<b>TOTAL</b>	<b>36.1</b>	<b>36.1</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time			2	2	2	2
Part-time	1	1				
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

SB140 will require the equivalent of one-half of a Utility Engineering Analyst III position (estimated cost: \$31,142) in FY03 and FY04 to assist in developing technical regulations and to coordinate the transfer of duties from FERC. Some travel will be necessary for public comment and coordination with FERC. FERC has up to one year to approve the plan. Once underway (FY05), a full-time UEA III and an Environmental Engineer will be needed to analyze water-power applications under the proposed program. \$50,000 in contractual monies will be needed for additional technical support and a contractual Administrative Law Judge to adjudicate technical/regulatory disputes. The RCA's budget is funded through the Regulatory Cost Charge (RCC) and direct charge mechanisms. No general funds are allocated for support of the agency. The agency may consider funding the program by license fees paid by the applicants, similar to the current federal program.

Prepared by: Dawn Bishop-Kleweno, Special Assistant Phone (907) 276-6222  
Division Regulatory Commission of Alaska Date/Time 2/21/02 9:04 AM  
Approved by: Deborah B. Sedwick, Commissioner Date 2/21/2002  
Agency Department of Community & Economic Development

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 140  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: Regulation and licensing of certain BRU: Habitat and Restoration  
water-power development Component: Habitat Special Projects  
Sponsor: Senator Torgerson  
Requester: Senate Finance Component No. 487

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	17.0	17.0				
Travel	1.0	1.0				
Contractual	1.0	1.0				
Supplies	0.5	0.5				
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>19.5</b>	<b>19.5</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	19.5	19.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
<b>TOTAL</b>	<b>19.5</b>	<b>19.5</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

FY 03 and FY 04 expenditures represent one quarter-time position for ADF&G participation in the development of a regulatory package implementing SB 140. Regulations must clearly detail all processes and requirements to result in timely and cost effective licensing of good projects that are both in the best economic interests of the state and environmentally sound.

Department expenditures in a potential 5 MW or smaller state licensing and regulatory program are difficult to quantify at this time. The licensing and regulation of hydro projects can be very complex. SB 140 provides the basic structure for establishing regulations for the state to take over jurisdiction, but does not provide specificity on how such a program will work within current authorities and responsibilities. Uncertainties include how duties currently funded and performed by the Federal (cont)

Prepared by: Gordy Williams Phone 465-6143  
Division: Commissioner's Office Date/Time 2/21/02 9:07 AM  
Approved by: Commissioner Frank Rue Date 2/21/2002  
Agency: Fish and Game

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FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. SB 140

ANALYSIS CONTINUATION

Energy Regulatory Commission (FERC) for small hydro projects will be handled in a state system, what information regarding fish and wildlife issues will be required to be provided by applicants or need to be developed by agencies, and what fees or other funding mechanisms will be developed. Depending upon the answers to these and other questions as a regulatory system is established, there may be significant fiscal impacts on the department to ensure that fish and game resources are protected to the same extent provided by the FERC process as is specified in SB 140.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 140

( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title: SMALL WATER-POWER DEVELOPMENT BRU: Minerals, Land & Water Dev  
PROJECTS Component: Water Development

Sponsor: Sen. Torgerson  
Requester: (S) FIN Component Number: 916

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	22.5	22.5	70.0	70.0	70.0	70.0
Travel	0.0	0.0	10.0	10.0	10.0	10.0
Contractual	1.0	1.0	5.0	5.0	5.0	5.0
Supplies	0.5	0.5	1.0	1.0	1.0	1.0
Equipment	0.0	0.0	2.0	2.0	2.0	2.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>24.0</b>	<b>24.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.0	24.0	88.0	88.0	88.0	88.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>24.0</b>	<b>24.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>

Estimate of any current year (FY2002) cost: none

Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

**POSITIONS**

Full-time	0	0	1	1	1	1
Part-time						
Temporary	1	1				

**ANALYSIS:** (Attach a separate page if necessary)

The Regulatory Commission of Alaska estimates that, in cooperation with the resource agencies, the Commission will require two years to write regulations that establish an efficient processing system that can be approved by FERC. DNR will be required to play a major role in the development of these regulations as its responsibilities in permitting such projects are substantial. A non-perm Natural Resource Mgr I will be required for at least 3 months each year for full participation. These costs are reflected in FY 2003 and 2004. [cont.]

Prepared by: Bob Loeffler Phone 269-8600  
Division: Mining, Land and Water Date/Time 20-Feb-02  
Approved by: Pat Pourchot Date 21-Feb-02  
Agency: Natural Resources

ANALYSIS: (continued)

Beginning in 2005, this fiscal note assumes that an approved program will begin operation in Alaska and DNR will play a major role in the new licensing process, including the water right and temporary water use permitting, environmental consultation and review, and coordination with federal agencies. With one exception, this fiscal note assumes no new costs to deal with an "Alaskanized" licensing process rather than the current, federal FERC process. If the regulations assign new responsibilities to DNR, this assumption may change.

