

HB

216

<TARGET><BILL>HB 216</BILL><SUBJECT>HB
216</SUBJECT><COMM>SRES29</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 3/25/16

FURTHER: Rules
 DATE TURNED IN TO OFFICE: APR 15 2016

Resources Committee considered CS FOR HOUSE BILL NO. 216(RES)

HB 216-NAVIGABLE WATER; INTERFERENCE, DEFINITION

"An Act relating to obstruction or interference with a person's free passage on or use of navigable water; and amending the definition of 'navigable water' under the Alaska Land Act."

and recommends:

- be replaced with SCS CS HB 216 (RE) Same Title Technical Title Change
 New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DNR			<input checked="" type="checkbox"/>	2

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	No REC	AMEND
	Castillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Castillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Stull	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Stull	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHAIR:	Grissel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ALASKA STATE HOUSE

Session:

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Interim:

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REPRESENTATIVE DAVE TALERICO

MEMORANDUM

Date: March 28, 2016

To: Senator Cathy Giessel, Chair
Senate Resources Committee

From: Representative Dave Talerico

A handwritten signature in blue ink, appearing to read "D. Talerico", written over the name in the "From" field.

Re: Committee Hearing Request for CSHB 216(RES)

I respectfully request a committee hearing at your earliest convenience in the Senate Resources Committee for HB 216, "An Act relating to obstruction or interference with a person's free passage on or use of navigable water; and amending the definition of 'navigable water' under the Alaska Land Act."

You may contact my staff Joshua Banks at 465-2847 if you have any questions regarding this bill.

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REPRESENTATIVE DAVE TALERICO

Sponsor Statement for CS House Bill 216(RES)

"An Act relating to obstruction or interference with a person's free passage on or use of navigable water; and amending the definition of 'navigable water' under the Alaska Land Act."

The "Submerged Lands Act of 1953" recognized each state as holding the title for any submerged land under a navigable waterway within the boundaries of each state. Under Alaska law, this term is defined in AS 38.05.965(14) and specifies a number of activities that can be conducted in a body of water in order to deem the body as navigable. While the list of activities in statute is lengthy, there are a few omissions that House Bill 216 will address.

The first change that HB 216 will make is to insert additional activities to the definition of "navigable water" in order to ensure that there is no ambiguity. The bill includes the activities of harvesting of ice, military training, and operation of watercraft, hovercraft, snow machines and other vehicles, and hunting of any type of game. The second change is to allow all activities under this definition to be conducted "in any season" to ensure that these activities may be conducted whether the navigable body of water is thawed or frozen.

The final change in HB 216 is to combine AS 38.05.128(a)(1) and (2), to eliminate redundancy in this section regarding a government official blocking access to navigable waters.

Though these two changes to the definition of "navigable water" are minor, HB 216 will be a step towards protecting Alaska's sovereignty and the rights of individual Alaskans.

Staff contact: Joshua Banks, (907) 465-2847

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REPRESENTATIVE DAVE TALERICO

Sectional Analysis – CS House Bill 216(RES)

“An Act relating to obstruction or interference with a person’s free passage on or use of navigable water; and amending the definition of ‘navigable water’ under the Alaska Land Act.”

Sec. 1 – AS 38.05.128(a)

Amends this section by effectively combining subsections (1) and (2) and deleting subsection (2), thus eliminating redundancy in this section relating to the allowance of blocking accessibility to navigable waters.

Sec. 2 – AS 38.05.965(14)

Amends this section to increase the number of activities that are allowed on ‘navigable water’ within the State of Alaska. Activities that are being added to the definition are: harvesting of ice, state or federal military training, operation of watercraft, hovercraft, snow machines, ATV’s, and other vehicles, and storage of vehicles. The language “waterfowl and aquatic animals” is deleted to allow for all forms of hunting on navigable waters.

This section is also amended to allow for all activities listed in the section to be conducted on navigable water during any season.