The exception is that currently, FERC has jurisdiction over all dams licensed by FERC. If an Alaskan program replaces the FERC program, DNR's dam safety program will be required to accept jurisdiction for permitting, review, and inspection of these dams. DNR's current Dam Safety program is staffed by a single engineer. The fiscal note would fund a subordinate (a Technical Engineer I) to handle the additional workload to the Dam Safety Program.

# ALASKA STATE LEGISLATURE

Chairman: Senator John Torgerson  
Vice Chair: Senator Gary Wilken  
Senator Rick Halford  
Senator Ben Stevens  
Senator Robin Taylor  
Senator Kim Elton  
Senator Georgianna Lincoln



Official Business

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Juneau, AK 99801  
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## SENATE RESOURCES COMMITTEE

### SPONSOR STATEMENT

SB 140

“Small Water-Power Development Projects”

On November 9, 2000, Congress approved legislation extending programs under the federal Energy Policy and Conservation Act. Title V of this Act, placed in federal statute as Public Law 106-469, was proposed by Senator Murkowski who is chair of the Senate Energy and Natural Resources Committee.

Senator Murkowski's language amends the Federal Power Act to allow licensing and regulatory authority over small hydroelectric projects in Alaska to transfer from the federal government to the State of Alaska. Small hydroelectric projects are defined as those of 5,000 kilowatts (5 megawatts) or less. The federal enabling legislation applies to new projects and to existing projects if the owner so elects. A number of our small utilities as well as the State supported this legislation.

Before Alaska can acquire jurisdiction from the Federal Energy Regulatory Commission (FERC), which currently oversees hydroelectric projects, the Legislature must adopt legislation and the Governor must submit a program to FERC to satisfy the requirements in Title V of PL 106-469. All current environmental and other protections required under federal law must be contained in the State program. Small hydroelectric projects located on Indian reservations, conservation units of ANILCA, or rivers designated for the Wild and Scenic Rivers System would not be eligible for State jurisdiction.

SB 140 will begin implementation of Title V of PL 106-469 in an effort to bring regulations closer to home and to reduce the great time and expense currently associated with federal licensing and regulation of small hydro projects in Alaska. The time and money required for federal licensing is virtually prohibitive for some small projects. Now the Legislature has an opportunity to remove this hindrance and encourage development of renewable electric infrastructure.

PUBLIC LAW 106-469—NOV. 9, 2000

114 STAT. 2037

Resources of the Senate not later than 180 days after the enactment of this section. The report shall contain a review of prior studies conducted on the subjects described in subsection (a). Deadline.

### TITLE III—MARGINAL WELL PURCHASES

#### SEC. 301. PURCHASE OF OIL FROM MARGINAL WELLS.

(a) PURCHASE OF OIL FROM MARGINAL WELLS.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6232 et seq.) is amended by adding the following new section after section 168:

##### “PURCHASE OF OIL FROM MARGINAL WELLS

“SEC. 169. (a) IN GENERAL.—From amounts authorized under section 166, in any case in which the price of oil decreases to an amount less than \$15.00 per barrel (an amount equal to the annual average well head price per barrel for all domestic crude oil), adjusted for inflation, the Secretary may purchase oil from a marginal well at \$15.00 per barrel, adjusted for inflation. 42 USC 6247b.

“(b) DEFINITION OF MARGINAL WELL.—The term ‘marginal well’ has the same meaning as the definition of ‘stripper well property’ in section 613A(c)(6)(E) of the Internal Revenue Code (26 U.S.C. 613A(c)(6)(E)).”

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy and Conservation Act is amended by inserting after the item relating to section 168 the following:

“Sec. 169. Purchase of oil from marginal wells.”

### TITLE IV—FEDERAL ENERGY MANAGEMENT

#### SEC. 401. FEMP.

Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(D)(iii)), is amended by striking “\$750,000” and inserting “\$10,000,000”.

### TITLE V—ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS

#### SEC. 501. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Part I of the Federal Power Act (16 U.S.C. 1792 et seq.) is amended by adding at the end the following:

“SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS. 16 USC 823c.

“(a) DISCONTINUANCE OF REGULATION BY THE COMMISSION.—Notwithstanding sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory authority under this

part over qualifying project works in the State of Alaska, effective on the date on which the Commission certifies that the State of Alaska has in place a regulatory program for water-power development that—

"(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this part and other applicable Federal laws, including the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

"(2) gives equal consideration to the purposes of—

"(A) energy conservation;

"(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);

"(C) the protection of recreational opportunities;

"(D) the preservation of other aspects of environmental quality;

"(E) the interests of Alaska Natives; and

"(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

"(3) requires, as a condition of a license for any project works—

"(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;

"(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and

"(C) conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

"(b) DEFINITION OF 'QUALIFYING PROJECT WORKS'.—For purposes of this section, the term 'qualifying project works' means project works—

"(1) that are not part of a project licensed under this part or exempted from licensing under this part or section 405 of the Public Utility Regulatory Policies Act of 1978 prior to the date of the enactment of this section;

"(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to the date of the enactment of subsection (c) (unless such application is withdrawn at the election of the applicant);

"(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

"(4) that are located entirely within the boundaries of the State of Alaska; and

"(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section

102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

"(c) ELECTION OF STATE LICENSING.—In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to the enactment of this section, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

"(d) PROJECT WORKS ON FEDERAL LANDS.—With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to—

"(1) the approval of the Secretary having jurisdiction over such lands; and

"(2) such conditions as the Secretary may prescribe.

"(e) CONSULTATION WITH AFFECTED AGENCIES.—The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

"(f) APPLICATION OF FEDERAL LAWS.—Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

"(g) OVERSIGHT BY THE COMMISSION.—The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section. Notification. Deadline.

"(h) RESUMPTION OF COMMISSION AUTHORITY.—Notwithstanding subsection (a), the Commission shall reassert its licensing and regulatory authority under this part if the Commission finds that the State of Alaska has not complied with one or more of the requirements of this section.

"(i) DETERMINATION BY THE COMMISSION.—(1) Upon application by the Governor of the State of Alaska, the Commission shall within 90 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a). Deadline.

"(2) The Commission's review required by paragraph (1) shall be completed within 1 year of initiation, and the Commission shall within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the requirements of subsection (a). Deadline.

"(3) If the Commission fails to issue a final order in accordance with paragraph (2) the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a)."

Date OCT 26 2000

Petersburg Pilot

Client No. 420A

## House approves hydroelectric regulatory bill that may help City

<sup>210A 420A 310 330 420 430</sup>  
Petersburg has been working for nearly five years and spent almost \$500,000 to have the Blind Slough Hydroelectric Facility re-licensed by the Federal Energy Regulatory Commission. It is expected to take several more years to com-

plete and cost upwards of \$1 million when all is said and done.

But, legislation passed this week might be able to offset the need to have the 2.5 megawatt project controlled by the federal government and put the control

of similarly sized projects in the hands of the state.

The House of Representatives on Tuesday, approved a bill, which previously had passed the Senate, allowing the State of Alaska to regulate small scale hydroelectric projects in Alaska, rather than having them regulated by the Federal Energy Regulatory Commission.

The bills now head to the President for his signature.

This summer Petersburg Power and Light Superintendent Dennis Lewis testified before Congress on the current re-licensing process saying "the current federal hydropower licensing process of small rural facilities is dysfunctional."

This week, after hearing the news, he said that Petersburg would be very interested in having the federal license process vacated and dealing with a state regulatory process.

"Alaska has great potential for small-scale hydroelectric projects that would help reduce the price of electricity to consumers in Alaska and help the environment by reducing air pollution," said Sen. Frank Murkowski. "But under existing law, a project, no matter how small or remote, must obtain a federal license and the licensing process itself is a major impediment and cost for these small projects," said Murkowski.

While saying the five- to 10-

year FERC licensing process may not defeat a giant project, it represents a significant cost increase for smaller projects.

Murkowski said the Black Bear Lake project on Prince of Wales Island, a proposed 4.5-megawatt generator, took seven years and \$1.2 million to complete the licensing process — adding significantly to the \$10 million cost of the project. The nearby Goat Lake project required five years and \$1 million in spending to win FERC approval, adding to its \$10 million construction cost.

"For a small project located in a remote region of Alaska,

Continued on page 5

## FERC

Continued from page 3

FERC's licensing process is a major expense. And for too many small projects, this alone dooms an otherwise economically viable and environmentally beneficial project," said Murkowski.

He noted that most of these projects are not on salmon spawning streams, but small creeks or at the outflow of lakes and that the projects have no effect on the environment or wildlife.

"Small hydro projects in Alaska are environmentally sound, renewable power sources since they replace fossil-fuel burning diesel generators as power sources. It is important to

Instead, it allows the state to regulate (them) in lieu of FERC. I ask, who is more interested in the environment of Alaska — Alaskans or distant FERC regulators?" asked Murkowski.

Murkowski noted that Alaskans on average pay 36 percent more for electricity and that some in rural Alaska pay up to 43 cents per kilowatt hour — five times the national average. These high costs result from the fact that power is generated from diesel generators whose fuel must be shipped to remote areas at great cost.

The FERC exemption will only be triggered if Alaska's Governor notifies the Secretary of Energy that the State has in place a comprehensive process

resources, or cultural resource protection laws.

The bill has been endorsed by Alaska Legislature's Utilities Restructuring Committee, by the Alaska Village Electric Cooperative and by Alaska State government.

The small hydro bill (S. 422) passed the Senate on March 26, 1999 and again last week when it was added to the re-authorization of the Energy Policy and Conservation Act (EPCA) (H.R. 2884). EPCA also authorizes the nation's Strategic Petroleum Reserve and the new Northeast Home Heating Oil Reserve.

The 2.5 megawatt Blind Slough Hydroelectric Facility, which supplies the city with about one-quarter of its peak

Statement of Robert S. Grimm, President  
of Alaska Power & Telephone Company.  
Dated 3-15-2001



I would like to voice my strong support of Senate Bill No. 140.