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REPRESENTATIVE DAVE TALERICO

Summary of Changes to CSHB 216(RES) – Version W to Version N

- In Section 1, eliminates the repeal of AS 38.05.128(a)(1) and instead combines AS 38.05.128(a)(1) and (2) and deletes subsection (2). This change has the same effect as the repeal of (a)(1) by eliminating redundancy regarding obstructing the free passage on navigable waters.
- In Section 1, adds the words “or regulation” to allow rationale for obstruction of free passage through regulations.
- In Section 2, adds activities that are allowed to be conducted on “navigable water” in Alaska, including:
 - Operation of all-terrain vehicles
 - Storage of vehicles
 - Hunting any form of game rather than just waterfowl and aquatic animals

Staff Contact: Joshua Banks, (907) 465-2847

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSHB 216(RES)

BY SENATOR COGHILL

1 Page 2, line 7, following "season":

2 Insert "whether in a frozen or liquid state,"

3

4 Page 2, lines 9 - 13:

5 Delete "harvesting of ice, state or federal military training, landing and takeoff of
6 aircraft, operation of boats or other watercraft, hovercraft, snow machines, all-terrain
7 vehicles, and other motorized or nonmotorized vehicles, storage of vehicles, and
8 [PUBLIC BOATING,] trapping, hunting [WATERFOWL AND AQUATIC ANIMALS]"

9 Insert "landing and takeoff of aircraft, and public boating, trapping, hunting waterfowl
10 and aquatic animals"

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 216(RES)

- 1 Page 1, line 9:
- 2 Delete "federal or [AGENCY]"
- 3 Insert "[FEDERAL AGENCY]"

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: HB 216
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB216CS(RES)-DNR-MLW-4-13-2016
Title: NAVIGABLE WATER; INTERFERENCE,
DEFINITION
Sponsor: TALERICO
Requester: Senate Resources

Department: Department of Natural Resources
Appropriation: Fire Suppression, Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES	FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

House Resources Committee Substitute version.

Prepared By:	Brent Goodrum, Director	Phone:	(907)269-8625
Division:	Mining, Land and Water	Date:	04/13/2016 12:00 AM
Approved By:	Marty Rutherford, Acting Commissioner	Date:	04/13/16
Agency:	Department of Natural Resources		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSHB 216(RES)

Analysis

Department of Natural Resources (DNR) anticipates that there will not be direct fiscal impact to the department from this legislation.

This bill potentially expands what waterbodies the State will consider navigable for state law purposes, which may increase the costs of land disposals, impact private property rights, and expand the State's management responsibilities under the public trust doctrine. It could also indirectly result in increased costs for the State during additional navigability determinations and any ensuing litigation related to the ability of the public to use state-defined navigable waters.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version:	CSHB 216(RES)
Fiscal Note Number:	1
(H) Publish Date:	3/21/2016

Identifier: HB216-DNR-MLW-3-14-2016
 Title: NAVIGABLE WATER; INTERFERENCE,
 DEFINITION
 Sponsor: TALERICO
 Requester: House Resources

Department: Department of Natural Resources
 Appropriation: Fire Suppression, Land & Water Resources
 Allocation: Mining, Land & Water
 OMB Component Number: 3002

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES	FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

Initial Version

Prepared By:	Brent Goodrum, Director	Phone:	(907)269-8625
Division:	Mining, Land and Water	Date:	03/14/2016 12:00 AM
Approved By:	Marty Rutherford, Acting Commissioner	Date:	03/14/16
Agency:	Department of Natural Resources		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

Analysis

DNR anticipates that there will be no direct fiscal impact to the department from this legislation.

Section 1 of the bill proposes to revise AS 38.05.965(14) to amend the definition of "navigable water" for purposes of state law on public use to remove the phrase "but not limited to" and instead enumerate different useful public purposes of waterbodies in both frozen and liquid states. Removing the open ended language and instead providing additional definitions of useful public purposes may create ambiguity about navigability and the intent of the change, and thus indirectly result in increased costs for the State during future navigability determinations and litigation related to the ability of the public to use state waters.

Section 2 of the bill proposes to revise AS 38.05.128(a) to repeal paragraph (1), which provides that obstructions to navigable waters may be authorized by a federal agency and state agency. This does not seem to significantly alter DNR's management of water, and is not expected to result in direct costs.