Alaska Power & Telephone Company is an employee-owned corporation that has been providing public utility service to Alaska since 1957. We currently provide service to the residents of 25 different rural communities from above the Arctic Circle to the very southern portions of Alaska. Our experience in developing small hydropower projects is extensive and current.

I have attached a copy of my testimony on this issue when it was heard by the US Congress, House of Representatives, Committee on Commerce, and Subcommittee on Energy and Power on March 30, 2000. These comments remain relevant to Senate Bill No. 140.

Secondly, I have attached a paper titled "Alaska Small Hydroelectric and the Question of Sustainable Development" dated March 1999.

Both of these documents point out the difficulty and high cost associated with the development of small hydroelectric projects. I am testifying in the hope that this legislation will result in cost and time savings when permitting small hydroelectric projects.

Finally, I would like to make a few other points:

1. In Southeast Alaska the number of small hydropower projects (500 to 5000 kw) is finite. I have prepared a list of the hydropower projects that may likely developed in the next ten years. While I am sure there are others, I thought it would be useful to point out that the numbers of projects are limited and thus the work load and associated costs of the agency given responsibility should be commensurate with the number of projects.

Otter Creek in Skagway  
Thayer Lake in Angoon  
Reynolds Creek in Hydaburg  
South Fork on Prince of Wales Island  
Wolf Lake near Hollis  
Giartina Creek in Hoonah

Gunnuk Creek in Kake  
Sunrise Lake near Wrangell

A few relicense efforts are under way or will occur soon at:

Crystal Lake in Petersburg  
Dewey Lakes in Skagway

2. With the new legislation, Alaska would be unique. For projects under FERC, there is no minimum size. For example, if an Alaskan resident had a site that could generate 2 KW for their personal use, it could be jurisdictional by FERC, requiring a license that could make the project uneconomic because of the licensing process. If the state develops a well thought out and cost effective program, it will make micro-hydro (under 500KW) very attractive. Another plus of the legislation is that it would likely remove any temptation by micro-hydro developers to merely build their projects without licensing because of the costs and time associated with the current federal process.
3. Currently the State permits small domestic water systems for villages and towns. I believe small hydropower projects are very similar. I do not think we need to or intend to create a State FERC with its high cost and untimely decisions. We need to develop a process that is Alaskan in scope, well thought out and cost effective while meeting the requirements of the this legislation. We need some agency to take the lead. This agency must balance any of adverse impacts with the beneficial impacts of any proposed hydro development. I believe agencies with general charges such as the RCA, DGC or DNR are appropriate and have statutory responsibility to balance impacts (adverse and beneficial) so that hydro development occurs in a cost effective and timely manner consistent with the public interest. I have attached a paper written in 1999. It is critical of resource agencies that take the narrow view of their responsibilities. This problem needs to be corrected whether or not the state wishes to assume the responsibility of permitting small hydropower projects.

In this regard, the Alaska Rural Electric Cooperative Association (ARECA) membership passed a Resolution 01-9, supporting the recognition of hydroelectric power as a renewable energy resource, and requiring federal and state agencies to take a balanced approach to existing and new hydroelectric projects. I have attached a full copy of this resolution for your consideration.



# ARECA

Alaska's Electric Association

*"Electric Service for 556,000 Alaskans"*

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April 4, 2002

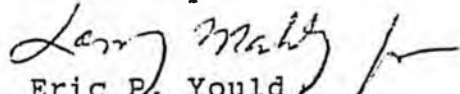
Honorable John Torgerson  
Chair, Senate Resources Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Senator Torgerson:

This is to reiterate ARECA's continued strong support for Senate Bill No. 140, which would establish a much needed program for state regulation of small hydroelectric projects in Alaska. Your legislation will implement companion federal legislation supported by Senator Murkowski and also strongly supported by ARECA and its member electric utilities throughout the state.

Bringing regulation of small hydro projects closer to home should reduce both the time and cost of developing clean, renewable hydropower for Alaska consumers. ARECA thanks you for your efforts on Senate Bill No. 140, and we hope your legislation becomes law this law.

Sincerely,

  
Eric P. Yould  
Executive Director



750 West Second Ave., Suite 109, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177  
P.O. Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / [www.acvoters.org](http://www.acvoters.org)

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## SB 140 ~ Small Water-Power Development Projects

TO: House Resources Committee Members

DATE: April 26, 2002

Alaska Conservation Voters (ACV) is a nonprofit organization dedicated to protecting Alaska's environment through public education and advocacy. Our 32 member organizations represent over 35,000 registered Alaskan voters, including residents of rural communities where the cost of power generation, both in monetary terms and environmental terms, is very high. While we support the development of clean, economical and renewable sources for the generation of electricity, particularly for small communities currently dependent upon diesel, we oppose SB 140 because it unnecessarily increases state spending.

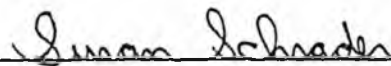
Senate Bill 140 begins the process, authorized in federal legislation, for the state to take over authority from the Federal Energy Regulatory Commission (FERC) to license and regulate small hydropower projects of 5 megawatts or less. It requires the state to establish a licensing program equivalent to FERC's, and to annually appropriate substantial sums to operate it.

- **Expense of the program** - Assumption of small hydro licensing and oversight will place a significant financial burden on DNR, ADF&G and DEC. Without sufficient financial and staff resources to implement the program, processing of license applications and license renewals could be significantly delayed or alternatively, processing would be at the expense of careful consideration of environmental impacts, thereby inviting public opposition.
- **The Regulatory Commission of Alaska (RCA) as the lead entity** - The RCA is charged with ensuring just and reasonable utility rates and high quality, reliable service. However, the RCA has no experience with FERC licensing, and it is not the appropriate entity to coordinate DNR, ADF&G, and DEC participation in licensing proceedings. Nor does the RCA have the trained staff to fulfill requirements of the federal law and SB 140, such as protecting the public interest and the environment
- **Protection of special public lands:** SB 140 provides no protection for state special areas such as state parks, game refuges or critical habitat areas. Attempts by a new state regulatory agency to license hydropower projects in state protected areas would surely result in significant controversy and the associated delay.

OVER

Although the concept of the state having jurisdiction over small hydropower projects may appear appealing to some, *FERC has never before delegated this authority to any state.* In this time of state fiscal difficulties, the state's acceptance of this unfunded federal mandate is not in the best interests of Alaskans.

**ACV urges you to oppose this unnecessary and costly legislation.**

  
\_\_\_\_\_  
Susan Schrader, Conservation Advocate

CSSB140 FIN

Amend # \_\_\_\_\_

Offered in (H)RES 4-26-2002

Add to existing language:

The Regulatory Commission of Alaska, in consultation with the Commissioners of DNR, DCED and DF&G, will report to the legislature by February 15<sup>th</sup> 2003 with their assessment of how the licensing of small hydro projects by the State of Alaska would be accomplished. This report will include the impact on the operating budget, funding mechanism, staff requirements, potential statutory changes, timelines and public participation for developing regulations and any other items deemed important by the administration.

CSSB140 FIN

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Add to existing language:

The Regulatory Commission of Alaska, in consultation with the Commissioners of DNR, DCED and DF&G, will report to the legislature by February 15<sup>th</sup> 2003 with their assessment of how the licensing of small hydro projects by the State of Alaska would be accomplished. This report will include the impact on the operating budget, funding mechanism, staff requirements, potential statutory changes, timelines and public participation for developing regulations and any other items deemed important by the administration.



TONY KNOWLES  
GOVERNOR

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
WASHINGTON, D.C.

Chairman Joe Barton  
Energy and Power Subcommittee  
United States House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515-6115

Re: S. 422 Hearing on March 30, 2000

Mr. Chairman:

The State of Alaska supports legislation that would offer the State the opportunity to assume jurisdiction over licensing of hydroelectric projects of five megawatts or less. Development of small hydroelectric projects is critical to the economic development of our state. Of the 29 hydropower projects supplying power to public utilities in Alaska, 17 are five megawatts or less in size.

Small hydro is especially important in rural Alaska where the cost of other energy sources is high and the resulting availability of power can be limited. The only practical alternative in many rural villages is small-scale diesel generation, which can also create undesirable environmental impacts. Where hydropower generation is feasible, it offers reliability unmatched by other, currently available, alternatives. Unfortunately, the financial feasibility of many small hydroelectric projects is impeded by the relatively high cost and lengthy process it takes to license these plants under the existing Federal Energy Regulatory Commission (FERC) regulatory regime.

Alaska's rural electrical production is unique. Over 150 villages in Alaska are isolated from any larger electrical grid, and each village is supplied with power almost exclusively from its own diesel generators. The cost of power in these communities is very high. Median residential rates are between 40 and 45 cents per kilowatt-hour, which is four to five times the average elsewhere in the United States.

Small hydro projects can help reduce these rates if the projects can be built economically. For example, at King Cove, Alaska, which is a remote community of 900 people in the Aleutian Islands, an 800 kilowatt hydro project completed in 1995 not only reduced costs but provides cost stability over the long-term by displacing most of the utility's diesel

generation. Similar long-term benefits are expected from the new 825-kilowatt Tazimina hydro project, which serves a remote population of 450 people who live about 200 miles from Anchorage.

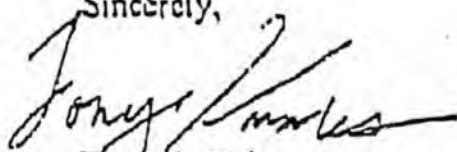
One of the important themes of my administration is that development must be done right. We apply this theme equally to hydroelectric development. For example, this includes ensuring that every hydroelectric project protects fish and wildlife. In the past, we have worked closely - and successfully - with the FERC to protect fish and wildlife populations and to consider the cumulative impacts of development. It is critical that this cooperation continues under this legislation as well.

The State of Alaska is not presently able to assume exclusive authority to authorize small hydroelectric projects, because state law does not provide a regulatory regime for project review, monitoring, or licensing of these projects. We feel such a framework must be in place at the state level before the State of Alaska could apply to the Secretary of Energy to take jurisdiction. The regulatory framework needs to include regulations to ensure proper project design and construction, and to protect fish and wildlife populations at least as well as under existing federal law. Present FERC authority is broader than that held by the State, in that FERC may assert jurisdiction over watersheds, while the regulatory authority of the Alaska Department of Fish and Game is confined to the area between stream banks.

In addition to the lack of a State regulatory regime, the State has established no appropriate funding mechanism to support small hydro licensing and monitoring. Such a funding mechanism could be either a direct appropriation or be based on a user fee system.

Again, the State appreciates the opportunity to express its support of S. 422. Although we desire the benefits that this legislation offers, it is important to state clearly we are not currently in a position to implement the option that this legislation would present to Alaska.

Sincerely,



Tony Knowles  
Governor

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## H.R.2884

Energy Act of 2000 (Enrolled Bill (Sent to President))

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### TITLE V--ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS

#### SEC. 501. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Part I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the following:

#### 'SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

'(a) DISCONTINUANCE OF REGULATION BY THE COMMISSION- Notwithstanding sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory authority under this part over qualifying project works in the State of Alaska, effective on the date on which the Commission certifies that the State of Alaska has in place a regulatory program for water-power development that--

'(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this part and other applicable Federal laws, including the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

'(2) gives equal consideration to the purposes of--

'(A) energy conservation;

'(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);

'(C) the protection of recreational opportunities;

'(D) the preservation of other aspects of environmental quality;

'(E) the interests of Alaska Natives; and

`(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

`(3) requires, as a condition of a license for any project works--

`(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;

`(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and

`(C) conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

`(b) DEFINITION OF 'QUALIFYING PROJECT WORKS'- For purposes of this section, the term 'qualifying project works' means project works--

`(1) that are not part of a project licensed under this part or exempted from licensing under this part or section 405 of the Public Utility Regulatory Policies Act of 1978 prior to the date of the enactment of this section;

`(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to the date of the enactment of subsection (c) (unless such application is withdrawn at the election of the applicant);

`(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

`(4) that are located entirely within the boundaries of the State of Alaska; and

`(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4))), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

`(c) ELECTION OF STATE LICENSING- In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to the enactment of this section, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

`(d) PROJECT WORKS ON FEDERAL LANDS- With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to--

`(1) the approval of the Secretary having jurisdiction over such lands; and

`(2) such conditions as the Secretary may prescribe.

`(e) CONSULTATION WITH AFFECTED AGENCIES- The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

`(f) APPLICATION OF FEDERAL LAWS- Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

`(g) OVERSIGHT BY THE COMMISSION- The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section.

`(h) RESUMPTION OF COMMISSION AUTHORITY- Notwithstanding subsection (a), the Commission shall reassert its licensing and regulatory authority under this part if the Commission finds that the State of Alaska has not complied with one or more of the requirements of this section.

`(i) DETERMINATION BY THE COMMISSION- (1) Upon application by the Governor of the State of Alaska, the Commission shall within 30 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a).

`(2) The Commission's review required by paragraph (1) shall be completed within 1 year of initiation, and the Commission shall within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the requirements of subsection (a).

`(3) If the Commission fails to issue a final order in accordance with paragraph (2) the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a).'

#### **TITLE VI--WEATHERIZATION, SUMMER FILL, HYDROELECTRIC LICENSING PROCEDURES, AND INVENTORY OF OIL AND GAS RESERVES**

### **SEC. 601. CHANGES IN WEATHERIZATION PROGRAM TO PROTECT LOW-INCOME PERSONS.**

(a) The matter under the heading, 'Energy Conservation (including transfer of funds)' in title II of the Department of the Interior and Related Agencies Appropriations Act, 2000 (113 Stat. 1535, 1501A-180), is amended by striking 'grants:' and all that follows and inserting 'grants.'

(b) Section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865) is amended--

(1) in subsection (a)(1) by striking the first sentence;

(2) in subsection (a)(2) by--

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 140  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Natural Resources  
 BRU: Minerals, Land & Water Dev  
 Component: Water Development  
 Component Number: 916

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: SMALL WATER-POWER DEVELOPMENT  
PROJECTS  
 Sponsor: Sen. Torgerson  
 Requester: (S) FIN

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	22.5	22.5	70.0	70.0	70.0	70.0
Travel	0.0	0.0	10.0	10.0	10.0	10.0
Contractual	1.0	1.0	5.0	5.0	5.0	5.0
Supplies	0.5	0.5	1.0	1.0	1.0	1.0
Equipment	0.0	0.0	2.0	2.0	2.0	2.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>24.0</b>	<b>24.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.0	24.0	88.0	88.0	88.0	88.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>24.0</b>	<b>24.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>	<b>88.0</b>

Estimate of any current year (FY2002) cost: none  
 Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

**POSITIONS**

Full-time	0	0	1	1	1	1
Part-time						
Temporary	1	1				

**ANALYSIS:** (Attach a separate page if necessary)

The Regulatory Commission of Alaska estimates that, in cooperation with the resource agencies, the Commission will require two years to write regulations that establish an efficient processing system that can be approved by FERC. DNR will be required to play a major role in the development of these regulations as its responsibilities in permitting such projects are substantial. A non-perm Natural Resource Mgr I will be required for at least 3 months each year for full participation. These costs are reflected in FY 2003 and 2004. [cont.]

Prepared by: Bob Loeffler Phone 269-8600  
 Division: Mining, Land and Water Date/Time 20-Feb-02  
 Approved by: Pat Pourchot Date 21-Feb-02  
 Agency: Natural Resources

ANALYSIS: (continued)

Beginning in 2005, this fiscal note assumes that an approved program will begin operation in Alaska and DNR will play a major role in the new licensing process, including the water right and temporary water use permitting, environmental consultation and review, and coordination with federal agencies. With one exception, this fiscal note assumes no new costs to deal with an "Alaskanized" licensing process rather than the current, federal FERC process. If the regulations assign new responsibilities to DNR, this assumption may change.

The exception is that currently, FERC has jurisdiction over all dams licensed by FERC. If an Alaskan program replaces the FERC program, DNR's dam safety program will be required to accept jurisdiction for permitting, review, and inspection of these dams. DNR's current Dam Safety program is staffed by a single engineer. The fiscal note would fund a subordinate (a Technical Engineer I) to handle the additional workload to the Dam Safety Program.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 140  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title Regulation and licensing of certain BRU Habitat and Restoration  
water-power development Component Habitat Special Projects  
Sponsor Senator Torgerson  
Requester Senate Finance Component No. 487

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	17.0	17.0				
Travel	1.0	1.0				
Contractual	1.0	1.0				
Supplies	0.5	0.5				
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>19.5</b>	<b>19.5</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	19.5	19.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
<b>TOTAL</b>	<b>19.5</b>	<b>19.5</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

FY 03 and FY 04 expenditures represent one quarter-time position for ADF&G participation in the development of a regulatory package implementing SB 140. Regulations must clearly detail all processes and requirements to result in timely and cost effective licensing of good projects that are both in the best economic interests of the state and environmentally sound.

Department expenditures in a potential 5 MW or smaller state licensing and regulatory program are difficult to quantify at this time. The licensing and regulation of hydro projects can be very complex. SB 140 provides the basic structure for establishing regulations for the state to take over jurisdiction, but does not provide specificity on how such a program will work within current authorities and responsibilities. Uncertainties include how duties currently funded and performed by the Federal (cont)

Prepared by: Gordy Williams Phone 465-6143  
Division Commissioner's Office Date/Time 2/21/02 9:07 AM  
Approved by: Commissioner Frank Rue Date 2/21/2002  
Agency Fish and Game

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. SB 140

ANALYSIS CONTINUATION

Energy Regulatory Commission (FERC) for small hydro projects will be handled in a state system, what information regarding fish and wildlife issues will be required to be provided by applicants or need to be developed by agencies, and what fees or other funding mechanisms will be developed. Depending upon the answers to these and other questions as a regulatory system is established, there may be significant fiscal impacts on the department to ensure that fish and game resources are protected to the same extent provided by the FERC process as is specified in SB 140.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 140  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Small Water-Power Development. Projects BRU Regulatory Commission of Alaska (399)  
Component Regulatory Commission of Alaska  
Sponsor Senator Torgerson  
Requester Senate Finance Component No. 2417

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	31.1	31.1	130.0	130.0	130.0	130.0
Travel	5.0	5.0				
Contractual			50.0	50.0	50.0	50.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>36.1</b>	<b>36.1</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (RCA Receipts)	36.1	36.1	180.0	180.0	180.0	180.0
<b>TOTAL</b>	<b>36.1</b>	<b>36.1</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>	<b>180.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time			2	2	2	2
Part-time	1	1				
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

SB140 will require the equivalent of one-half of a Utility Engineering Analyst III position (estimated cost: \$31,142) in FY03 and FY04 to assist in developing technical regulations and to coordinate the transfer of duties from FERC. Some travel will be necessary for public comment and coordination with FERC. FERC has up to one year to approve the plan. Once underway (FY05), a full-time UEA III and an Environmental Engineer will be needed to analyze water-power applications under the proposed program. \$50,000 in contractual monies will be needed for additional technical support and a contractual Administrative Law Judge to adjudicate technical/regulatory disputes. The RCA's budget is funded through the Regulatory Cost Charge (RCC) and direct charge mechanisms. No general funds are allocated for support of the agency. The agency may consider funding the program by license fees paid by the applicants, similar to the current federal program.

Prepared by: Dawn Bishop-Kleweno, Special Assistant Phone (907) 276-6222  
Division: Regulatory Commission of Alaska Date/Time 2/21/02 9:04 AM  
Approved by: Deborah B. Sedwick, Commissioner Date 2/21/2002  
Agency: Department of Community & Economic Development

CSSB140 FIN

Amend # \_\_\_\_\_

Offered in (H)RES 4-26-2002

Add to existing language:

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750 West Second Ave., Suite 109, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177  
P.O. Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / [www.aevoters.org](http://www.aevoters.org)

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## SB 140 ~ Small Water-Power Development Projects

TO: House Resources Committee Members

DATE: April 26, 2002

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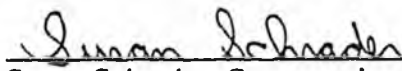
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- **Protection of special public lands:** SB 140 provides no protection for state special areas such as state parks, game refuges or critical habitat areas. Attempts by a new state regulatory agency to license hydropower projects in state protected areas would surely result in significant controversy and the associated delay.

OVER

Although the concept of the state having jurisdiction over small hydropower projects may appear appealing to some, *FERC has never before delegated this authority to any state.* In this time of state fiscal difficulties, the state's acceptance of this unfunded federal mandate is not in the best interests of Alaskans.

**ACV urges you to oppose this unnecessary and costly legislation.**

  
\_\_\_\_\_  
Susan Schrader, Conservation Advocate

Jennifer

House Resources Comm

From Will Abbott

263-2110

Will\_Abbott@RCFF.State.AK.US

From our conversation this morning.

Thanks

Will

The licensing of small hydro projects in Alaska by Alaskans could be an important step in building economical renewable energy sources in many parts of state. SB 140 can give us the vehicle to improve the regulatory process for licensing such projects. With this bill and the Federal legislation in hand we must scope the regulatory process and insure the State can perform the responsibilities delegated to us in a responsible, efficient manner that is more responsive to the needs of Alaskans and achieves the goals set for us by the Governor and SB 140.

Therefor the Regulatory Commission of Alaska in consultation with the Commissioners of DNR, DCED and DF&G will report to the legislature in 2003 with their assessment of how the licensing of small hydro projects by the State of Alaska would be accomplished. This report will include the impact on the operating budget, funding mechanism, staff requirements, potential statutory changes, timelines and public participation for developing regulations and any other items deemed important by the administration.

**Alaska Public Waters Coalition Testimony on SB 140**  
**Before House Resources Committee**  
**April 26, 2002**

I am Jan Konigsberg with Trout Unlimited testifying on SB 140 on behalf of Alaska Public Waters Coalition. The Coalition includes sportsfishing groups, conservation organizations, former members of the Alaska Water Board and other individuals, all of whom are concerned about executive actions and legislative and regulatory initiatives affecting Alaska's water resources

SB 140 would implement the federal legislation authorizing the transfer of FERC licensing authority to the State of Alaska for hydroelectric projects of 5MW or less. The Alaska Public Waters Coalition believes that all proposed hydroelectric projects must be thoroughly scrutinized through a rigorous licensing process to ensure that the project, once constructed and in operation, will have the least environmental impact possible. If the State of Alaska can accomplish this licensing in a manner at least as stringent as FERC, then APWC would not oppose this legislation. But we do not believe that this will be the case.

Frankly, the Coalition is puzzled by the legislature's seeming eagerness to mandate that the State assume a federal program for which there is no accompanying appropriation—especially given the magnitude of the State's current fiscal problems (we believe the fiscal note of \$300,000 annually is too conservative an estimate): We, therefore, are left to divine the legislature's rationale for embracing an unfunded federal mandate: We know that proponents of this legislation are convinced that a state licensing program will provide "regulatory relief" from what they believe to be an onerous federal process, but these same proponents acknowledge that the state process must be at least as rigorous as that of the federal government. How can both be true??? We'd really like to know!

And we'd like to know, too, how the legislature plans to explain to the broader public why it is willing to take at least \$300,000 from the Division of Family Services (or from some other necessary and under-funded human service agency) to help some of-state hydropower developer?

Moreover, not only will the State be incurring significant administrative costs pursuant to hydropower licensing, it will assume significant liability particularly in the area of dam safety. Currently, the State has no liability for FERC licensed projects. Once the State undertakes licensing, the State of Alaska will also be responsible for dam inspection. Therefore, in the case of a dam failure that results in damage to life and private property or results in natural resource damage, it may not be the dam owner alone that is responsible. Under certain circumstances, the State of Alaska may be sued and the cost of litigation (let alone paying for actual damages, if that were the outcome) could dwarf the annual cost of the licensing program.

Further, we think it's merely wishful thinking to presume that a state regulatory program will be any speedier than the current federal program. First, this will be new terrain for the Regulatory Commission of Alaska, so start-up missteps and delays can be expected. Second, DNR has not been able to keep up with a relatively simple and straightforward water-rights program. So, realistically, how would DNR deal with an increase in workload in its water and dam safety programs as required by a state hydropower program?

Finally, I can assure this committee that if the real intent of this legislation is to achieve hydropower licensing efficiency at the expense of stringent environmental enforcement by skimping on environmental review and permitting, these projects will face lengthy delays due to legal challenges.

In sum, the FERC process works, but needs improvement. It would behoove the State of Alaska to join with others to improve the federal program rather than take on a new program in this period of fiscal uncertainty.

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COVER SHEET

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